

FAREHAM BOROUGH COUNCIL

Town and Country Planning Act 1990 – Section 78

Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

PROOF OF EVIDENCE

Of

Ms Jane Parker BA (Hons), MA, MRTPI

On behalf of the Local Planning Authority

CO-JOINED INQUIRY

Outline application with all matters reserved (except for access) for the demolition of existing buildings and development of up to 75 dwellings, open space, vehicular access point from Newgate Lane and associated and ancillary infrastructure

**LAND AT NEWGATE LANE NORTH, FAREHAM
Appeal by Fareham Land LP**

Planning Inspectorate Reference: APP/A1720/W/20/3252180

Fareham Borough Council Reference: P/18/1118/OA

AND

Outline Planning Permission For The Demolition Of Existing Buildings And Development Of Up To 115 Dwellings, Open Space, Vehicular Access Point From Newgate Lane And Associated And Ancillary Infrastructure, With All Matters Except Access To Be Reserved.

**LAND AT NEWGATE LANE SOUTH, FAREHAM
Appeal by Bargate Homes Ltd**

Planning Inspectorate Reference: APP/A1720/W/20/3252185

Fareham Borough Council Reference Ref: P/19/0460/OA

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1 QUALIFICATIONS AND EXPERIENCE

- 1.1. My name is Jane Parker and I am an Associate at Adams Hendry Consulting Limited. I hold a Bachelor of Arts Degree in Geography (BA Hons) from the University of Durham and a Masters of Arts (MA) in Town and Regional Planning from the University of Sheffield. I have been a member of the Royal Town Planning Institute since April 1995. I have worked for Adams Hendry since January 2006 and prior to that have been employed as a Planning Officer in various positions in the public sector.
- 1.2. I have over 25 years of planning experience spanning the full range of planning work, including advice to public and private sector clients on planning strategy and the planning consent process. I have worked on a variety of complex schemes including mixed-use development and housing schemes, transport schemes, water and wastewater schemes and waste projects.
- 1.3. I have worked as a planning consultant for Fareham Borough Council since May 2020 acting as development management case officer for P/18/1118/OA, Land at Newgate (North) and P/19/0460/OA Land at Newgate (South); the Appeal Developments that are now before the Inspector (APP/A1720/W/20/3252185 and APP/A1720/W/20/3252185).
- 1.4. Adams Hendry has also worked as a consultant for Fareham Borough Council on the preparation of the Coldeast 'Lot 2' Development Brief, and on projects relating to the Daedalus Airfield site and Portchester Local Centre. Adams Hendry were appointed and presented evidence as the Council's Planning Witness at the 2006 and 2017 Planning Inquiries on the Cranleigh Road site. They also appeared on behalf of the Council at the Land East of Brook Lane, Warsash Hearing in April 2018, the Posbrook Lane Inquiry in November 2018, the Old Street, Stubbington Inquiry in December 2018 and Land East of Down End Road Inquiry in August 2019.
- 1.5. I am familiar with the local and national policies and guidance relevant to this Inquiry, have visited the Appeal Sites, and I am familiar with the Fareham area.
- 1.6. I am instructed by Fareham Borough Council to act on their behalf as the planning expert witness for two appeals. I can confirm that the evidence which I will give is true, and in accordance with the guidance of my professional institute (the

Royal Town Planning Institute). Any opinions expressed are my own true and professional opinions.

2 SCOPE OF MY EVIDENCE

2.1. I will provide evidence on the planning related issues in respect of these two appeals. My evidence to the inquiry is structured as follows:

- **Section 3** provides a description of the Appeal Developments and their surroundings.
- **Section 4** outlines the reasons for refusal for the Appeal Developments.
- **Section 5** outlines the relevant planning policy framework.
- **Section 6** considers the degree of development plan consistency with the NPPF.
- **Section 7** sets out the proper approach to determining the Appeals.
- **Section 8** outlines the housing land supply position
- **Section 9** explains how the Appeal Developments conflicts with the adopted Development Plan policies on ecological matters.
- **Section 10** explains how the Appeal Developments conflicts with the adopted Development Plan policies on the countryside, landscape character and strategic gap.
- **Section 11** explains how the Appeal Developments conflicts with the adopted Development Plan policies on sustainability issues.
- **Section 12** explains how the Appeal Developments conflicts with the adopted Development Plan policies on highway issues.
- **Section 13** provides evidence on the weight which should be afforded to the adopted Development Plan policies and concludes on the planning balance to be applied
- **Section 14** provides a summary of my evidence.

3 DESCRIPTION OF APPEAL DEVELOPMENTS AND THE SURROUNDINGS

Newgate Lane North

- 3.1. The Appeal Development at Newgate Lane North is described in the SoCG dated July 2020 at paragraph 1.3.

“Outline Planning Permission for the demolition of existing buildings and development of up to 75 dwellings, open space, vehicular access point from Newgate Lane and associated and ancillary infrastructure, with all matters except access to be reserved.”

- 3.2. A full list of the application drawings and documents are listed at Appendix 1 of the SoCG.
- 3.3. The appeal site and surroundings are described in Section 3.0 of the SoCG.

Newgate Lane South

- 3.4. The Appeal Development at Newgate Lane South is described in the SoCG dated July 2020 for the south site at paragraph 1.3.

“Outline Planning Permission for the demolition of existing buildings and development of up to 115 dwellings, open space, vehicular access point from Newgate Lane and associated and ancillary infrastructure, with all matters except access to be reserved”.

- 3.5. A full list of the application drawings and documents are listed at Appendix 1 of the SoCG.
- 3.6. The appeal site and surroundings are described in Section 3.0 of the SoCG.

4 APPEAL BACKGROUND AND REASONS FOR REFUSAL

- 4.1 The applicant submitted the respective appeals to the Planning Inspectorate against non-determination of both applications. The Inspectorate notified the Council on 2nd June 2020 that the appeals were valid and advised that the appeals will proceed by way of a co-joined inquiry.
- 4.2 The Council is therefore no longer able to determine the two applications, however for the purposes of clarity for this co-joined inquiry, separate reports were presented to the Council's Planning Committee on 24th June 2020 in respect of each the applications [CDC.1 and CDC.2]. These reports were supplemented by an update report [CDC.3]. The purpose of the reports was to identify the relevant material planning considerations and for the Council to confirm the decision they would have made if they had been able to determine the planning applications.
- 4.3 Both planning applications were subject to an officer recommendation for refusal for reasons set out in Supplementary Update Report to Committee on 24th June 2020.
- 4.4 In both cases, if the likely significant effects of the development on habitats sites had been addressed and an Appropriate Assessment had concluded no adverse effects on the integrity of the habitats sites, the presumption in favour of sustainable development, as set out in NPPF paragraph 11, would apply. However, as it stands, the proposals do not accord with the development plan and are contrary to the NPPF. Both appeal developments fail to appropriately secure mitigation for the likely adverse effects on the integrity of European Protected Sites arising as a result of the loss of a Low Use site for Brent geese and waders which provide a clear reason for refusing each of the developments.
- 4.5 Officers concluded that even if this reason for refusal were not in place, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of each of the appeal developments when assessed against the policies of the NPPF taken as a whole. Therefore, had the LPA had the opportunity to determine the applications, planning permission would have been refused for the following reasons:

NEWGATE LANE NORTH REASONS FOR REFUSAL

The development is contrary to Policies CS2, CS4, CS5, CS6, CS14, CS15, CS16, CS17, CDS18, CS20, CS21 and CS22 of the Adopted Fareham Borough Core Strategy 2011 and Policies DSP6, DSP13, DSP14, DSP15 & DSP40 of the Adopted Local Plan Part 2: Development Site and Policies Plan, paragraphs 103, 109, 110 and 175 of the NPPF and is unacceptable in that:

- a) The provision of residential development in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside;
- b) The proposed development fails to respond positively to and be respectful of the key characteristics of the area and would be harmful to the character and appearance of the countryside;
- c) The provision of development in this location would significantly affect the integrity of the strategic gap and the physical and visual separation of settlements;
- d) The application site is not sustainably located adjacent to, well related to or well-integrated with the existing urban settlement boundaries;
- e) The proposal would result in the loss of best and most versatile agricultural land;
- f) Insufficient information has been submitted to adequately assess the highways impacts arising from the proposed development;
- g) The proposed access is inadequate to accommodate the development safely;
- h) The proposed development would have an unacceptable impact on the junction of old Newgate Lane / Newgate Lane East resulting in a severe impact on the road safety and operation of the local transport network;

i) The proposed development provides insufficient support for sustainable transport options

j) In the absence of appropriate mitigation for the loss of low use Brent geese and wader site and in the absence of a legal agreement to appropriately secure such, the proposal would have a likely adverse effect on the integrity of European Protected Sites.

k) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of European Protected Sites which, in combination with other developments, would arise due to impacts of recreational disturbance.

l) In the absence of a legal agreement to secure contributions to open space and facilities and their associated management and maintenance, the recreational needs of residents of the proposed development would not be met;

m) In the absence of a legal agreement to secure contributions to education, the needs of residents of the proposed development would not be met;

n) In the absence of a legal agreement to secure on site provision of affordable housing, the housing needs of the local population would not be met;

o) In the absence of a legal agreement to secure the submission and implementation of a full Travel Plan, payment of the Travel Plan approval and monitoring fees and the provision of a surety mechanism to ensure implementation of the Travel Plan, the proposed development would not make the necessary provision to ensure measures are in place to assist in reducing the dependency on the use of the private motorcar.

4.6 An informative on the decision notice made it clear that had it not been for the overriding reasons for refusal, the Local Planning Authority would have sought to address points k) - o) above by inviting the applicant to enter into a legal agreement with Fareham Borough Council under Section 106 of the Town & Country Planning Act 1990. This remains the position with the Appeal Development.

NEWGATE LANE SOUTH: REASONS FOR THE REFUSAL

The development is contrary to Policies CS2, CS4, CS5, CS6, CS14, CS15, CS17, CS18, CS20, CS21 and CS22 of the Adopted Fareham Borough Core Strategy 2011 and Policies DSP6, DSP13, DSP14, DSP15 & DSP40 of the Adopted Local Plan Part 2: Development Site and Policies Plan, paragraphs 103, 109, 110 and 175 of the NPPF and is unacceptable in that:

- a) The provision of residential development in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside;
- b) The proposed development fails to respond positively to and be respectful of the key characteristics of the area and would be harmful to the character and appearance of the countryside;
- c) The provision of development in this location would significantly affect the integrity of the strategic gap and the physical and visual separation of settlements;
- d) The application site is not sustainably located adjacent to, well related to or well-integrated with the existing urban settlement boundaries;
- e) Insufficient information has been submitted to adequately assess the highways impacts arising from the proposed development;
- f) The proposed access is inadequate to accommodate the development safely;
- g) The proposed development would have an unacceptable impact on the junction of old Newgate Lane / Newgate Lane East resulting in a severe impact on the road safety and operation of the local transport network;
- h) The proposed development provides insufficient support for sustainable transport options;

- i) The proposal provides insufficient information to protect and enhance the biodiversity interests of the site which includes a substantial population of Chamomile;
- j) In the absence of appropriate mitigation for the loss of a low use Brent geese and wader site and in the absence of a legal agreement to appropriately secure such mitigation, the proposal would have a likely adverse effect on the integrity of European Protected Sites;
- k) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of European Protected Sites which, in combination with other developments, would arise due to the impacts of recreational disturbance;
- l) In the absence of a legal agreement to secure contributions to open space and facilities and their associated management and maintenance, the recreational needs of residents of the proposed development would not be met;
- m) In the absence of a legal agreement to secure contributions to education, the needs of residents of the proposed development would not be met;
- n) In the absence of a legal agreement to secure the on-site provision of affordable housing, the housing needs of the local population would not be met;
- o) In the absence of a legal agreement to secure the submission and implementation of a full Travel Plan, payment of the Travel Plan approval and monitoring fees and the provision of a surety mechanism to ensure implementation of the Travel Plan, the proposed development would not make the necessary provision to ensure measures are in place to assist in reducing the dependency on the use of the private motorcar.

4.7 An informative on the decision notice made it clear that had it not been for the overriding reasons for refusal, the Local Planning Authority would have sought to address points k) - o) above by inviting the applicant to enter into a legal agreement with Fareham Borough Council under Section 106 of the Town & Country Planning Act 1990. This remains the position with the Appeal Development.

4.8 To clarify, the reasons for refusal are substantively the same for both Appeal Developments with the exception of reason for refusal (e) in respect of the loss of best and most versatile agricultural land at Newgate Lane North which is not a relevant matter for consideration at this Inquiry in respect of the Newgate Lane South; and reason for refusal (i) in respect of biodiversity interests at Newgate Lane South, which includes a substantial population of Chamomile, which is not a relevant consideration at this Inquiry in respect of Newgate Lane North.

Matters that are resolved:

4.9 Further to the Council's decision on 24th June 2020, the following matters have been resolved with the Appellant:

- ***Reason for Refusal (f) (Newgate Lane North) and Reason for Refusal (e) (Newgate Lane South);*** Insufficient information has been submitted to adequately assess the highways impacts arising from the proposed development;
- ***Reason for Refusal (g) (New Gate Lane North) and Reason for Refusal (f) Newgate Lane South:*** The proposed access is inadequate to accommodate the development safely;
- ***Reason for Refusal (i) (Newgate Lane North) and Reason for Refusal (h) Newgate Lane South.*** The proposed development provides insufficient support for sustainable transport options.
- ***Reason for Refusal (k) – (o).*** This remains the position. As confirmed in the respective SoCGs a suitably worded legal agreement can be entered into and conditions agreed that would overcome these reasons for refusal, subject to the Inspector undertaking an Appropriate Assessment.

Matters Still Outstanding

4.10 The following matters remain outstanding at the time of writing and are dealt with in my evidence:

- **Reason for Refusal (a) (as it relates to Newgate Lane North and South):** The provision of residential development in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside;
- **Reason for Refusal (b):** The proposed development fails to respond positively to and be respectful of the key characteristics of the area and would be harmful to the character and appearance of the countryside;
- **Reason for Refusal (c):** The provision of development in this location would significantly affect the integrity of the strategic gap and the physical and visual separation of settlements;
- **Reason for Refusal (d):** The application site is not sustainably located adjacent to, well related to or well-integrated with the existing urban settlement boundaries;
- **Reason for Refusal (e) (as it relates only to Newgate Lane North):** The proposal would result in the loss of best and most versatile agricultural land;
- **Reason for Refusal (h) (Newgate Lane North) and Reason for Refusal (g):** The proposed development would have an unacceptable impact on the junction of old Newgate Lane / Newgate Lane East resulting in a severe impact on the road safety and operation of the local transport network;
- **Reason for Refusal (i) (as it relates only to Newgate Lane South):** The proposal provides insufficient information to protect and enhance the biodiversity interests of the site which includes a substantial population of Chamomile.
- **Reason for refusal (j):** In the absence of appropriate mitigation for the loss of a low use Brent geese and wader site and in the absence of a legal agreement to appropriately secure such mitigation, the proposal would have a likely adverse effect on the integrity of European Protected Sites.

5 RELEVANT PLANNING POLICY FRAMEWORK

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires Local Planning Authorities to determine applications for planning permission in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. This Section of the Proof of Evidence sets out the relevant planning policy framework for the consideration of these two appeals.

5.2 The relevant policies listed within the reasons for refusal are set out in detail in the Council's respective Statements of Case as they relate to Newgate Lane North and Newgate Lane South. The policies which I consider to be the most important in considering these two appeals are considered in more detail below.

The Development Plan

5.3 The statutory Development Plan relevant to the consideration of these appeals comprises the following documents:

- Local Plan Part 1: Fareham Borough Core Strategy – Adopted 4th August 2011 (CDE.1); and
- Local Plan Part 2: Development Sites and Policies– Adopted 8th June 2015 (CDE.2).

Local Plan Part 1: Fareham Borough Core Strategy – Adopted 4th August 2011

5.4 The Local Plan Part 1 (LPP1) was adopted on 4th August 2011. The following policies were listed in the Reasons for Refusal and are relevant to the determination of these appeals:

- Policy CS2: Housing Provision
- Policy CS4 - Green Infrastructure, Biodiversity and Geological Conservation
- Policy CS5 - Transport Strategy and Infrastructure
- Policy CS6 – the Development Strategy
- Policy CS14 - Development Outside Settlements

- Policy CS15: Sustainable Development and Climate Change
- Policy CS16 - Natural Resources and Renewable Energy
- Policy CS17 - High Quality Design
- Policy CS18 - Provision of Affordable Housing
- Policy CS20 - Infrastructure and Development Contributions
- Policy CS21 - Protection and Provision of Open Space
- Policy CS22- Development in Strategic Gaps

5.5 Given the reasons for refusal, the following policies are particularly relevant to the issues at this appeal.

5.6 **Policy CS2 (Housing Provision)** states:

'3,729 dwellings will be provided within the Borough to meet the South Hampshire sub-regional strategy housing target between 2006 and 2026, excluding the SDA. Priority will be given to the reuse of previously developed land within the existing urban area.

Housing will be provided through;

- i) Completions between April 2006 and March 2010 (1,637 units);*
- ii) Sites that already have planning permission (1,434 units);*
- iii) Dwellings on previously developed land;*
- iv) Sites allocated in earlier local plans;*
- v) The Strategic Development Allocation at the former Coldeast Hospital;*
- vi) The Strategic Development Location at Fareham Town Centre; and*
- vii) New allocations and redesignations to be identified through the Site Allocations and Development Management DPD*

The supply of sites will be kept up-to-date through a regular review of the Strategic Housing Land Availability Assessment which will identify sites. Those that are allocated will be done so through the Site Allocations and Development Management Development Plan Document. The Annual Monitoring Report will inform the pace of housing delivery and update the housing trajectory.

Development will achieve a mix of different housing sizes, types and tenures informed by the Housing Market Assessment and the Council's Housing Strategy.'

5.7 **Policy CS4 (Green Infrastructure, Biodiversity and Geological Conservation)** states in part:

'Habitats important to the biodiversity of the Borough, including Sites of Special Scientific Interest, Sites of Importance for Nature Conservation, areas of

woodland, the coast and trees will be protected in accordance with the hierarchy of nature conservation designations.

*In order to prevent adverse effects upon sensitive European sites in and around the Borough, the Council will work with other local authorities (including the Partnership for Urban South Hampshire) to develop and implement a strategic approach to protecting European sites from recreational pressure and development. This will include a suite of mitigation measures, with adequate provision of alternative recreational space for access management measures within and around the European sites and mitigation for impacts on air quality due to road traffic, supported by developer contributions where appropriate. **Development likely to have an individual or cumulative adverse impact will not be permitted unless the necessary mitigation measures have been secured.**' (emphasis added)*

5.8 **Policy CS5 (Transport Strategy and Infrastructure)** states in part:

'The Council will, where necessary work with the Local Highways Authority, Highways Agency and transport operators to promote, permit, develop and/or safeguard a high quality and sustainable integrated transport system for the Borough.

*Development proposals which generate significant demand for travel and/or are of a high density, **will be located in accessible* areas that are or will be well served by good quality public transport, walking and cycling facilities.***

The Council will permit development which:

- *Contributes towards and/or provides necessary and appropriate transport infrastructure including reduce and manage measures** and traffic management measures in a timely way;*
- ***Does not adversely affect the safety and operation of the strategic and local road network, public transport operations or pedestrian and cycle routes;***
- ***Is designed and implemented to prioritise and encourage safe and reliable journey's by walking, cycling and public transport.***
-

**Accessible includes access to shops, jobs, services and community facilities as well as public transport.*

*** Reduce management includes policies and strategies that can lead to a reduction in vehicles, principally car, use or to redistribute use in space or time.' (Emphasis added).*

5.9 **Policy CS6 (The Development Strategy)** states in part:

'Development will be focused in:

- i. Fareham (Policy CS7), the Western Wards & Whiteley (Policy CS9), Portchester, Stubbington & Hill Head and Titchfield (Policy CS11);*

- ii. Land at the Strategic Development Locations to the North of Fareham (Policy CS13) and Fareham Town Centre; (Policy CS8);
- iii. Land at the Strategic Development Allocations at the former Coldeast Hospital (Policy CS10) and Daedalus Airfield (Policy CS12).

In identifying land for development, the priority will be for the reuse of previously developed land, within the defined urban settlement boundaries including their review through the Site Allocations and Development Management DPD, taking into consideration biodiversity / potential community value, the character, the accessibility, infrastructure and services of the settlement and impacts on both the historic and natural environment. Opportunities will be taken to achieve environmental enhancement where possible.

Development which would have an adverse effect on the integrity of protected European conservation sites which cannot be avoided or adequately mitigated will not be permitted. (emphasis added)

5.10 **Policy CS14 (Development Outside Settlements)** states that:

Built development on land outside the defined settlements will be strictly controlled to protect the countryside and coastline from development which would adversely affect its landscape character, appearance and function. Acceptable forms of development will include that essential for agricultural, forestry, horticulture and required infrastructure. The conversion of existing buildings will be favoured. Replacement buildings must reduce the impact of development and be grouped with other existing buildings, where possible. In coastal locations, development should not have an adverse impact on the special character of the coast when viewed from the land or water. (emphasis added).

5.11 **Policy CS16 (Natural Resources and Renewable Energy)** states in part:

New development will be expected to safeguard the use of natural resources by preventing the loss of the best and most versatile agricultural land (Grades 1, 2 or 3a of the Natural England Agricultural Land Classifications System).

5.12 **Policy CS17 (High Quality Design)** states in part:

All development, buildings and spaces will be of a high quality of design and be safe and easily accessed by all members of the community. Proposals will need to demonstrate adherence to the principles of urban design and sustainability to help create quality places.

5.13 **Policy CS18 (Provision of Affordable Housing)** states

The Council will require the provision of affordable housing on all schemes that can deliver a net gain of 5 or more dwellings.

On sites that can accommodate between 5 and 9 dwellings developers will be expected to provide 30% affordable units or the equivalent financial contribution towards off-site provision.

On sites that can accommodate between 10 and 14 dwellings developers will be expected to provide 30% affordable units.

On sites that can accommodate 15 or more dwellings developers will be expected to provide 40% affordable units.

Development proposals will be required to provide a mixture of dwelling types, sizes and tenures reflecting the identified housing needs of the local population. Where development viability is an issue, developers will be expected to produce a financial assessment in which it is clearly demonstrated at the maximum number of affordable dwellings which can be achieved on the site.

Should a site fall below the above identified thresholds but it is demonstrably part of a potentially larger developer site, the Council will seek to achieve affordable housing on a pro rata basis.

The level of affordable housing provision will also be subject to other planning objectives to be met from the development site.'

5.14 Policy CS20 (Infrastructure and Development Contributions) states in part:

'Development will be required to provide or contribute towards the provision of infrastructure through planning conditions, legal agreement or directly through the service provider. Contributions or provision may also be required to mitigate the impact of development upon infrastructure. Detailed guidance on provision or contributions is or will be set out in Supplementary Planning Document(s) including any standard charges introduced through the Community Infrastructure Levy.'

5.15 Policy CS21 (Protection and Provision of Open Spaces) states in part:

'The Borough Council will safeguard and enhance existing open spaces and establish networks of Green Infrastructure to add value to their wildlife and recreational functions Development which would result in the loss of or reduce the recreational value of open space, including public and private playing fields, allotments and informal open space will not be permitted, unless it is of poor quality, under-used, or has low potential for open space and a better quality replacement site is provided which is equivalent in terms of accessibility and size.'

5.16 Policy CS22 (Development in Strategic Gaps) states in full:

*'Land within a Strategic Gap will be treated as countryside. Development proposals will not be permitted either individually or cumulatively **where it***

significantly affects the integrity of the gap and the physical and visual separation of settlements.

*Strategic Gaps have been identified between **Fareham/Stubbington** and **Western Wards/Whiteley** (the Meon gap); and **Stubbington/Lee** on the Solent and **Fareham/Gosport**.*

Their boundaries will be reviewed in accordance with the following criteria:

a) The open nature/sense of separation between settlements cannot be retained by other policy designations;

b) The land to be included within the gap performs an important role in defining the settlement character of the area and separating settlements at risk of coalescence;

c) In defining the extent of a gap, no more land than is necessary to prevent the coalescence of settlements should be included having regard to maintaining their physical and visual separation.’ (emphasis added)

Local Plan Part 2: Development Sites and Policies – Adopted 8th June 2015

5.17 The Local Plan Part 2 (LPP2) was adopted on 8th June 2015. The following policies were listed in the reasons for refusal and are relevant to the determination of these Appeals:

- DSP6 - New residential development outside of the defined urban settlement boundaries
- DSP13 - Nature Conservation
- DSP14 - Supporting Sites for Brent Geese and Waders
- DSP15 - Recreational Disturbance on the Solent Special Protection Areas
- DSP40 - Housing Allocations

5.18 Given the reasons for refusal, the following policies are particularly relevant to the issues at this appeal.

5.19 **Policy DSP6 (New Residential Development Outside of the Defined Urban Settlement Boundaries)** states in part:

‘There will be a presumption against new residential development outside of the defined urban settlement boundaries (as identified on

the Policies Map). New residential development will be permitted in instances where one or more of the following apply:

- i) It has been demonstrated that there is an essential need for a rural worker to live permanently at or near his/her place of work; or
- ii) It involves a conversion of an existing non-residential building where;
 - a) substantial construction and do not require major or complete reconstruction; and
 - b) evidence has been provided to demonstrate that no other suitable alternative uses can be found and conversion would lead to an enhancement to the building's immediate setting;
- iii) It comprises one or two new dwellings which infill an existing and continuous built-up residential frontage, where:
 - a) The new dwellings and plots are consistent in terms of size and character to the adjoining properties and would not harm the character of the area; and
 - b) It does not result in the extension of an existing frontage or the consolidation of an isolated group of dwellings; and
 - c) It does not involve the siting of dwellings at the rear of the new existing dwellings.

New buildings should be well-designed to respect the character of the area and, where possible, should be grouped with existing buildings.

Proposals should have particular regard to the requirements of Core Strategy Policy CS14: Development Outside Settlements, and Core Strategy Policy CS6: The Development Strategy. They should avoid the loss of significant trees, should not have an unacceptable impact on the amenity of residents, and should not result in unacceptable environmental or ecological impacts, or detrimental impact on the character or landscape of the surrounding area.' (Emphasis added)

5.20 Policy DSP13 (Nature Conservation) states in part

'Development may be permitted where it can be demonstrated that;

- i) *Designated sites and sites of nature conservation value are protected and where appropriate enhanced;*
- ii) *Protected and priority species populations and their associated habitats, breeding areas, foraging areas are protected and, where appropriate, enhanced;*
- iii) *Where appropriate, opportunities to provide a net gain in biodiversity have been explored and biodiversity enhancements incorporated; and*
- iv) *The proposal would not be prejudice or result in the fragmentation of the biodiversity network.*

Proposals resulting in detrimental impacts to the above shall only be granted where the planning authority is satisfied that (this should not be applied to impacts on SPA designated sites which are subject to stricter protection tests as set out in The Conservation of Species and Habitats Regulations (as amended) 2010):

- i) *Impacts are outweighed by the need for, and benefits of, the development; and*
- ii) *Adverse impacts can be minimised and provision is made for mitigation and, where necessary, compensation for those impacts is provided.'*

5.21 Policy DSP14 (Supporting Sites for Brent Geese and Waders) states:

Development on 'uncertain' sites for Brent Geese and/or Waders (as identified on the Policies Map or as updated or superseded by any revised plans, strategies or data) may be permitted where studies have been completed that clearly demonstrate that the site is not of 'importance'.

Development on 'important' sites for Brent Geese and/or Waders, (as identified on the Policies Map or as updated or superseded by any revised plans, strategies or data) may be granted planning permission where:

- i. it can be demonstrated that there is no adverse impact on those sites; or*
- ii. appropriate avoidance and/or mitigation measures to address the identified impacts, and a programme for the implementation of these measures, can be secured.*

Where an adverse impact on an 'important' site cannot be avoided or satisfactorily mitigated, an Appropriate Assessment will be required to determine whether or not the proposed development would have an adverse effect on the integrity of the Special Protection Areas supporting sites. Where an adverse effect on the integrity of a Solent Special Protection Area cannot be mitigated, planning permission is likely to be refused.'

5.22 Policy DSP15 (Recreational Disturbance on the Solent Special Protection Areas (SPA) states:

'In Combination Effects on SPA

Planning permission for proposals resulting in a net increase in residential units may be permitted where 'in combination' effects of recreation on the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution that is consistent with the approach being taken through the Solent Recreation Mitigation Strategy. In the absence of a financial contribution toward mitigation, an Appropriate Assessment will be required to demonstrate that any 'in combination' negative effects can either be avoided or satisfactorily mitigated through a developer provided package of measures.

Direct Effects on Special Protection Areas

Any application for development that is of a scale, or in a location, such that it is unlikely to have a direct effect on a European-designated site, will be required to undergo an individual Appropriate Assessment. This may result in the need for additional site-specific avoidance and/or mitigation measures to be maintained in perpetuity. Where proposals will result in an adverse effect on the integrity of any Special Protection Areas, planning permission will be refused.'

5.23 **Policy DSP40 (Housing Allocations)** states in full:

'The sites set out in Appendix C, Table 8 and shown on the Policies Map are allocated for residential development and should be developed in line with the principles set out in their respective Development Site Briefs.

Sites listed in Appendix C, Table 9 and shown on the Policies Map have extant planning permission for residential development and are allocated for residential development. In instances where the planning permission for a site is listed in Appendix C, Table 9 lapses, the Council will consider similar proposals and/or the preparation of an additional development site brief to set out the parameters for an alternative form of residential development.

All sites listed in Appendix C will be safeguarded from any other form of permanent development that would prejudice their future uses as housing sites to ensure that they are available for implementation during the plan period.

Where it can be demonstrated that the Council does not have a five-year supply of land for housing against the requirements of the Core Strategy (excluding Welborne) additional housing sites, outside the urban area boundary, may be permitted where they meet all of the following criteria:

- i) The proposal is relative in scale to the demonstrated 5-year housing land supply shortfall;***
- ii) The proposal is sustainably located adjacent to, and well related to, the existing urban settlement boundaries, and can be well integrated with the neighbouring settlement;***
- iii) The proposal is sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the Countryside and, if relevant, the Strategic Gaps.***
- iv) It can be demonstrated that the proposal is deliverable in the short term; and***
- v) The proposal would not have any unacceptable environmental, amenity or traffic implications.'* (Emphasis added)**

Other Material Policy Considerations

5.24 Other material policy considerations relevant to the determination of these appeals include the following documents:

- i) National Planning Policy Framework (2019)
- ii) Fareham Draft Local Plan 2036 (2017)
- iii) Fareham Draft Local Plan 2036 Supplement (2020)
- iv) Fareham Landscape Assessment (2017)
- v) Planning Obligations Supplementary Planning Document for the Borough of Fareham (excluding Welborne) (2016)

- vi) Definitive Strategy - 'Solent Recreation Mitigation Strategy' (December 2017)
- vii) Solent Waders and Brent Goose Strategy Guidance on Mitigation and Off-setting Requirements (October 2018).

5.25 The most relevant material policy considerations are outlined below.

National Planning Policy Framework (2019)

5.26 In February 2019 the Government published a revised version of the NPPF. All references made to the NPPF within my evidence relate to the 2019 publication unless otherwise stated. The most relevant paragraphs of the NPPF are set out below.

5.27 Paragraph 11 states that plans and decision should apply a presumption in favour of sustainable development. Where a five-year housing land supply cannot be demonstrated, and in the absence of any policies in the Framework that provide a clear reason for refusing the development with reference to footnote 6, the 'tilted balance' should apply and development proposals should be approved without delay unless when assessed against the policies of the Framework as whole, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

5.28 To support the Government's objective to significantly boost the supply of housing, Paragraph 59 of the NPPF states that it is important that a sufficient amount and variety of land can come forward where it is needed.

5.29 NPPF Paragraph 72 states:

'The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities. Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way.'
(emphasis added)

- 5.30 NPPF Paragraph 108 requires that new development ensures appropriate opportunities to promote sustainable transport modes can be provided. A safe and suitable access for users and any significant impacts from the development on the transport network or on highway safety can be cost effectively mitigated to an acceptable degree. Paragraph 109 states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.31 NPPF paragraph 117 states that 'strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land'.
- 5.32 NPPF Paragraph 127 (c) requires planning policies to ensure that developments are 'sympathetic to local character and history, including the surrounding built environment and landscape setting...'.
- 5.33 NPPF Paragraph 170 (b) states that planning policies and decisions should contribute to enhancing the natural and local environment recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services,- including the economic and other benefits of the best and most versatile agricultural land.
- 5.34 Paragraph 172 of NPPF states that Plans should distinguish between the hierarchy of international, national and locally designed sites. Paragraph 173 of NPPF advises that plans should protect and enhance areas identified by national and local partnerships for habitat management, enhancement, restoration or creation. Paragraph 177 states that the presumption in favour of sustainable development does not apply where a plans or project is likely to have a significant effect on a habitat site (either alone or in combination with other plans or projects) unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitat site.
- 5.35 NPPF Paragraph 213 states that due weight should be afforded to Development Plan policies according to their degree of consistency of the framework. I therefore consider the consistency of the most important Development Plan policies for the determination of this appeal with the NPPF below.

6 DEGREE OF DEVELOPMENT PLAN CONSISTENCY WITH THE NPPF

The Development Strategy

- 6.1 The strategic vision for Fareham Borough is set out within the Development Plan Core Strategy policies CS2, CS6 and CS14, which directs where development should go. In particular the Core Strategy contains strategic objectives SO1 and SO2:

“SO1: To deliver the South Hampshire Strategy in a sustainable way, focusing development in Fareham, the Strategic Development Area north of Fareham and the Western Wards.

SO2: To promote and encourage the efficient re-use of previously developed land and buildings in accordance with the principles of high quality and sustainable design.”

Local Plan Part 1: Core Strategy Policy CS2 (Housing Provision)

- 6.2 To meet SO1 and SO2, Policy CS2 outlines that 3,729 dwellings will be provided within the Borough between 2006 and 2026 and states that:

“Built Development outside of defined settlements will be strictly controlled to protect the countryside and coastline from development which would adversely affect its landscape character, appearance and function. Acceptable forms of development will include that essential for agriculture, forestry, horticulture and required infrastructure.”

- 6.3 The supporting text notes at 5.146 that

“The strategy concentrates development into the existing urban areas and strategic sites. To support this approach, development in the countryside, outside the settlement boundaries will be strictly controlled...”

- 6.4 This development strategy is continued in the Local Plan Part 2. Under Chapter 3: existing settlements there is a section on “Defined Urban Settlement Boundaries” paragraph 3.7 of which provides that:

“Development outside the DUSBs is generally subject to restrictive policies, which limit uses to those appropriate to these areas, such as purposes directly related to agriculture, forestry, horticulture or related infrastructure.”

- 6.5 NPPF Paragraph 72 emphasises that the supply of new homes can often best be achieved through planning for larger scale development. Furthermore, the

focus on previously developed land is consistent with NPPF Paragraph 117. Whilst the level of housing provision is no longer up to date, Policy CS2 is generally consistent with the NPPF, therefore, and this increases the weight afforded to it when read alongside the other development plan policies which represent the development strategy for the Borough.

Local Plan Part 1: Core Strategy Policy CS6 (The Development Strategy)

- 6.6 Policy CS6 sets out the Development Strategy for the Borough and also aims to focus development in certain areas including strategic development locations. Similar to Policy CS2, it makes reference to (what was at the time) the forthcoming Site Allocations DPD (now the 'LPP2'). This policy deals with all development types and sets out a focus for development rather than setting out a specific requirement for development to be located in certain areas.
- 6.7 Policy CS6 should be read in conjunction with other DPD policies which relate to the development strategy. As noted above in relation to Policy CS2, NPPF Paragraph 72 supports a strategic approach to the provision of new homes. Furthermore, NPPF paragraph 117 supports a focus of development upon previously developed land. For these reasons, I consider that Policy CS6 is equally consistent with the NPPF.

Local Plan Part 1: Core Strategy Policy CS14 (Development Outside Settlements)

- 6.8 Policy CS14 seeks to protect the countryside and coastline from development that would adversely affect its landscape character, appearance and function. The policy lists acceptable forms of development, none of which apply to the Appeal Developments. This policy is consistent with NPPF Paragraph 170 (b). The policy does not contain a NPPF Paragraph 11 (was Para 14 in NPPF March 2012) type balancing exercise. However, it was established in the judgment of **Lindblom J in Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government, Hinckley and Bosworth Borough Council** [2014] EWHC 754 (Admin) (CDK.6) that a policy does not require such a balancing exercise in order to be compliant with the NPPF.

- 6.9 The same logic can be applied in respect of Policy CS14 in relation to the NPPF. Policy CS14, in the light of the above authority, may properly be considered consistent with the NPPF.

The Development Strategy where there is a shortfall in 5YHLS

Local Plan Part 2: Developing Sites and Strategies Policy DSP40 (Housing Allocations)

- 6.10 Policy DSP40 makes provision for a situation where there is a shortfall in HLS. This inherent flexibility ensures that the Policy maintains consistency with the emphasis at NPPF paragraph 59 on 'significantly boosting the supply of homes'. Furthermore, this policy was found sound by the Local Plan Inspector (subject to modifications) in his May 2015 report on the LPP2 (CDE.4 para 47). The Inspector recommended that the policy was modified to include criteria for residential development to be considered against in the context of a housing land supply shortfall.
- 6.11 Policy DSP40 is consistent with the NPPF paragraph 11 which sets out how decisions are to be taken where a five-year supply of deliverable housing sites cannot be demonstrated. In such circumstances, paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. Where a five-year housing land supply cannot be demonstrated, and in the absence of any policies in the Framework that provide a clear reason for refusing the development with reference to footnote 6, the 'tilted balance' should apply and development proposals should be approved without delay unless, when assessed against the policies of the Framework as whole, there are any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 6.12 Policy DSP40 includes an assessment procedure whereby appropriate housing sites beyond the settlement boundary may be permitted in such circumstances.

Local Plan Policy DSP6 New Residential Development Outside of the Defined Urban Settlement Boundaries

- 6.13 Policy DSP6 outlines the circumstances under which new residential development may be permitted in areas outside of the defined urban settlement boundaries. It states that it should be read in conjunction with LPP1 Policies

CS6 and CS14. For the same reasons as those outlined above, this policy is consistent with the NPPF. Similarly, this policy does not require an NPPF type balancing exercise in order to be consistent with the NPPF (CDK.6 [Bloor]). Indeed, LPP2 post-dated the previous version of the NPPF and a Local Plan Inspector considered the Local Plan 'sound' (CDE.4). These factors increase the weight which may be afforded to Policy DSP6.

Other relevant Development Plan Policies

Natural Resources and Nature Conservation

Local Plan Part 1: Core Strategy Policy CS4 (Green Infrastructure, Biodiversity and Geological Conservation)

- 6.14 Policy CS4 protects habitats important to the biodiversity of the Borough in accordance with a hierarchy of nature conservation designations in which International designations (Special Protection Area (SPAs), Special Areas of Conservation (SAC) and Ramsar) are given foremost priority followed by national and local designations. Development likely to have an individual or cumulative adverse impact on European sites will not be permitted unless the necessary mitigation measures have been secured.
- 6.15 In order to prevent adverse effects upon sensitive European sites in and around the Borough, Policy CS4 states that the Council will work with other local authorities (including the Partnership for Urban South Hampshire now known as the Partnership for South Hampshire (PfSH)) to develop and implement a strategic approach to protecting European sites from recreational pressure and development.
- 6.16 For these reasons I consider that Policy CS4 is equally consistent with the paragraph 172 of the NPPF

Local Plan Policy DSP14 (Supporting Sites for Brent Geese and Waders)

- 6.17 Policy DSP14 specifically supports sites for Brent Geese and waders that are functionally linked to Solent Special Protection Areas (SPA) and which form part of a network of habitats providing feeding and roosting areas. Development must demonstrate no adverse impact on 'uncertain' sites' for Brent Geese and Waders or appropriate avoidance and/or mitigation measures

to address identified impacts should be secured to safeguard the integrity of the SPA.

- 6.18 I consider that Policy DSP14 is equally consistent with paragraph 172.

Local Plan Part 1 Core Strategy Policy CS5 (Transport Strategy and Infrastructure)

- 6.19 CS5 requires development proposals that generate significant demand for travel and or are of a high density to be located in accessible areas that are or will be served well served by good quality public transport, walking and cycling facilities. The policy also requires new development not to adversely affect the safety and operation of the strategic and local road network, public transport operations or pedestrian and cycle routes.

- 6.20 Policy CS5 is considered consistent with Paragraph 108 and 109 NPPF, and therefore this increases the weight afforded to it when read alongside the other development plan policies which represent the development strategy for the Borough.

Local Plan Part 1: Core Strategy Policy CS16 Natural Resources and Renewable Energy

- 6.21 Policy CS16 expects development to safeguard the use of natural resources by in part preventing the loss of the best and most versatile agricultural land (Grades 1, 2 or 3a of the Natural England Agricultural Land Classifications System). Supporting text at Paragraph 6.12 explains that Fareham has areas which are made up of high-quality soil, which is an important finite resource that has helped to shape the character of the Borough's landscape. As well as being essential for agriculture, it also aids biodiversity habitats and stores a large quantity of carbon. The rising costs of buying food and the environmental impact of importing food over long distances, reinforces the need to protect land and soils for agricultural use, now and for future generations.
- 6.22 For these reasons, I consider that Policy CS16 is equally consistent with the paragraph 170 (b) of the NPPF.

Transport

Local Plan Part 1 Core Strategy Policy CS5 (Transport Strategy and Infrastructure)

- 6.23 CS5 requires development proposals that generate significant demand for travel and / or are of a high density to be located in accessible areas that are or will be served well served by good quality public transport, walking and cycling facilities. The policy also requires new development not to adversely affect the safety and operation of the strategic and local road network, public transport operations or pedestrian and cycle routes.
- 6.24 Policy CS5 is considered consistent with Paragraph 108 and 109 NPPF, and therefore this increases the weight afforded to it when read alongside the other development plan policies which represent the development strategy for the Borough.

Strategic Gaps

Local Plan Part 1: Core Strategy Policy CS22 (Development in Strategic Gaps)

- 6.25 Policy CS22 outlines that development will be not permitted within identified Strategic Gaps where it would individually or cumulatively significantly affect the integrity of the gap and the physical and visual separation of settlements. This policy is consistent with NPPF Paragraph 127 (c) and NPPF Paragraph 170.
- 6.26 Policy CS22 also includes provision for a further review of the Strategic Gap boundaries. A review of the gap policy designations was undertaken in October 2012 [CDG.1]. This review formed part of the evidence base for the LPP2. The Inspector's report on the LPP2 concluded that the gap review was acceptable [CDE.4]. These factors add further weight to this policy.

Draft Fareham Local Plan Review to 2036

- 6.27 The Council is in the process of producing a new Local Plan. This will address the development requirements up until 2036 and, in due course, will replace

Local Plan Part 1 (Core Strategy) and Local Plan Part 2 (Development Sites & Policies).

6.28 The work that the Council has completed to date to produce a draft Local Plan remains relevant and reflects the NPPF and PPG. A Regulation 19 draft Local Plan and is currently being consulted upon.

6.29 Taking these factors into consideration and given the early stage of the Local Plan Review, I consider it cannot be afforded any significant weight in the determination of these appeals. I do note, however, that the Council has been making development management decisions on sites identified for development in the emerging Local Plan Review.

7 PROPER APPROACH TO DETERMINING THIS APPEAL

The Section 38(6) Test

- 7.1 In accordance with Sections 70(2) and 79(4) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, these appeals must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The starting point in determining these appeals is, therefore, the extent to which the Appeal Developments accords with or conflicts with the adopted Development Plan policies. The decision maker must then turn to other material considerations, which in the case of the Appeal Developments include the NPPF and the emerging development plan policies.

Proper Approach to Determining this Appeal

- 7.2 The NPPF is an important material consideration under the section 38(6) test. However, as Lord Carnwath made clear in the Supreme Court judgment in *Suffolk Coastal District Council v Hopkins Homes Ltd; Richborough Estates Partnership LLP v Cheshire East Borough Council* [2017] UKSC 37 (CDK.5) (“the Suffolk Coastal case”) at [21], the NPPF:

‘... cannot, and does not purport to, displace the primacy given by the statute and policy to the statutory development plan. It must be exercised consistently with, and not so as to displace or distort, the statutory scheme.’

- 7.3 This is reiterated in NPPF Paragraph 12: “The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making”.
- 7.4 The approach to considering the extent of the housing land supply shortfall is considered in **Hallam Land Management Ltd v SSCLG** [2018] EWCA Civ 1808 (CDK.11). Paragraphs 51 and 52 below provide further clarification on the approach to be taken.

“51. Secondly, the policies in paragraphs 14 and 49 of the NPPF do not specify the weight to be given to the benefit, in a particular proposal, of reducing or overcoming a shortfall against the requirement for a five-year supply of housing land. This is a matter for the decision-maker’s planning judgment, and the court will not interfere with that planning judgment except on public law grounds. But the weight given to the benefits of new housing development in an area where a shortfall in housing land supply

has arisen is likely to depend on factors such as the broad magnitude of the shortfall, how long it is likely to persist, what the local planning authority is doing to reduce it, and how much of it the development will meet.

52.Thirdly, the NPPF does not stipulate the degree of precision required in calculating the supply of housing land when an application or appeal is being determined. This too is left to the decision-maker. It will not be the same in every case. The parties will sometimes be able to agree whether or not there is a five-year supply, and if there is a shortfall, what that shortfall actually is. Often there will be disagreement, which the decision-maker will have to resolve with as much certainty as the decision requires.

In some cases the parties will not be able to agree whether there is a shortfall. And in others it will be agreed that a shortfall exists, but its extent will be in dispute. Typically, however, the question for the decision-maker will not be simply whether or not a five-year supply of housing land has been demonstrated. If there is a shortfall, he will generally have to gauge, at least in broad terms, how large it is. No hard and fast rule applies. But it seems implicit in the policies in paragraphs 47, 49 and 14 of the NPPF that the decision-maker, doing the best he can with the material before him, must be able to judge what weight should be given both to the benefits of housing development that will reduce a shortfall in the five-year supply and to any conflict with relevant “non-housing policies” in the development plan that impede the supply. Otherwise, he will not be able to perform the task referred to by Lord Carnwath in Hopkins Homes Ltd.. It is for this reason that he will normally have to identify at least the broad magnitude of any shortfall in the supply of housing land.”

Housing Land Supply

- 7.5 At the time of drafting this proof, prior to the new guidance coming into force, the Council does not have a 5-year housing land supply. There is dispute between the parties as to the extent of the shortfall however and housing land supply is addressed in detail in section 8.

Is the presumption in favour of sustainable development disapplied by NPPF Paragraph 177?

- 7.6 The tilted balance in favour of sustainable development does not apply, notwithstanding that the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites. NPPF Paragraph 10 sets out that there is a presumption in favour of sustainable development at the heart of the framework. NPPF Paragraph 11 explains what this means for plan-making and decision-taking. However, NPPF Paragraph 177 is clear that this presumption does not apply where the plan or project is likely to have a significant effect on

a habitats site unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

- 7.7 The presumption in favour of sustainable development should not apply to these appeals, due to the potential for the Appeal Developments to have likely significant effects on European habitats sites in the absence of appropriate mitigation for the loss of a low use Brent geese and wader site.
- 7.8 It will be for the competent authority, to undertake an appropriate assessment to determine whether the projects will affect the integrity of the habitats sites.
- 7.9 If the ecological issues to be assessed under the Habitats Regulations are still extant at the time of the inquiry, and the Appropriate Assessment concludes that the appeal proposals will adversely affect the integrity of the habitats site, then it is clear that the appeals should be refused on the basis of NPPF Paragraph 177.
- 7.10 The Council's position is that there is a sufficiently robust adopted policy basis upon which to weigh up the material planning considerations, with specific regard to Policy CS4, Policy DSP13, Policy DSP14 which would carry significant weight, and Policy DSP40 which would carry very significant weight, in the determination of these appeal applications.

If the presumption in favour of sustainable development is not disapplied, then how should NPPF Paragraph 11(d) be applied?

- 7.11 Should it be concluded that the project will not adversely affect the integrity of habitats sites, NPPF Paragraph 11 applies to the determination of these appeals.
- 7.12 NPPF Footnote 7 explains that 'the most important' development plan policies in determining planning applications for housing are 'out-of-date' where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.13 NPPF Paragraph 11(d) states that for decision-taking, the presumption in favour of sustainable development means as follows:

'Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. The application of policies in this framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.'*

7.14 It is the correct approach to apply the tests in NPPF 11(d) sequentially, the first test being whether there are policies within the framework which provide a clear reason for refusing the Appeal Developments. The Council considers that there are policies of this type in the Framework, as referenced at footnote 6 of paragraph 11(d) namely 'habitats sites'.

7.15 If having undertaken an Appropriate Assessment as required by Paragraph 177, it is determined that that the appeal proposals will not affect the integrity of the habitats sites, the test in NPPF paragraph 11d (ii) would apply and the Inspector should weigh up, when assessed against the policies in NPPF as whole, whether the adverse impacts of the Appeal Developments would significantly and demonstrably outweigh the benefits.

7.16 The tilted balance set out at NPPF Paragraph 11 would apply to the determination of these appeals as the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.

7.17 In circumstances where the tilted-balance is engaged, weight can still be afforded to the Development Plan policies in line with the Suffolk Coastal case referred to previously.

7.18 Where the Development Plan expressly addresses the manner in which such applications should be decided in circumstances where a five-year supply cannot be demonstrated, the fact that the proposal is in breach of policy DSP40 must be given very substantial weight in the planning balance. This is because the fact that policy DSP40 is breached puts the development squarely at odds with the Council's development strategy and the core principle that planning for the future should be genuinely plan led.

7.19 It is by complying with the terms of policy DSP40 that proposed development for housing outside of the settlement boundary escapes the fundamental constraints of settlement boundary policy. Failure to give a breach of this policy anything less than very substantial weight would entail a failure to respect the primacy of the development plan and would distort or displace the statutory scheme (to use the words of Lord Carnwath above).

The Local Plan Development Strategy

7.20 The Council has a clear strategy for residential development within the Borough. The Development Strategy emphasised within the LPP1 and LPP2 policies seeks to focus development in certain areas, with an emphasis on allocations and strategic allocations. LPP3 builds on this and is central to the Council's strategy. The Welborne Garden Village will provide 6,000 new homes, completely consistent with the emphasis within the NPPF on a Planned system.

7.21 In particular, NPPF Paragraph 72 states as follows:

'The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities. Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way.'
(emphasis added)

7.22 This is exactly the approach that the Council has adopted, and I consider that the relevant Development Plan Policies are all consistent with this wider strategy. The strategic Development Plan policies all form part of this strategy and they cross-refer to each other in this regard. In addition Development Plan policies (and in particular the Strategic Gap policy), seek to protect the countryside from development which would adversely affect its landscape character, appearance and function; prevent development that would adversely affect the safety and operation of the strategic and local road network and that is poorly located; prevent an adverse effect on the integrity of protected European conservation sites; avoid the loss of the best and most versatile agricultural land; and seek to avoid a detrimental impact to designated sites and sites of nature conservation value. This purpose is entirely consistent with the NPPF as outlined above.

- 7.23 I consider that Policy DSP40 can be afforded full and very substantial weight in the planning balance given that it is designed specifically to address a situation where there is a housing land supply shortfall. Furthermore, I have found Policy DSP40 to be wholly consistent with the NPPF.
- 7.24 With regard to other relevant policies, whether the policies themselves are 'out-of-date' is not the determinative factor. In the context of a housing land supply shortfall, the weight to be afforded to the relevant Development Plan policies is a matter of planning judgement for the decision-maker, as confirmed in the Supreme Court judgement in Suffolk Coastal.
- 7.25 I have also considered the purpose of the policies which the Appeal Proposals breaches. All of those form part of a wider development strategy which seeks to protect the countryside, nature conservation interests and focus development on previously developed land and strategic sites, consistent with NPPF policies for the protection of the countryside.
- 7.26 Should it be determined that there is no relevant policy which provides a clear reason for refusing the development (d(i)), then the Council will demonstrate that the adverse effects of the appeal proposals would significantly and demonstrably outweigh the benefits through the application of policy DSP40 which has been found sound to use for this purpose.

8 HOUSING LAND SUPPLY

8.1 Paragraph 73 of the NPPF requires local planning authorities to '*identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five-years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five-years old.*' Deliverable sites are sites which are available now, offer a suitable location for development now and must be achievable with a realistic prospect that housing will be delivered on the site within 5 years.

Summary of Council's current five-year housing land supply position

8.2 The Council's housing land supply position was set out in the Supplementary Update report to Planning Committee on 24th June 2020 (CDC.3). Matters which were agreed were set out in the respective Statements of Common Ground (SoCG) [July 2020] at paragraph 7.3 – 7.16. Matters that were not agreed were set out at paragraph 7.17 of the respective SoCGs.

8.3 At that time, the Council considered that it was able to demonstrate a 4.03 year land supply; a deliverable supply of 2,177 homes in the period 2020-2025. The Appellant considered that the Council was able to demonstrate a 1.11 year land supply; a deliverable supply of 599 homes in the period 2020-2025.

8.4 However, in carrying out a review of the housing land supply position in preparing of this evidence, I have found no compelling evidence to demonstrate that four of the sites in the July 2020 will come forward within the 5 year period. I have therefore excluded these from the Council's supply.

8.5 An updated table of the Council's position and that of the Appellant is set out below with the sites that I have excluded shown in red.

Source of supply	Position of the Council	Position of the Appellant
Sites which should be considered deliverable unless there is clear evidence to the contrary		
Small permitted sites	155	155

Source of supply	Position of the Council	Position of the Appellant
Large permitted sites with detailed consent	371	356
1 Station Industrial Park	0	0
Other sites with detailed planning permission	356	356
Site which should only be considered deliverable where there is clear evidence that completions will begin on the site within five-years		
Large permitted sites with outline planning permission	99	14
Land east of Brook Lane, Warsash	85	0
Other sites with outline planning permission	14	14
Dwellings with a Resolution to Grant Planning Permission	709	0
Allocations	624	0
Wynton Way, Fareham	10	0
335-337 Gosport Road, Fareham	0	0
East of Raley Road	0	0
33 Lodge Road, Locks Heath	0	0
Land off Church Road	26	0
Heath Road, Locks Heath	70	0
Welborne	450	0
Sites identified on a Brownfield Register	145	0
Fareham Magistrates Court	45	0

Source of supply	Position of the Council	Position of the Appellant
Warsash Maritime Academy	100	0
Windfall allowance	74	74
TOTAL	2,094	599

8.6 On this basis, it is the Council's revised position that it is able to demonstrate a 3.9 year land supply; a deliverable supply of 2,094 homes in the period 2020-2025.

The Deliverable Supply

8.7 In order to be considered deliverable, it is agreed that all sites must as a minimum have offered a suitable location for development at the base-date, they must have been available at the base-date, and there must have been a realistic prospect of delivery within five-years from the base-date of the assessment, namely 1st April 2020.

8.8 Additionally, permitted sites which do not involve major development and sites with detailed planning permission should be considered deliverable unless there is clear evidence that homes will not be delivered within five-years. Sites with outline planning permission for major development, sites allocated in the development plan, sites with a grant of permission in principle and sites identified on a brownfield register can only be considered deliverable where there is clear evidence that completions will begin on site within five-years.

8.9 In preparing my evidence for this appeal, I have undertaken my own review, informed through the discussions with Planning Officers at the Council based on information directly received from developers and my own consideration of the progress of the sites and the likelihood of delivering housing within the next 5 years. In undertaking this review, I have had regard to the content of the NPPF and PPG and relevant decisions and judgments in concluding on what I consider can be taken as being a deliverable part of the supply.

8.10 The outcomes of my review are set out below. I have summarised my commentary on the supply, in the following sections.

Outstanding Planning Permissions – Small

Source of supply	Position of the Council	Position of the Appellant
Small permitted sites	155	155

8.11 The 155 dwellings are forecast to be built from outstanding planning permissions (small 1- 4 units) by 30th March 2025. The Council has applied a 10% discount to allow for lapses in permission. I consider that this is a reasonable approach and that the supply can be relied upon. This position is a matter of agreement as set out in the Statement of Common Ground.

Outstanding Planning Permissions – Large

Source of supply	Updated Position of the Council	Position of the Appellant
Large permitted sites with detailed consent	356	356
1 Station Industrial Park	0	0
Other sites with detailed planning permission	356	356

8.12 It is the Council's revised position that 1 Station Industrial Park previously forecast to deliver 15 units cannot be considered available as it currently in use by Foreman Homes as offices and the prior approval consent (P/17/1219/PC) expired on 31st October 2020.

Large permitted sites with outline planning permission

Source of supply	Position of the Council	Position of the Appellant
Large permitted sites with detailed consent	99	14
Land east of Brook Lane, Warsash	85	0
Other sites with outline planning permission	14	14

8.13 The 99 dwellings are forecast to be built from outstanding planning permissions (large 5 or more units) by 30th March 2025. It is a matter of agreement as out in the Statement of Common Ground that 14 of these units are considered deliverable. It is a matter of dispute that 85 dwellings on Land east of Brook Lane, Warsash are deliverable with 5 years.

Land east of Brook Lane, Warsash

8.14 The Appellant's position is that there is no evidence that progress has been made since the reserved matters application was submitted in March 2019 and that Natural England has raised the potential for significant impacts on European protected sites. Furthermore, that reserved matters applications will need to be prepared and conditions discharged once the consent is issued which is likely to delay a start on site.

8.15 Pursuant to Outline Planning Permission P/16/1049/OA, granted consent on Appeal in May 2018 for up to 85 dwellings, a reserved matters application for approval of details relating to landscape, scale, appearance and landscaping (ref P/19/0313/RM) was submitted in March 2019. Since that date, discussions between the applicant and the case officer have been active and are ongoing.

8.16 I am advised by the case officer that on 16th September 2020 the agent requested an extension of time to 22nd December 2020 with a view to submitting amended plans to improve the overall quality of the scheme, as requested by the Council, and a nitrate budget as requested by Natural

England. The agent has also indicated that details of the SUDS required to discharge condition 18 attached to the OA are also to be submitted.

- 8.17 An extension of time until the 22nd December 2020 has been agreed with applicant with the intention that the application is taken to planning committee on 16th December 2020.
- 8.18 The housing trajectory estimates that 50 dwellings will be completed on the site by 2021/22 and 35 dwellings by 2002/23. The planning conditions attached to the outline consent are in my opinion standard and not especially onerous and the number of pre-commencement conditions is limited. Condition 3 requires the development to be begun before the expiration of 12 months from the date of the approval of the last reserved matter application to be approved. The current reserved matters application relates to the whole of the development up to 85 dwellings. I consider that on this basis, that even if the determination of the reserved matters application was to be delayed until January 2021, it is realistic to anticipate that the site is capable of being delivered within the 5 year period.

Dwellings with a Resolution to Grant Consent Planning Consent

- 8.19 The Council has identified 709 dwellings with a resolution to grant planning permission as set out in the table below:

Sites with a resolution to grant planning consent		5 Year Supply (2020/21 – 2024/25)	
<i>Councils Position</i>	709	Appellant's Position	0
<i>Sites with Full Planning Permission</i>			
<i>East & West of 79 Greenaway Lane, Warsash (P/18/0884/FP)</i>		6 dwellings	
<i>Land South West of Sovereign Crescent, Locks Heath (P/18/0484/FP)</i>		38 dwellings	
<i>Moraunt Drive, Portchester (P/18/0654/FP)</i>		48 dwellings	

Sites with Outline Planning Permission	
<i>Land at Brook Lane, Warsash - Foreman Homes (P/17/0845/OA)</i>	180 dwellings
<i>Land East of Brook Lane (South), Warsash – Bargate Homes (P/17/0752/OA)</i>	140 dwellings
<i>Land to the East of Brook Lane and West of Lockwood Road - Land & Partners (P/17/0998/OA)</i>	145 dwellings
<i>East & West of 79 Greenaway Lane, Warsash (P/18/0107/OA)</i>	30 dwellings
<i>Land South of Funtley Road, Funtley (P/18/0067/OA)</i>	55 dwellings
<i>Southampton Road (Reside) (P/18/0068/OA)</i>	105 dwellings
<i>Egmont Nurseries, Brook Avenue (P/18/0592/OA)</i>	8 dwellings

- 8.20 The Appellant’s position is that sites with a resolution to grant planning permission cannot be considered to be deliverable with reference to category A and B sites as defined in NPPF. The Appellant further contends that even if they were considered deliverable, the s106 agreements will take a considerable amount of time to negotiate and that reserved matters and conditions attached to the respective consents once issued means that there will be a long lead in time before a start on site can be made.
- 8.21 The Council considers these sites are deliverable according to the High Court Consent Order (Claim No. CO/917/2020, 12th May 2020) in the case of East Northamptonshire Council (ENC) and the Secretary of State and Lourett Developments Ltd) (CDK.8).
- 8.22 ENC commenced legal action against the SOS for allowing a planning appeal at Thrapston in Northamptonshire. The case related to the Planning Inspector’s decision to treat the definition of ‘deliverable’ within the Glossary of the NPPF as a ‘closed list’.
- 8.23 The SOS conceded that he erred in his interpretation of the definition of deliverable within the glossary of the National Planning Policy Framework (“NPPF”) as a ‘closed list’. The proper interpretation of the definition is that any

site which can be shown to 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' will meet the definition; and that the examples given in categories (a) and (b) are not exhaustive of all the categories of site which are capable of meeting that definition. Whether a site does or does not meet the definition is a matter of planning judgment on the evidence available. The SOS considered that it was appropriate for the Court to make an Order quashing the decisions and remitting the appeal to be determined anew. The Court duly issued an order to this effect.

- 8.24 In light of the position taken by the SOS, the Council consider that it is reasonable to assume that Planning Inspectors will now follow the approach advocated in this case. On this basis, the Council's position is that applications with a resolution to grant planning consent can be included in the 5YHLS where there is clear evidence that housing completions will begin on site within five-years.
- 8.25 Sites with a resolution to grant planning consent comprise 709 dwellings of the Council's housing supply 2020-2025. I set out clear evidence below to demonstrate that these sites are deliverable and meet the definition as set out in the NPPF.

Background context

- 8.26 In February 2019, Natural England updated its advice to local councils to reflect recent European case law and now recommends an Appropriate Assessment is undertaken within the Borough of Fareham for every application for a net increase of one dwelling.
- 8.27 Natural England has highlighted that increased levels of nitrates entering the Solent (because of increased amounts of wastewater from new dwellings) is likely to have a significant effect upon European Protected Sites (EPS).
- 8.28 Sites with a resolution to grant planning consent have been 'held back' since February 2019 where developers have not been able to demonstrate that their proposals maintain or reduce the levels of nitrates leaving their site or developers are unable to provide the necessary mitigation.

- 8.29 However, on 30th September 2020 the Council entered into a legal agreement with the Hampshire and Isle of Wight Wildlife Trust and Isle of Wight Council to secure nitrate mitigation at Little Duxmore Farm in connection with residential planning permissions granted within the Borough of Fareham.
- 8.30 The agreement provides a legal framework to facilitate the purchase of nitrate credits for applicants/ developers. It also controls how the land at Little Duxmore Farm is managed and for what period of time and will ensure monitoring is undertaken to ensure compliance with the legal agreement.
- 8.31 The legal agreement does not specify how many nitrate credits will need to be provided in mitigation for specific development sites. The amount of mitigation needed for each development proposal will need to be agreed on a case by case basis with the Council as part of the planning application process. Once the level of mitigation has been established, and the Council has concluded following an appropriate assessment that there will be no adverse effect on the integrity of protected sites as a result of the development, the applicant/ developer will then enter into arrangements with the HIOWWT to purchase the nitrate mitigation. The applicant/ developer will need to satisfy the Council that the mitigation has been secured at the time of granting planning permission, with proof of the purchase of credits to be provided before their development commences.
- 8.32 Further, FBC and the Trust have agreed the format for a “Nitrogen Mitigation Proposals” pack which sets out an explanation and provides the evidence on a case by case basis for how the mitigation will work. Applicants have been asked to submit such a pack of information for their applications which will be supplied by the Trust. That will enable the Council to write Appropriate Assessments and progress to issuing permissions. As soon as this pack becomes public, a copy can be provided to the Inspector along with examples of decisions that have been issued under the terms of the agreement.
- 8.33 With this agreement in place, I anticipate that the Council can start to issue permissions without delay.

Progress on Applications with resolution to grant Full Planning Consent

Sites now with Planning permission

- 8.34 Significant progress has already been made by the Council. The following developments have secured planning consent.

Sites with Full Planning Permission	No of Dwellings	Consent granted
<i>East & West of 79 Greenaway Lane, Warsash (P/18/0884/FP)</i>	6 dwellings	11 th August 2020
Sites with Outline Planning Permission		
<i>Land South of Funtley Road, Funtley (P/18/0067/OA)</i>	55 dwellings	2 nd September 2020
<i>Southampton Road (Reside) (P/18/0068/OA)</i>	105 dwellings	12 th July 2020
<i>Egmont Nurseries, Brook Avenue (P/18/0592/OA)</i>	8 dwellings	1 st October 2020.
Total number of dwellings	175 dwellings	

East & West of 79 Greenaway Lane, Warsash (P/18/0884/FP): 6 Dwellings

- 8.35 Full planning permission has been granted for 6 dwellings at East & West of 79 Greenaway Lane, Warsash (P/18/0884/FP) on 11th August 2020 incorporating wetland creation. There is only one standard pre-commencement condition attached to the consent. For this reason, I consider that the Council's projected housing delivery of 6 dwellings in 2021/22 is entirely deliverable within the 5 year period.

Land South of Funtley Road, Funtley (P/18/0067/OA: 55 dwellings and Southampton Road (Reside) (P/18/0068/OA: 105 dwellings

- 8.36 The Land South of Funtley Road, Funtley (P/18/0067/OA) was granted outline permission on 2nd September 2020. The land at Southampton Road (Reside) (P/18/0068/OA) was granted outline permission on 12th July 2020.

8.37 Applications for the approval of reserved matters are to be submitted to the Council within 24 months. Works are then to commence within 12 months of the final reserved matter application. The conditions and obligations are standard and not onerous. For this reason, I consider that the Council's projected housing delivery of 55 dwellings at the Land South of Funtley Road, Funtley and 105 dwellings at Southampton Road (Reside) are entirely deliverable within the 5 year period.

Egmont Nurseries, Brook Avenue (P/18/0592/OA): 8 dwellings

8.38 The land at Egmont Nurseries, Brook Avenue (P/18/0592/OA) was granted outline permission on 1st October 2020.

8.39 Applications for the submission of reserved matters has been reduced to 12 months. The conditions and obligations are standard and not onerous. For this reason, I consider that the Council's projected housing delivery of 8 dwellings at Egmont Nurseries are entirely deliverable within the 5 year period.

Applicants expressing an interest in nitrate credits under the HIWWT Scheme

Sites with Full Planning Permission	
<i>Land South West of Sovereign Crescent, Locks Heath (P/18/0484/FP)</i>	38 dwellings
<i>Moraunt Drive, Portchester (P/18/0654/FP)</i>	48 dwellings
Sites with Outline Planning Permission	
<i>East & West of 79 Greenaway Lane, Warsash (P/18/0107/OA)</i>	30 dwellings
<i>Land East of Brook Lane (South), Warsash – Bargate Homes (P/17/0752/OA)</i>	140 dwelling
<i>Land to the East of Brook Lane and West of Lockswood</i>	145 dwellings
Total number of dwellings	401 dwellings

Land South West of Sovereign Crescent, Locks Heath (P/18/0484/FP): 38 dwellings, and Moraunt Drive, Portchester (P/18/0654/FP): 48 dwellings

- 8.40 Resolution to grant planning permission for 38 dwellings (P/18/0484/FP) at September 2018 and 48 dwellings (P/18/0654/FP) at December 2018.
- 8.41 The legal agreements have been engrossed and are with the developer's solicitors. The developer at Moraunt Drive has expressed an interest with HIWWT to purchase nitrate credits. FBC has already contacted the applicants to set out the final steps required for them to demonstrate nitrate neutrality (by obtaining a Nitrogen Mitigation Proposals pack from HIWWT) and this information is expected imminently. Once received FBC will carry out a HRA/AA, consult Natural England and then move to issue the decisions.
- 8.42 The developer at Sovereign Crescent has indicated that alternative nitrate mitigation is being pursued under one of the two alternative nitrate mitigation schemes that the Council is in the process of negotiating. Currently legal agreements are being drafted and these schemes will be bought forward in due course.
- 8.43 The implementation period for both developments have been reduced to 12 months. For this reason, I consider that the Council's projected housing delivery of 38 dwellings at Sovereign Crescent and 49 dwellings at Moraunt drive are entirely deliverable within the 5 year period.

East & West of 79 Greenaway Lane, Warsash (P/18/0107/OA): 30 dwellings, Land East of Brook Lane (South), Warsash – Bargate Homes (P/17/0752/OA): 140 dwellings and Land to the East of Brook Lane and West of Lockwood Road, Warsash (P/17/0998/OA): 145 Dwellings

- 8.44 Resolution to grant planning permission for 30 dwellings (P/18/0107/OA) at June 2018. Resolution to grant planning permission for 140 dwellings (P/17/0752/OA) at January 2018. Resolution to grant planning permission for 157 dwellings (P/17/0998/OA) at May 2018 (145 dwellings in the 5YHLS).
- 8.45 The s106's at Greenaway Lane and the Land East of Brook Lane (South) are currently being finalised and are likely to be completed imminently. I am advised that the s106 at the Land to the East of Brook Lane and West of Lockwood Road is also almost concluded. All the developers have expressed

an interest with HIWWT to purchase nitrate credits. FBC has already contacted the applicants to set out the final steps required for them to demonstrate nitrate neutrality (by obtaining a Nitrogen Mitigation Proposals pack from HIWWT) and this information is expected imminently. Once received FBC will carry out an HRA/AA, consult Natural England and then move to issue the decisions.

- 8.46 In respect of the Greenway Lane and East of Brook Lane developments (P/17/0752/OA) the submission of all reserved matters must be made to the local planning authority no later than 12 months from the date of the permission. In respect of the Land to the East of Brook Lane and West of Lockwood development the submission of all reserved matters is to made to the local planning authority no later than 18 months from the date of the permission. The implementation period for all the above developments has been further reduced to 12 months from the submissions of the last reserved matters application. The conditions and obligations are standard and not onerous. For this reason, I consider that the Council's projected housing delivery of 30 dwellings at East & West of 79 Greenaway Lane, Warsash, 140 dwellings at Land East of Brook Lane (South), Warsash and 145 dwellings at Land to the East of Brook Lane and West of Lockwood are entirely deliverable within the 5 year period.

Land at Brook Lane, Warsash (P/17/0845/OA:) 180 dwellings

Sites with Outline Planning Permission	
<i>Land at Brook Lane, Warsash - Foreman Homes (P/17/0845/OA)</i>	180 dwellings

- 8.47 Resolution to grant planning permission for 180 dwellings (P/18/0845/OA) at January 2018.
- 8.48 I am advised that the s106 process is progressing well. The applicant has not expressed an interest in nitrate credits available under the HIWWT scheme and has, as yet, not advised what mitigation it is proposing. However, the Council has proactively engaged with the two other landowners to provide nitrate mitigation schemes which would be available for developers to use in a similar way to the HIWWT at Little Duxmore Farm. Currently legal agreements are being drafted and these schemes may provide suitable nitrate mitigation should the applicant wish to express an interest in due course.

8.49 The submission of all reserved matters is to be made to the local planning authority no later than 12 months from the date of the permission. The implementation period for the developments has been further reduced to 12 months from the approval of the last reserved matters application. The conditions and obligations are standard and not onerous. For this reason, I consider that the Council's projected housing delivery of 180 dwellings at the Land at Brook Lane are entirely deliverable within the 5 year period.

Allocations

Source of supply	Revised Position of the Council	Position of the Appellant
Allocations	624	0
Wynton Way, Fareham	10	0
335-337 Gosport Road, Fareham	8	0
East of Raley Road	0	0
33 Lodge Road, Locks Heath	10	0
Land off Church Road	26	0
Heath Road, Locks Heath	70	0
Welborne	450	0

8.50 The 624 dwellings on sites allocated in the adopted Local Plan (LLP2) that are forecast to be built by 30th March 2025 are a matter of dispute with the Appellant.

Land at Wynton Way, Fareham (LP2 site H3, and draft local Plan site HA22)

Source of supply	Position of the Council	Position of the Appellant
Wynton Way, Fareham	10	0

- 8.51 The Appellant’s position is that no planning application has been submitted on this site since it was allocated in 2015 and that pre-application discussions and negotiations cannot be relied upon as evidence of delivery.
- 8.52 The adopted Local Plan estimates that this site has a capacity of 10 dwellings. The site is identified in the Council’s adopted Affordable Housing Strategy (2019) for delivery within the next 5 years. This site is a top priority as it is in an area of high affordable need.
- 8.53 The site is part owned by the Council and Hampshire County Council (HCC). Active and positive discussions are currently underway to bring the ownership entirely within the Council’s control. HCC has recently agreed to dispose of the adjacent Kershaw Centre and the Council are in active negotiations to also acquire this part of this site. I am advised that the larger site (including the Kershaw Centre) will provide in the region of 19 new affordable homes overall, a higher number of dwellings than anticipated by the adopted Local Plan. An architect has already been appointed and a planning application is expected in 2021. A nitrate solution is also in place.
- 8.54 I am advised by the Strategic Affordable Lead at the Council that recent Fareham housing projects typically see a start on site within approximately 12 months of a planning consent. Construction works would be expected to take approximately 18 months and delivery is therefore expected within 5 years. The following examples of swift delivery have been provided to me:
- *P/19/0840/FP Former Merjen Engineering, Station Rd Portchester (16No. sheltered flats)*
 Planning approved 17th April 2020. All technical drawings now complete. Pre-qualification process for contractor appointment complete. Full tender now out and closes on 13th November. Requires contractors to start on site on or before March 2021.

- *P/17/0956/FP The former Hampshire Rose site (18No. flats)*
Planning approved 25th May 2018 . Start on site late summer 2019.
- *P/19/0915/FP Land at Stubbington Lane (11No. houses)*
Planning approved 15th April 2020 Full tender pack including all technical details produced. Full tender will go out before the end of 2020. Expecting start on site in March/April 2021.

8.55 I anticipate therefore that the site may deliver a larger yield of up to 19 affordable housing units compared to the 10 dwelling anticipated by the adopted Local Plan. I consider the Council estimated delivery of the site by 2022/23 is reasonable given the small number of dwellings to be completed and expect the site to be delivered within 5 years.

335-337 Gosport Road, Fareham (LP2 site H4, and draft Local Plan site HA24)

Source of supply	Revised Position of the Council	Position of the Appellant
335-337 Gosport Road, Fareham	0	0

8.56 This site is owned by HCC and is allocated for 8 dwellings in the Regulation 19 draft Local Plan. It is accepted that to date, no applications for planning permission have been submitted. On the basis of my discussions to date, I find no compelling evidence to demonstrate that this site will come forward within the 5 year period and therefore I have excluded it from the supply.

East of Raley Road, Locks Heath (north) (LP2 H6)

Source of supply	Revised Position of the Council	Position of the Appellant
East of Raley Road	0	0

8.57 It is the Council's revised position that the Lane east of Raley Way previously forecast to deliver 50 units can no longer be considered to be available. I am advised that the site has been removed as a housing allocation from the

Regulation 19 consultation draft Local Plan. On the basis, I find no compelling evidence to demonstrate that this site will come forward within the 5 year period and therefore I have excluded it from the supply.

33 Lodge Road, Locks Heath (LP2 H10)

Source of supply	Revised Position of the Council	Position of the Appellant
33 Lodge Road, Locks Heath	0	0

8.58 The adopted Local Plan estimates a potential yield of 10 dwellings from this site.

8.59 An outline application (P/20/0257/OA) for the erection of 9 dwellings was received in March 2020. The application was refused on 14th September 2020 on the grounds that insufficient evidence had been submitted to demonstrate that the development would provide an appropriate level of compensatory habitats and biodiversity enhancements to support protected species; and in the absence of a legal agreement to secure such.

8.60 Having spoken to the case officer, I am advised that the landowner is unwilling at present to deliver the required biodiversity and there is therefore no certainty that the site will be delivered within five-years. On the basis, I find no compelling evidence to demonstrate that this site will come forward within the 5 year period and therefore I have excluded it from the supply.

Land off Church Road (LP2 H8) and draft Local Plan site (HA29)

Source of supply	Revised Position of the Council	Position of the Appellant
Land off Church Road	26	0

8.61 The adopted Local Plan indicates that site has an indicative capacity of 20 dwellings however the landowner has indicated that the site is capacity of

delivering 26 dwellings. It is accepted that to date, no applications for planning permission have been submitted. However, information provided by the landowner in March 2020 stated that it anticipated delivery of the site in 2022/23 subject to a solution for nitrate mitigation. The Council has proactively engaged with two further landowners to provide nitrate mitigation schemes which would be available for developers to use in a similar way to the HIWWT at Little Duxmore Farm. Currently legal agreements are being drafted and these schemes may provide suitable nitrate mitigation should the applicant wish to express an interest in due course. An alternative nitrate mitigation scheme may of course be bought forward by the landowner.

I note that the Council has adopted a more precautionary approach and identifies the delivery of the site in 2023/24. On the basis of discussions with the landowners, and the small number of dwellings estimated to be completed, the Council is confident in the yield and delivery of the site within the 5 year period.

Heath Road, Hampshire County Council (LP2 H11and Reg. 19 Local Plan HA9)

Source of supply	Revised Position of the Council	Position of the Appellant
Heath Road, Locks Heath	70	0

8.62 The Council resolved to grant outline planning permission for 70 dwellings (P/17/1366/OA) subject to a Section 106 in February 2018. However, consent is likely to be delayed due to the need to carry out updated Phase II ecology surveys and a revised parameter plan/quantum of development accordingly given the time that has lapsed since the resolution to grant planning consent in February 2018. No decision is therefore anticipated until before August 2021.

8.63 I am advised that the landowner has not secured nitrate credits with the HIWWT scheme and has, as yet, not advised what mitigation it is proposing. The Council has proactively engaged with two further landowners to provide nitrate mitigation schemes which would be available for developers to use in a similar way to the HIWWT at Little Duxmore Farm. Currently legal agreements are being drafted and these schemes may provide suitable nitrate mitigation should

the applicant wish to express an interest in due course. An alternative nitrate mitigation scheme may of course be bought forward by the landowner.

- 8.64 The conditions of the consent once issued require an application for approval of reserved matters applications is to be made to the local planning authority before the expiration of three years from the date of the permission. Work is to be commenced no later than two years from the approval of the final reserved matters. The conditions and obligations are standard and not onerous.
- 8.65 Whilst some dwellings could be delivered in 2023/24, I consider it likely the scheme will not be substantially completed until 2024/25.

Welborne Garden Village (LP3) 6000 dwellings

Source of supply	Revised Position of the Council	Position of the Appellant
Welborne	450	0

- 8.66 The Appellant’s position is that no reliance can be placed in the developer’s Infrastructure Delivery Plans. It further considers that the s106 agreement will take a considerable amount of time to negotiate and that reserved matters and conditions attached to the consent once issued means that there will be a long lead in time before a start on site can be made. It further identifies barriers that need to be overcome, including funding for improvements to Junction 10 of the A27.
- 8.67 The Welborne Garden Village is the Council’s largest development proposal and will, when completed, deliver a new community of some 6,000 dwellings together with employment, education, community and other infrastructure. This is a long-standing development proposal to which the Council has devoted significant resources to secure its successful delivery.
- 8.68 The Council resolved to grant outline planning permission (P/17/0266/OA) for the new community of up to 600 dwelling on 16th October 2019 subject to a s106. I am advised that the negotiations are well advanced with the s106 and the agreement is anticipated to be completed by the end of the year.

8.69 The applicant has provided evidence to support the deliverability of the site. The latest Infrastructure Development Plan (IDP) is dated March 2019. At that time it was envisaged that the development may commence in 2019/20 with 690 dwellings predicted to be completed between 2019 – 2024. It is clear that this delivery trajectory has not been achieved. Notwithstanding this fact, the Council considers that there is now increased certainty over future delivery trajectories with approximately 96% of the land now in a single ownership. Whilst there are a few other third parties interests (not signatories to the s106), these do not impede the delivery of key infrastructure and residential development on the site, subject to meeting the conditions of the outline consent.

8.70 I consider that the IDP 2019 is founded on a strong evidence base. It identifies the social, green and strategic infrastructure required to facilitate each sequence of development, including the requirement for a major upgrade to M27 Junction 10. I am advised that the IDP has strongly driven the s106 process, acting as the starting point in identifying appropriate triggers for the delivery of community infrastructure. I anticipate that the development will therefore proceed broadly in accordance with the IDP 2019 subject to the s106 obligations.

8.71 I accept that condition 52 prevents the commencement of development on site, with the exception of works related to the delivery of Junction 10, until details of the sources of funding is in place for those works. Condition 52 states:

“No development shall take place other than that related to the delivery of Junction 10 until details of **the sources of all the funding** necessary to carry out the Junction 10 works has been submitted to and approved in writing by the Local Planning Authority.

The development shall be undertaken in accordance with the approved details.”

Junction 10 Delivery

8.72 A report to Hampshire County Council’s Cabinet on 29th September 2020 provides an update on the M27 Junction 10 improvement scheme. The County Council has been Scheme promoter, leading on all design, development, and business case work for the Scheme since January 2018. Significant progress has been made to advance the design and to progress the Strategic and

Economic Cases for the Full Business Case with the DfT and Highways England.

- 8.73 The identified sources of funding for the Junction 10 works are kept under constant review by the County Council as is to be expected with the delivery of a major infrastructure project of this scale and complexity. The report to Cabinet provides an update on the most recent changes in funding circumstances, including an offer from the Solent LEP Board on 15th September 2020 to provide up to £900,000 to fund the completion of the development work up to Stage 3 of the Highways England Project Control Framework (PCF) process to be completed by the end of March 2021 (subject to the agreement of terms of conditions).
- 8.74 I will be in position to provide the Inspector with an update on whether this funding has been secured either during the inquiry to shortly thereafter. However, at this stage, I fully expect the Stage 3 development works to be able to proceed on the basis of this funding.
- 8.75 On completion of the Stage 3 works in March 2021, a break point is likely to be required to provide all parties with the opportunity to consider the approach to the delivery of the scheme thereafter. All strategic partners in the Scheme are continuously and actively pursuing funding solutions jointly, including the developer, with the intention of reaching agreement on the sources of funding available for the Stage 4 and Stage 5 development works during this break point. At that stage, it will be possible to provide the Council with the details of the sources of funding that have been secured to enable the discharge of Condition 52 and on which basis development (other than works related to Junction 10) can commence. As Hampshire County Council's Junction 10 Delivery Programme envisages that the Stage 4 development works will be able to complete by Autumn 2021, I would anticipate that an application to discharge condition 52 may be submitted by Summer 2021. Stage 5 works are then expected to complete by Summer 2022.
- 8.76 I consider therefore that there is very clear intent and a detailed programme of work in place to deliver the Junction 10 improvements. As Welborne is of sub-regional importance and I have no doubt that all delivery partners, including the developer, are capable of reaching agreement to enable the development to commence as swiftly as possible.

8.77 In the meantime, I see no reason why the developer will not prepare and submit reserved matters applications and applications to discharge pre-commencement conditions once the outline consent is granted by the end of 2021 in readiness to commence development of the first neighbourhood area as soon as Condition 52 is discharged.

Housing Trajectory

8.78 I note that the Council’s latest assessment of its 5YHLS position (CDC.3), the Supplementary Report to June 2020 Planning Committee, identifies that the Welborne Garden Village is anticipated to deliver some 450 dwellings within the five-year period (30 dwellings in year 2022/23, 180 in year 2023/24, and 240 in 2024/25) based on an updated trajectory provided by the developer in Summer 2020. The Appellant in the Statement of Case at paragraph 8.52 on page 37 helpfully identifies that it took on average 3 years and 2 months from the grant outline planning permission until the first housing completion was achieved on 6 strategic scale (more than 1000 home sites in Hampshire) as reported in the Start to Finish Report prepared by Lichfields, 2020. Even should the timescale slip with the s106 being finalised and the outline consent being permitted in January 2021, the Council’s trajectory does not predict the completion of a substantial number dwellings (180 in 2023/24) until after approximately 3 years and 2 months which is entirely consistent with the findings of the Start to Finish report that the Appellant refers to. I consider therefore that the projected rate of completions towards the end of the plan period is a reasonable assumption on the basis that the s106 will be finalised, the consent issued by the end of the year and Condition 52 is capable of being discharged in summer 2021.

Emerging Brownfield Sites

Source of supply	Position of the Council	Position of the Appellant
Sites identified on a Brownfield Register	145	0
Fareham Magistrates Court	45	0
Warsash Maritime Academy	100	0

8.79 In the Council's latest HLS figures (CD F24) there are 145 dwellings forecast to be completed on emerging brownfield sites. The supply is made up of 2 sites, summarised as follows.

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8.80 The Appellant's position is that there is no evidence that progress has been made since the planning application was submitted in November 2018. Furthermore, that reserved matters applications will need to be prepared and conditions discharged once the consent is issued which is likely to delay a start on site.

8.81 An outline application for 45 dwellings (P/18/1261/OA) from the landowner (Homes England) was submitted in November 2018. A draft legal agreement to secure bespoke off-site nitrate mitigation land in Knowle (Winchester City Council) has been shared with the applicant and WCC. Subject to this being agreed and then moving towards completion, the Council intends to take the application to the Planning Committee by the end of the year with a decision issued shortly afterwards.

8.82 The reserved matters application is likely to come from Churchill Retirement Living who have already engaged the Council in pre-app discussions.

8.83 I note that the Council has adopted a precautionary approach with the delivery of the site estimated in 2023/24. I consider that given the small number of dwellings on this site, this is reasonable and anticipate the delivery of the site within the 5 year period.

Warsash Maritime Academy (Reg. 19 Local Plan HA7)

8.84 The Appellant's position is that an environmental statement will be required following a screening opinion issued by the Council in March 2019 and that as significant amount of work will be required, the site cannot be considered deliverable.

8.85 No planning application has been submitted for development on this site which has since been allocated for 100 dwellings in the Regulation 19 version of the draft Local Plan 2026. I am however advised by the Council that the landowner, Solent University, is due to exchange contracts for the disposal of the land by

the end of November 2020 and that the purchaser plans to submit a pre-application request by the end of the year.

- 8.86 The latest information provided by site promoter in February 2020 confirmed the delivery of the site subject to nitrate mitigation as follows: 2021/22 – 50 dwellings, 2022/23 – 50 dwellings, 2023/24 – 50 dwellings. The site promoter has indicated that the site may be capable of delivering 150 dwellings which is more than the Council has projected over the five-years.
- 8.87 The Council has proactively engaged with two further landowners to provide nitrate mitigation schemes which would be available for developers to use in a similar way to the HIWWT at Little Duxmore Farm. Currently legal agreements are being drafted and these schemes may provide suitable nitrate mitigation should the applicant wish to express an interest in due course. An alternative nitrate mitigation scheme may of course be brought forward by the developer.
- 8.88 A screening opinion (EIA) (P/19/0202/EA) for the development of up to 100 dwellings, a care home of up to 66 beds and employment space was issued by the Council on 29th March 2019 indicating that the application would need to be accompanied by an Environmental Statement. Having regard to the consultation responses, I am not of the opinion that the requirements are unduly onerous. The requirement for a Transport Assessment is a fairly typical requirement for a major planning application, regardless of whether an environmental statement is required and should not lead to significant delay. Matters in relation to European Sites in Fareham Borough are well rehearsed and any necessary mitigation measure to off-set nitrates and/recreational pressures are well understood. I note that the environmental health officer has indicated that an assessment with regard to contaminated land is not required. In my experience, there is no reason why an environmental statement cannot be produced within 3 – 6 months.
- 8.89 I note that a resolution was passed by the Council's Planning Committee on 11th October 2019 (P/19/0344/FP) to grant full consent for the redevelopment of the adjacent retained section of the academy campus and works are already underway on site. This further provides clear evidence that the wider site is deliverable and capable of being brought forward during the next five-years.

8.90 I note that the Council has adopted a precautionary approach with the delivery of the site in 2023/24 and 2024/25, the latter part of five-year period. On the basis of the information provided by the site promoter, I consider that the site is capable of being delivered within the five-year period.

Windfall Allowance

Source of supply	Position of the Council	Position of the Appellant
Windfall allowance	74	74

8.91 It is a matter of agreement with the Appellant that there are 74 dwellings forecast to be completed as part of a windfall allowance.

Deliverable Sites: Housing Trajectories

8.92 In the Statement of Case, the Appellant relies on the Second Edition of the Start to Finish report, Lichfields, February 2020 identifying that Figure 3 of that report indicates that it takes on average circa 3 years from the grant of outline planning permission until the first completion. On this basis, the Appellant argues that housing trajectories relied on by the Council are not realistic. The Start to Finish report provides evidence on the speed and rate of delivery of sites over 500 dwellings.

8.93 With the exception of Welbourne, none of the sites that comprise the five-year housing land supply are over 500 homes so are not considered to be comparable with the national average lead-in times reported for significantly larger sites. The majority of the sites are under 100 dwellings. Only 5 sites are over 100 dwellings or more, the largest being 180 dwellings at Land at Brook Lane, Warsash (P/17/0845/OA).

8.94 The conditions attached to the sites with a resolution to grant planning consent are standard and there is nothing especially onerous likely to impede a swift resolution of reserved matters applications or the discharge of planning conditions. Indeed the Appellant has not presented any site specific evidence (with the exception of reference to the delivery of Junction 10 at Welborne) to

demonstrate that there is no prospect of the site's being delivered in line with the Councils' projected rate of completion.

- 8.95 In his decision in relation to the Land south of Mallards Road, Bursledon (APP/W1715/W/16/3156702), the Inspector concluded:

"In this context, while the use of national housebuilders' average annual completion rates and a national, high level report [reference to the Start to Finish Report] may give broad brush indications of delivery, they are unlikely to directly reflect local circumstance. Indeed, the former are 'just' averages drawn from a range of sites across the country while the latter is a general study of a particular set of large sites."

Implications of Covid 19 on the Rate of Housing Delivery

- 8.96 The Council maintains that whilst Covid-19 and the nationwide lockdown led to temporary construction site closures, there has been increasing activity since, including as a result of the Government's changes to Stamp Duty and increased construction working hours. The Council does not consider it appropriate to apply a further discount to its housing land supply as a result of Covid-19. I note that this matter was specifically taken into consideration by the Inspector in the Tiptree decision (APP/A1530/W/20/3248038) [CDJ.23], with the Inspector concluding that it was not necessary to make any adjustment to the 5-year housing supply figures in response to the Covid -19 pandemic situation.
- 8.97 I also note the Secretary of State reached similar conclusions in paragraph 24 of his decision letter in Hawthorns (APP/R3650/W/18/3211033) [CDJ.22].

Future Five-year Housing Supply

- 8.98 I consider that the shortfall in the 5YHLS is material, and that the weight to be afforded to the countryside Development Plan Policies is reduced as a result. However, the shortfall is likely to be short-lived, and therefore the weight is not reduced to the extent that it might have been in the context of a more significant long-term shortfall.
- 8.99 The Statement of Case prepared by the Appellant examines available evidence to determine whether the five-year land position is likely to improve in the short-term. In this context, reference is made to paragraph 60 of the High Court

Judgement of Phides Estates (Overseas) Limited vs the Secretary of State for Communities and Local Government et al [2015] EWHC 827 (Admin) [CDK.1] which considered that the extent of the shortfall may be material to the weight afforded to policies and the housing supply, but so may the length of time this is likely to persist.

8.100 I therefore examine those matters likely to influence the future five-year housing below.

Actions taken to address the shortfall

8.101 As set out previously, sites with a resolution to grant planning consent have been 'held back' since February 2019 where developers have not been able to demonstrate that their proposals maintain or reduce the levels of nitrates leaving their site or developers are unable to provide the necessary mitigation. This is affecting not just the Council but all Authorities in the Solent catchment area.

8.102 The Council has taken significant actions and has already entered into a legal agreement with the Hampshire and Isle of Wight Wildlife Trust and Isle of Wight Council to secure nitrate mitigation at Little Duxmore Farm to enable residential planning permissions to be granted within the Borough of Fareham. Following further pro-active engagement by the Council, legal agreements are also currently drafted with other two landowners to bring forward nitrate mitigation schemes on two additional sites.

8.103 The Council is also taking significant actions to address the shortfall with the allocation and progression of the Welborne Garden Village (LPP3), which is scheduled to deliver up to 6,000 dwellings. This strategic site is already an extant allocation within the LPP3. Negotiations are well advanced with the s106 and the Council is confident that delivery of housing at Welborne will be able to commence through the determination of the Buckland Development planning application, enabling the delivery of the site to increase up to 250 dwellings per annum as a robust assessment, and likely higher numbers.

8.104 The Council has furthermore taken a positive approach to determining planning applications for major residential development, even where there is conflict with the adopted Development Plan policies. The Council has granted consents for

major residential development outside of the existing urban settlement boundaries as defined on the adopted policies map.

- 8.105 It is notable that a large number of these sites are proposed allocations in the Draft Local Plan Review. In addition to decisions taken to date, the Council is in the process of determining additional planning applications on further draft Local Plan Review allocations. The precise extent of permissions from this source cannot be predetermined but could extend to many hundreds of additional dwellings.
- 8.106 The Council has an express policy permitting development in the countryside if DSP40 is satisfied and have used that policy to grant permissions when appropriate to do so. Moreover, through the Plan-making work, they have publicly identified potential sites as being appropriate for development, thus encouraging applications to be made. Many of those have been permitted and I consider it reasonable for me to conclude that in the context of the 5 year housing land shortfall, doubtless others will also be approved.

Buffer

- 8.107 I am advised by the Council that it is not the case as stated by the Appellant that housing delivery is likely to have fallen below 75% of the housing requirement over the previous three years. The number of completions during 2019/20 have been submitted to MHCLG over the summer and total 866 dwellings. Over the period 2017 -2019, there were 581 completions. On this basis the calculations show that the Housing Delivery Test is not failed. This is subject to confirmation when the results of the Test are published by government, anticipated in November 2020.
- 8.108 In this basis, the presumption in favour of sustainable development will therefore not be automatically engaged regardless of the five-year housing supply position with reference to the results of the Housing Delivery Test in footnote 7 of the NPPF.
- 8.109 I am however advised that the Council is likely to be required to apply a 20% buffer on the 5-year housing requirement between 2020/21 and 2024/25 from November 2020 onwards as housing delivery is likely to fall below 85%. However, this position is also yet to be confirmed by MHCLG and will not be known until the results of the Housing Delivery Test are published (anticipated

in November 2020). I have calculated that if the 20% buffer is required to be applied, then the five-year housing requirement would increase to 3,084 dwellings (617 dwellings per annum). Using the Council's revised supply figures (2,094), the Council would have a 3.4 year 5YHLS (a shortfall of 991 dwellings).

- 8.110 Should a 20% buffer be required, I therefore accept that the extent of the 5 year housing land supply shortfall over the period 2020/21 – 204/25 will increase. However, I note that the Council has had regard to the Government's proposed revised standard methodology set out in the Planning for the Future, White Paper (August 2020) in preparing the Regulation 19 draft Local Plan. Applying this new standard methodology, the future housing requirement over the five-year period 2021/22 – 2025/56 will substantially reduce. I consider that the implications of the Regulation 19 draft Local Plan for the future 5 year housing land supply is a material planning consideration that will need to be considered in the round with the likely implications of a possible requirement to apply a 20% buffer. I discuss this matter below.

Reg 19 Consultation Draft Local Plan

- 8.111 The Government's new standard methodology released for consultation in August 2020 affords councils the option of using either a percentage of the Borough's existing housing stock as the calculation's starting point or the most up-to-date household projections, whichever is the higher, before an affordability uplift is applied. Having regard to the new standard methodology, the Council considers it appropriate for the Regulation 19 Publication Local Plan to plan for a scale of growth based on the proposed new methodology, and not one based on out-of-date household projections. This reduces the housing need figure from 514 dpa to 403 dpa (a 21.6% reduction in the housing requirement), from a base date of 2021 which would in a future 5YHLS require 2,015 dwellings between 2021 – 2026 (set out in Appendix A of the Reg.19 Local Plan). This figure is below the requirement of 2,570 dwellings for 2020 – 2025 based on the current methodology.
- 8.112 I have calculated that if a 5% buffer is required to the future housing land supply requirement 2021/22 – 2024/25, then the five-year housing requirement would be 2,116 (423 dwellings per annum). As there are no projected housing completions beyond 2024/25, I have instead relied on the Council's 5 year

estimated housing completions over the period 2021/22 – 2025/26 which is set out in Appendix B of Reg 19 Local Plan. This housing land supply includes dwellings forecast to come forward on additional housing sites allocated in the Regulation 19 draft Local Plan and includes an allowance for changes in windfall projections. I accept that this evidence is subject to examination but note that the latest Local Development Scheme adopted on 7th September 2020 estimated the adoption of the Plan in Autumn/Winter 2021. Relying on this evidence, there is forecast to be 3,086 dwelling completions, over the next five-year period 2021/22 - 2025/56 and the Council is predicted to have a **7.3 year 5YHLS** (a 970 dwelling surplus).

8.113 I have calculated that if a 20% buffer is required to the future housing land supply requirement 2021/22 – 2024/25 on the same basis as that described above, then the five-year housing requirement would be 2,418 (484 dwellings per annum). Using the Council's housing trajectory 2021/22 – 2025/26 (as set out in Appendix B of Reg 19 Local Plan) which forecasts 3,086 dwellings, the Council is predicted to have a **6.4 year 5YHLS** (a 668 dwelling surplus).

8.114 I acknowledge that the Government's new standard methodology is currently out for consultation. However, I also consider that the Regulation 19 Draft Local Plan is a relevant material consideration, albeit that the weight that can be attached to the Plan is limited at this stage. Nevertheless, when considered in the round, having regard to the potential requirement to apply at 20% buffer to housing requirements from November 2020 and to the substantially lower housing requirements as set out in the Regulation 19 draft local plan, the current best evidence is that the current housing shortfall will be translated into a significant surplus in the near future.

My conclusions on the Council's current five-year housing land supply position

8.115 On the basis of the preceding sections of this Appendix, my conclusions are as follows.

Housing Requirement

8.116 The Council's latest (June 2020) calculation of its five-year housing requirement, on the latest ONS household project figures, and a 5% buffer, is 2,699 dwellings (540 dwellings per annum). Should the Council be required to

apply a 20% buffer on the 5-year housing requirement from November 2020 onwards having not met 85% of its housing requirements over the last three years, I have calculated that the five-year housing requirement increases to 3,084 dwellings (617 dwellings per annum). I am advised however that the Council has not delivered less than 75% of its housing requirement over the last three years and therefore presumption in favour of sustainable development does not automatically apply.

- 8.117 Having regard to the Regulation 19 consultation draft Plan, the calculation of the five-year housing requirement, based on the Government's new standard methodology released for consultation in August 2020 and a 5% buffer, is 2,116 (423 dwellings per annum). I consider that the Council may be required to apply a 20% buffer on the 5-year housing requirement from November 2020 onwards. On this basis, I have calculated that if the 20% buffer is applied, then the future five-year housing requirement increases to 2,418 (484 dwellings per annum).

Housing Supply

- 8.118 The Council's revised five-year HLS as set out in this proof of evidence is 2,094 dwellings. For the reasons identified above, this is on the basis of the existing published trajectory information and that the sites identified in the Council's five-year housing supply are capable of being delivered within the five-year period with the exception of the sites at 1 Station Industrial Park, Raley Road, 335-337 Gosport Road and 33 Lodge Road, Locks Heath which I accept are not available now. In particular, I conclude that the 450 dwellings at Welborne are capable of being developed within the five-year period and that the sites with a resolution to grant planning grant (709 dwellings) can be considered to be deliverable as a category (b) sites in the definition of 'deliverable' in Annex 2 to NNPF.

5 Year Housing Land Supply Conclusion

- 8.119 The Council's revised supply figures identify it as having a 3.9 year HLS (a shortfall of 605 dwellings), based on the latest ONS figures and a 5% buffer.
- 8.120 In respect of the future supply, housing delivery has not fallen below 75% of the housing requirement over the previous three years and therefore the presumption in favour of sustainable development will not automatically apply

regardless of the 5 YHLS position. Should a 20% buffer be required, subject to the Housing Delivery Test results in November 2020, the Council is identified as having a 3.4 year 5YHLS (a shortfall of 991 dwellings).

8.121 However, I consider that this shortfall will be short-lived. It is clear that the Council has taken significant steps to address the shortfall. Good progress is being made on the delivery of a significant number of dwellings through Welborne, a large-scale Garden Village development and on those sites with a resolution to grant planning permission. The Council has also taken a positive approach to determining planning applications for major residential development, even where there is conflict with the adopted Development Plan policies. Furthermore, there is a substantially lower housing requirement as set out in the Regulation 19 draft local plan based on the Government's new standard methodology that is currently being consulted on. Assuming a 5% buffer is required, the Council is predicted to have **7.3 year** 5YHLS (a 970 dwelling surplus). Applying a 20% buffer, the Council is predicted to have **a 6.4 year** 5YHLS (a 668 dwelling surplus). The current best evidence is therefore that the current housing shortfall will be translated into a significant surplus in the near future.

9 DEVELOPMENT PLAN CONFLICT: ECOLOGY ISSUES

9.1 This section outlines the extent to which the Appeal Development conflicts with the relevant Development Plan policies on ecological matters. Rather than consider the reasons for refusal in order, I have structured my evidence to reflect the decision-making sequence set out in the Framework and therefore I consider the impact on the integrity of habitats sites first.

Reason for Refusal (J)

In the absence of appropriate mitigation for the loss of a low use Brent geese and wader site and in the absence of a legal agreement to appropriately secure such mitigation, the proposal would have a likely adverse effect on the integrity of European Protected Sites.

9.2 Core Strategy Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive European sites and mitigation impacts on air quality. Policy DSP13: Nature Conservation of the Local Plan Part 2 confirms the requirement to ensure that designated sites, sites of nature conservation value, protected and priority species populations and associated habitats are protected and where appropriate enhanced. DSP14 specifically supports sites for Brent Geese and waders that are functionally linked to Solent Special Protection Areas (SPA) and which form part of a network of habitats providing feeding and roosting areas. Development must demonstrate no adverse impact on 'uncertain' sites' for Brent Geese and Waders or appropriate avoidance and/or mitigation measures to address identified impacts should be secured to safeguard the integrity of the SPA.

9.3 The Solent is internationally important for its wildlife. Each winter, it hosts over 90,000 waders and wildfowl including 10 per cent of the global population of Brent geese. These birds come from as far as Siberia to feed and roost before returning to their summer habitats to breed. There are also plants, habitats and other animals within the Solent which are of both national and international importance.

9.4 In light of their importance, areas within the Solent have been specially designated under UK/ European law. Amongst the most significant designations are Special Protection Areas (SPA) and Special Areas of

Conservation (SAC). These are often referred to as 'European Protected Sites' (EPS).

- 9.5 Regulation 63 of the Habitats and Species Regulations 2017 provides that planning permission can only be granted by a 'competent authority' if it can be shown that the proposed development will either not have a likely significant effect on designated European sites or, if it will have a likely significant effect, that effect can be mitigated so that it will not result in an adverse effect on the integrity of the designated European sites. This is done following a process known as an Appropriate Assessment. The competent authority is responsible for carrying out this process, although they must consult with Natural England and have regard to their representations. The competent authority is either the local planning authority or the Planning Inspectorate, depending on who is determining the application. In this case, because an appeal has been lodged, it is the Planning Inspectorate.
- 9.6 The appeal developments will result in the loss of part of a Solent Waders and Brent Goose Strategy (SWBGS) Low Use site (F15). The level of mitigation and off-setting required is dependent on the importance of the site within the ecological network and how these non-designated sites support the wider designated Solent SPA network. All Low Use sites have the potential to be used by waders or brent geese and to support the existing network and provide alternative options and resilience for the future network.
- 9.7 In accordance with the SWBGS guidance on off-setting and mitigation requirements (Final Report, October 2018), proportionate mitigation is required for the loss of Low Use sites. Where impacts to Low Use sites cannot be avoided or adequately mitigated on-site, mitigation would comprise off-setting or enhancement measures via payment of £35,610 per hectare towards the management and enhancement of the wider waders and Brent geese ecological network. Both Appellants have offered proportionate contributions in the line with the SWBG Strategy.
- 9.8 However Natural England has made it clear its statement at CDB.8c:

“Appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all

reasonable scientific doubt as to the effects of the works proposed on the protected site concerned.”

9.9 Natural England advise that further detail is required to inform the Appropriate Assessment with regards to how the financial contribution will directly mitigate the impact from the partial loss of the Low Use site; i.e. how it will be used to maintain and enhance the wider network within the Borough in a timely manner.

9.10 The Council does not at present have a strategic scheme in place that offers a suitable mitigation solution. In the absence of an identified mitigation scheme managed by the Council, financial contributions secured via a s106 are not acceptable to Natural England. This issue is considered in Mr Sibbett's evidence who similarly concludes that the appeal developments are unacceptable because there is demonstrable harm to the Solent SPAs for which no achievable mitigation has been proposed. The developments therefore fail adopted Local Plan policies CS4, DSP13 and DSP14. They also fail emerging Local Plan NE1 and NE5.

9.11 In such circumstances, Natural England advises:

“Where no such strategic schemes are currently available, the onus falls to the applicant to provide a suitable mitigation solution.”

9.12 A suitable mitigation scheme that can be secured in perpetuity has not been identified for either of the Appeal sites by the respective Appellants. In such a circumstance, the Inspector cannot reasonably conclude that the appeal proposals will not adversely affect the integrity of the European site and therefore he is not in a position to lawfully grant consent for the projects.

9.13 In his evidence, Mr Sibbett makes it clear that as the fund for providing mitigation works has not yet been set up in Fareham Borough there is no reasonable likelihood of the payment actually providing the mitigation requirement. He concludes that the developments are therefore unacceptable because there is demonstrable harm to the Solent SPAs for which no achievable mitigation has been proposed.

9.14 For the above reason, the Appeal Developments are contrary to policies CS4, DSP13 and DSP14.

Reason for Refusal (I) Newgate Lane South

The proposal provides insufficient information to protect and enhance the biodiversity interests of the site which includes a substantial population of Chamomile

- 9.15 The impacts of the appeal proposal at Newgate Lane South are addressed in Mr Sibbett's evidence at paragraph 1.6 as follows:

A Chamomile Management Plan prepared by WYG was received in October 2020 (CDA.136). This answers the majority of the previous queries by the LPA. Outstanding information required is a more refined design of areas managed for chamomile and areas managed as a meadow habitat, together with details of monitoring to ensure long-term continuity of the chamomile. If this information is received and is satisfactory, the LPA expects to be able to withdraw this reason for the development being unacceptable.

- 9.16 I accept that the LPA may be able to withdraw this reason for refusal subject to the submitted information being acceptable. At the time of writing, this information is still outstanding.

10 DEVELOPMENT PLAN CONFLICT: COUNTRYSIDE, LANDSCAPE, STRATEGIC GAP AND AGRICULTURAL LAND

10.1 This section outlines the extent to which the Appeal Development conflicts with the relevant Development Plan policies on development within the countryside as well as policies on landscape and the strategic gap.

Reason for Refusal (A) (as it relates to Newgate Lane North and South)

The provision of residential development in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside (Inspector's Issue 1)

Principle of Development in the Countryside

10.2 Reason for Refusal (a) relates to the principle of development in the countryside, beyond the defined urban settlement boundary. The Appeal Sites are located wholly within the countryside, beyond any defined settlement or development boundary.

10.3 The following Development Plan policies, listed within the reason for refusal, are relevant to the principle of development in the countryside, outside of the defined settlement boundaries:

- **LPP1 Policy CS2** (Housing Provision)
- **LPP1 Policy CS6** (The Development Strategy)
- **LPP1 Policy CS14** (Development Outside Settlements)
- **LPP2: Policy DSP6** (New Residential Development Outside of the Defined Urban Settlement Boundaries)
- **LPP2 Policy DSP40** (Housing Allocations)

10.4 LPP1 Policy CS14, on Development Outside Settlements, states that development on land outside of the defined settlements will be strictly controlled to protect the countryside and coastline from development which would adversely affect its landscape character, appearance and function. The policy lists acceptable forms of development, which include development for agriculture; forestry; horticulture; and required infrastructure. The Appeal Developments do not fall into any of these categories and are therefore contrary to Policy CS14.

- 10.5 The supporting text to the policy explains, at paragraph 5.146, that Policy CS14 is part of the wider development strategy for the Borough to concentrate development in the existing urban areas and strategic sites. Given that the Appeal Developments would conflict with Policy CS14, it would clearly be at odds with this Plan-led strategy for the Borough.
- 10.6 LPP2 Policy DSP6, on New Residential Development Outside of the Defined Urban Settlement Boundaries (DUSBs), addresses the principle of residential development outside of the settlement boundaries as defined on the adopted LP Proposals Map (CDE.2). This policy goes further than CS Policy CS14 as it refers specifically to 'residential development'. Policy DSP6 includes a clear 'presumption against new residential development outside of the defined settlement boundaries' unless it meets any of the criteria listed within the policy.
- 10.7 These three criteria list certain types of development which may be permissible outside of the settlement boundaries. The Appeal Developments do not meet any of these criteria and are therefore in clear conflict with Policy DSP6.
- 10.8 The text of Policy DSP6 makes it clear that this policy should be read together with LPP1 Policy CS14. The supporting text to Policy DSP6, at paragraph 4.6, explains that the Council will protect areas outside of the DUSB boundaries from development that would 'adversely affect the landscape character, appearance, and function'.
- 10.9 There is a clear conflict with LPP1 Policy CS14 and LPP2 Policy DSP6 given the location of the Appeal Sites outside of the DSUB.

Policy DSP40 (Housing Allocations)

- 10.10 Whilst there is a clear conflict with adopted Development Plan Policy relating to the principle of development, Policy DSP40 expressly deals with how applications such as these should be determined in circumstances where there is a five-year supply shortfall. This a very significant Development Plan policy in respect of these two Appeals given that I have confirmed above that the Council cannot currently demonstrate a 5YHLS.
- 10.11 All of the criteria set out in Policy DSP40 must be met for the Appeal Developments to comply with it.

10.12 As set out in the Committee Reports (CDC.1 and CDC.2), Members consider that the Appeal Developments **comply with** the following criteria and these are not further dealt with in my evidence:

- i) Criteria i) as the appeal proposals for up to 75 dwellings at Newgate Lane North and up to 115 dwellings at Newgate Lane South is considered relative in scale to the current shortfall; and
- ii) Criteria iv) as it has been demonstrated that in respect of the appeal site at Newgate Lane north, 75 dwellings are capable of being delivered by 2023 within the five-year housing land supply period up to April 2024. In respect of the appeal site at Newgate Lane South, 25 dwellings are capable of being delivered by June 2022, with 40 dwellings per year thereafter with the 115th dwelling completed by September 2024.

10.13 However, the Appeal Developments **do not comply with the following criteria** and these matters are dealt with in my evidence as follows:

- i) **Criteria ii):** this is not met as the development is not sustainably located adjacent to, and well related to, the existing urban settlement boundaries, and cannot be well integrated with the neighbouring settlement. I deal with this matter below under Reason for Refusal D.
- ii) **Criteria iii):** this is not met as the development is not sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the Countryside and, if relevant, the Strategic Gaps. Mr Dudley deals with these matters as summarised below under Reason for Refusal B and C.
- iii) **Criteria v):** this is not met as there are unacceptable:
 - **traffic implications** related to highway safety and the operation of the highway network. Mr Gammer deals with these matters in his evidence as summarised below under Reason for Refusal (H) as they relate to Newgate Lane North and Reason for Refusal (G) as they relate to Newgate Lane South.
 - **environmental implications**
 - related to loss of BMV agricultural land at Newgate Lane North. I deal with this matter below under Reason for Refusal (E) as it relates to Newgate Lane North.

- related to insufficient information being provided to protect and enhance the biodiversity interests of the site which includes a substantial population of Chamomile. Mr Sibbett deals with these matters in his evidence as summarised below under Reason for Refusal (I) as it relates to Newgate Lane South.

10.14 Subject to the satisfactory completion of the s106 agreement and appropriately worded conditions, and the Appropriate Assessment that you will need to undertake, I accept that the conflict is limited to these points, and that there is no conflict in relation to amenity implications under criteria (v).

Reason for Refusal B

The proposed development fails to respond positively to and be respectful of the key characteristics of the area and would be harmful to the character and appearance of the countryside (Inspector's Issue 2).

10.15 As discussed, LPP1 Policy DSP40 sets out the Council's approach where it cannot demonstrate a five-year supply of land for housing and is therefore particularly relevant to this appeal. It includes a number of tests, all of which must be met for the Council to approve housing sites outside the urban area boundary. I consider the third test of DSP40(iii) in relation to this particular reason for refusal.

10.16 Policy DSP40(iii) requires that the proposal is '*sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the countryside and, if relevant, the Strategic Gaps*'. I deal with issues relating to impact on the Strategic Gap under reason for refusal C.

10.17 Policy CS17 of the adopted Fareham Borough Core Strategy sets out a similar, but separate policy test that, amongst other things, '*development will be designed to: respond positively to and be respectful of the key characteristics of the area, including heritage assets, landscape, scale, form, spaciousness and use of external materials*'.

10.18 I draw upon Mr Dudley's evidence in considering whether the proposed developments would be harmful to the character and appearance of the countryside.

- 10.19 Mr Dudley considers the Illustrative Framework Masterplan for each site. At paragraph 3.4 of his evidence he concludes that the Northern Site would create an incongruous island of development sat in the middle of the Site, with no clear relationship to the surrounding settlement and highways.
- 10.20 In relation to the Southern Site, Mr Dudley concludes that when viewed in the context of the single strip of ribbon development at Peel Common, the mass of development at a proposed 35 dwellings per hectare, is likely to appear asymmetrical against the central belt of open space (see paragraph 3.9 of his evidence).
- 10.21 In considering the Design and Access Statements, Mr Dudley disagrees with the Appellant's statement that the '*green infrastructure and open space strategy informs the location of a large area of public open space to be provided along Newgate Lane*'. Rather he concludes that this layout has been informed by the fact that the land in question is within Flood Zone 3 and therefore cannot be used for any other purpose, and not by and the green infrastructure and open space strategy. He also finds against the Appellant's statement that by setting the development back from Newgate Lane, it strengthens the strategic gap. Mr Dudley strongly disagrees with this point, on the basis that it is simply not logical that any form of development within a Strategic Gap can strengthen it, given that its strength lies in its undeveloped nature (see paragraph 3.16 of his evidence).
- 10.22 At paragraph 3.19, Mr Dudley notes that the Appellants commitment '*to respect the grain of the area and acknowledge local character*' has not been achieved as the Local Planning Authority's published evidence base clearly states that the key character in this landscape is its openness, which provides a valuable separation function.
- 10.23 Mr Dudley also considers the illustrative design proposals and their relationship with the building heights parameter plans at paragraph 3.21 noting that the Appellant has taken an entirely inconsistent approach. He concludes as follows:

3.21 The illustrative design proposals are covered in Section 5 of both documents. In both cases, paragraph 5.1 states that the proposed average density of 35 dwellings per hectare will 'allow for variation in density across the development including higher density towards the existing urban areas and lower density towards the rural edge'. When compared with the

building heights parameter plans further on in the documents, the Appellant has taken an approach entirely contrary to this, siting the lowest density of development closest to the existing urban edge of Peel Common and the highest density on the eastern edge, facing the remaining rural land between the Site and Bridgemyary. The stated approach is also contradicted by paragraph 5.31 of the Northern Application document and paragraph 5.33 and 5.34 of the Southern Application document, which both make reference to the deliberate location of the tallest buildings on the edge for noise mitigation, and state that this is 'in line with a generally accepted urban design strategy'.

- 10.24 In considering the relationship with wider settlements, Mr Dudley concludes in respect of each site individually and collectively as follows:

Northern Application

5.50 The development of the Northern Site in isolation is likely to significantly erode the established settlement pattern, by introducing an island of new development within the core of the Strategic Gap. The proposed perimeter block design would be urban in character and would present hard faces to the surrounding countryside without the softening effect of existing vegetation that the edge of Bridgemyary enjoys.

- 10.25 He concludes that the proposed development would result in an adverse impact of Major/Moderate significance upon this receptor.

Southern Application

5.53 The Southern Site is closely associated with Peel Common, with the existing ribbon development located along its western and southern boundaries, and with open countryside to the north and east providing the separation with Fareham and Bridgemyary respectively.

5.54 The development of this Site is likely to entirely erode the ribbon development character of Peel Common, as well as its character as an isolated small settlement within the Strategic Gap. The illustrative development framework shows parcels of perimeter block development occupying the eastern part of the Site, with the tallest buildings on the eastern edge facing the open countryside towards Bridgemyary. The western pony paddocks are not developable due to high flood risk, and therefore these have been shown as a strip of open space between Newgate Lane and the new development, further confusing the legibility of the settlement and reducing the integrity of the Strategic Gap. Taking these factors into account, the magnitude of change upon this receptor is judged to be High.

- 10.26 He concludes that the proposed development would result in an adverse impact of Major/Moderate significance upon this receptor.

Both Applications

5.56 Should both applications be permitted, then the effects described above would occur in unison, with the settlement character of Peel Common and the character and integrity of the Strategic Gap likely to be entirely lost through the creation of a large and prominent new settlement.

10.27 In considering impact on landscape character Mr Dudley concludes as follows:

Northern Application

5.88 The development of the Northern Site in isolation would introduce an incongruous island of residential development into the effective centre of the Strategic Gap in this location, with no clear connection to any other settlement area. This would significantly erode the function and integrity of the gap, as well as the prevailing rural landscape character. As noted above, the increased traffic resulting from this development would require improvements to the junction of Newgate Lane with Newgate Lane East, amplifying the urbanising effect of this new public highway. The proposed layout of the development would expose tall buildings to the open countryside to the east, which would adversely affect the Site's relationship with the edge of Bridgemary, by creating a 'raw' urban edge in the countryside. Taking these factors into account, the magnitude of change upon this receptor is judged to be High.

5.89 The proposed development is therefore considered to result in an adverse impact of Major to Major/Moderate significance upon this receptor.

Southern Application

5.90 The development of the Southern Site in isolation is anticipated to erode the function of the wider strategic gap by the creation of a new settlement area connected to the existing settlement of Peel Common. Whilst this would be slightly less exposed than the Northern Site, this would nonetheless fundamentally alter the settlement form of Peel Common, which is otherwise formed of ribbon development almost exclusively on one side of its component highways. The acoustic fencing that is present to the east of this area is likely to reduce the exposure somewhat, although the proposal to locate the tallest buildings on the eastern edge of the development would mean that the built elements would still be prominent. As with the Northern Application, junction improvements would also be required on the junction between Newgate Lane and Newgate Lane East, increasing the prominence of the highways infrastructure. The magnitude of change upon this receptor is therefore judged to be Medium.

5.91 The proposed development is therefore considered to result in an adverse impact of Moderate significance upon this receptor.

Both Applications

5.92 The delivery of the proposed developments on both Sites is anticipated to entirely neutralise the function of the Strategic Gap, by developing a significant proportion of the land between Newgate Lane and Bridgemary. The sense of separation of Peel Common, which is valued by the Fareham Landscape Assessment, would also be entirely lost. The

character of Newgate Lane would be altered by a significant increase in the level of traffic along this highway, and junction improvements on Newgate Lane East to accommodate this would again exert a greater urbanising influence.

10.28 Mr Dudley concludes at paragraph 5.93 of his evidence that the landscape impacts of the appeal developments would have an adverse impact on a whole range of receptors including in particular a major adverse impact on the open character of the site and wider setting and a major/moderate adverse impact on the relationship with wider settlements and mixed agricultural land use. They would also have a major to major/moderate adverse impact on the overall character of the site. He reaches these conclusions in respect of both sites. Mr Dudley does draw a distinction between the impacts on the overall character of the setting of the site, with a major to major/moderate adverse impact predicted for the northern site and a moderate adverse impact for the southern site.

10.29 It is clear from Mr Dudley's evidence that the development of the appeal sites would have an unacceptable impact upon views.

10.30 As summarised in his proof of evidence at page 66, Mr Dudley concludes that there would be adverse visual impacts on a range of receptors including in particular a major adverse impact on residents of Hambridge Lodge and a major/moderate adverse effect on users of Newgate Lane as a result of the appeal development at Newgate Lane North. In relation to the appeal development at Newgate Lane South, adverse impacts include a major adverse impact on residents of Hambridge Lodge and residents along Woodcote Lane and a major/moderate adverse effect on users of Woodcote Lane.

10.31 In conclusion, Mr Dudley states at paragraph 8.27:

I therefore conclude that the proposed developments are inappropriate on visual grounds, and that my evidence supports the Council's second reason for refusal for each application.

10.32 On this basis, I conclude that the Appeal Developments do not meet the requirement of policy DSP40 criteria (iii) in relation to the impact on the character of the neighbouring settlement and countryside and are contrary to adopted Policy CS14 and CS17. Indeed it is demonstrated that harm to the countryside cannot be minimised as the Appeal Development will, on the basis of Mr Dudley's evidence, appear an incongruous island of development within

the countryside, with no clear relationship to the surrounding settlement and highways. I find that this harm cannot be mitigated as the location of the Appeal Developments fundamentally breaches criteria (ii) of Policy DSP40. This mandates that any development coming forward where there is a shortfall in housing land supply should be adjacent to or well related to an existing urban settlement boundary.

Reason for Refusal C

The provision of development in this location would significantly affect the integrity of the strategic gap and the physical and visual separation of settlements

- 10.33 The remaining part of Policy DSP40(iii) relates to the Strategic Gaps and seeks to ensure that adverse impacts are minimised.
- 10.34 The appeal sites are located within the Fareham/Stubbington Strategic Gap.
- 10.35 Policy CS22 states that development proposals will not be permitted either individually or cumulatively where it significantly affects the integrity of the gap and the physical and visual separation of settlements.
- 10.36 The role and purposes of strategic gaps is explained in paragraph 6.52 of the Core Strategy to maintain the separately identity of individual settlements particularly between Fareham and the Western Wards and Fareham. Paragraph 6.53 states that Fareham and Stubbington are located in a densely settled part of Hampshire where the countryside separating the settlements is narrow in places and under pressure from development. Strategic gaps therefore perform a critical role in preventing coalescence which cannot be protected by other designations.
- 10.37 Mr Dudley considers the role of the appeal sites and the contribution it makes to the strategic gap, by virtue of its open character in his proof of evidence at paragraph 5.15, noting that the only built form is that of Hambrook Lodge and its associated outbuildings. This openness gives a sense of separation within the Strategic Gap, in particular to Peel Common, and the mature trees that line the boundary of Bridgemary serve to naturally separate this settlement from the open area.
- 10.38 Mr Dudley states at paragraph 5.17 of his evidence:

'The development of any part of the Site would significantly erode this open character, reducing the integrity of the Strategic Gap and introducing a much greater level of activity. This is expressed within the 2017 Fareham Landscape Assessment, which states that further development activity following the construction of Newgate Lane East would almost certainly have an overwhelming urbanising effect, potentially tipping the balance towards a predominantly urban character. This document further states that further development is likely to have a 'significant impact upon the character and quality of existing predominantly rural views, unless it can be successfully integrated within a substantial framework of new vegetation'.

10.39 In consider the value of this receptor, Mr Dudley notes at paragraph 5.19:

'With regard to the value this receptor, the local development strategy places great value in the function of this landscape, representing one of the more intact and representative areas of the designated Strategic Gap, in spite of the presence of Newgate Lane East. In spite of the presence of the new road, it is nonetheless valued for its openness and rural character and is described in the Fareham Landscape Assessment as being 'highly sensitive to change'. The value of this receptor is therefore judged to be High.'

10.40 Mr Dudley goes onto consider the impact of each of the appeal proposals individually and also collectively. He concludes as follows:

Northern Application

5.21 The Northern Site is relatively isolated from any existing settlement, and therefore the development of it in isolation is likely to appear highly incongruous within this open landscape, as an island of development. It would significantly reduce the sense of openness within this landscape, irrespective of the allocation of a proportion of the area to open space, because there would nonetheless be up to 75 dwellings in a formerly open area, inhibiting the open views that are currently available from east to west and north to south. This is particularly the case with the proposed perimeter block design, which would encase private gardens within blocks of up to 3-storey dwellings.

5.22 The increased traffic generated by the Northern Application has been determined to require junction improvements to the junction of Newgate Lane and Newgate Lane East. A visualisation of the new junction has been prepared by the local Highways Authority, and this is reproduced at Appendix 4. As the visualisation shows, this would introduce a further urbanising feature within the highway corridor, further eroding the character of the Strategic Gap.

5.23 Taking these factors into account, the magnitude of change upon this receptor is judged to be High.

5.24 *The proposed development is therefore judged to result in an adverse impact of Major significance upon this receptor.*

Southern Application

5.25 *The Southern Site is more associated with the existing settlement of Peel Common, although as recognised within the Fareham Landscape Assessment, this area performs an important function in maintaining a sense of 'isolation' at Peel Common, which is vital to be maintained. In particular, the openness of this area serves to separate the parallel belts of development along Newgate Lane and the western edge of Bridgemary, which in turn frame a discrete parcel of open countryside.*

5.26 *The introduction of up to 115 dwellings into this area would lead to the complete loss of this character, with the existing settlement at Peel Common coalescing with the newly developed area to create a greater urban mass. Whilst it is noted that the western part of this area is not developable because of an elevated flood risk, it is not considered sufficiently large to form a gap in itself to prevent the sense of coalescence, and the use of this space for public recreation would also reduce this effect.*

5.27 *In a similar manner to the Northern Application, the increased traffic generated by the Southern Application has been determined to require junction improvements to the junction of Newgate Lane and Newgate Lane East. A visualisation of the new junction has been prepared by the local Highways Authority and this is reproduced at Appendix 4. As the visualisation shows, this would introduce a further urbanising feature within the highway corridor, further eroding the character of the Strategic Gap.*

5.28 *Taking these factors into account, the magnitude of change upon this receptor is judged to be High.*

5.29 *The proposed development is therefore judged to result in an adverse impact of Major significance upon this receptor.*

Both Applications

5.30 *Should the entire Site be developed, then the integrity of the Strategic Gap is likely to be entirely lost, with the new development coalescing with Peel Common to form a substantial settlement area within the centre of the Gap. The remaining narrow belt of agricultural land between Newgate Lane East and Bridgemary is not considered sufficiently wide to perform this function, and its rural character would be lost, particularly given the proposal to locate the tallest and therefore most dominant buildings on the eastern edge of the scheme.*

5.31 *This enlarged settlement would therefore fundamentally change the character of the landscape between Stubbington and Gosport, and the required highway improvements would increase the urbanising effect of Newgate Lane East.*

10.41 The relationship with wider settlements is considered at paragraphs 5.44-5.56 of his evidence. He considers the impact of the northern and southern sites as follows:

Northern Site

5.50 The development of the Northern Site in isolation is likely to significantly erode the established settlement pattern, by introducing an island of new development within the core of the Strategic Gap. The proposed perimeter block design would be urban in character and would present hard faces to the surrounding countryside without the softening effect of existing vegetation that the edge of Bridgemaury enjoys.

10.42 He concludes that the proposed development is considered to result in an adverse impact of Major/Moderate significance.

Southern Site

5.53 The development of this Site is likely to entirely erode the ribbon development character of Peel Common, as well as its character as an isolated small settlement within the Strategic Gap. The illustrative development framework shows parcels of perimeter block development occupying the eastern part of the Site, with the tallest buildings on the eastern edge facing the open countryside towards Bridgemaury. The western pony paddocks are not developable due to high flood risk, and therefore these have been shown as a strip of open space between Newgate Lane and the new development, further confusing the legibility of the settlement and reducing the integrity of the Strategic Gap. Taking these factors into account, the magnitude of change upon this receptor is judged to be High.

10.43 Again, Mr Dudley concludes that the proposed development is considered to result in an adverse impact of Major/Moderate significance.

10.44 Should both applications be permitted, Mr Dudley concludes that the effects described above would occur in unison, with the settlement character of Peel Common and the character and integrity of the Strategic Gap likely to be entirely lost through the creation of a large and prominent new settlement (paragraph 5.56 of his evidence).

10.45 In consideration of the overall character of the setting of the site, Mr Dudley concludes:

Northern Application

5.88 The development of the Northern Site in isolation would introduce an incongruous island of residential development into the effective centre of

the Strategic Gap in this location, with no clear connection to any other settlement area. This would significantly erode the function and integrity of the gap, as well as the prevailing rural landscape character. As noted above, the increased traffic resulting from this development would require improvements to the junction of Newgate Lane with Newgate Lane East, amplifying the urbanising effect of this new public highway. The proposed layout of the development would expose tall buildings to the open countryside to the east, which would adversely affect the Site's relationship with the edge of Bridgemary, by creating a 'raw' urban edge in the countryside. Taking these factors into account, the magnitude of change upon this receptor is judged to be High.

5.89 The proposed development is therefore considered to result in an adverse impact of Major to Major/Moderate significance upon this receptor.

Southern Application

5.90 The development of the Southern Site in isolation is anticipated to erode the function of the wider strategic gap by the creation of a new settlement area connected to the existing settlement of Peel Common. Whilst this would be slightly less exposed than the Northern Site, this would nonetheless fundamentally alter the settlement form of Peel Common, which is otherwise formed of ribbon development almost exclusively on one side of its component highways. The acoustic fencing that is present to the east of this area is likely to reduce the exposure somewhat, although the proposal to locate the tallest buildings on the eastern edge of the development would mean that the built elements would still be prominent. As with the Northern Application, junction improvements would also be required on the junction between Newgate Lane and Newgate Lane East, increasing the prominence of the highways infrastructure. The magnitude of change upon this receptor is therefore judged to be Medium.

5.91 The proposed development is therefore considered to result in an adverse impact of Moderate significance upon this receptor.

Both Applications

5.92 The delivery of the proposed developments on both Sites is anticipated to entirely neutralise the function of the Strategic Gap, by developing a significant proportion of the land between Newgate Lane and Bridgemary. The sense of separation of Peel Common, which is valued by the Fareham Landscape Assessment, would also be entirely lost. The character of Newgate Lane would be altered by a significant increase in the level of traffic along this highway, and junction improvements on Newgate Lane East to accommodate this would again exert a greater urbanising influence.

10.46 In setting out his conclusions of the landscape appraisal Mr Dudley concludes at paragraph 8.17-8.20 of this evidence:

8.17 It is the conclusion of my landscape appraisal that the proposed developments represent inappropriate development within an established Strategic Gap, and that individually or collectively, they would lead to the loss of rural land that performs an important local function.

8.18 My appraisal found that even when the illustrative landscape strategy is taken into account, multiple adverse impacts would occur upon characteristic features and perceptual qualities of the Site and its setting, and their combined character.

8.19 The Local Planning Authority has commissioned two external reviews of the landscape surrounding the Site in recent years, and both have concluded that the Strategic Gap should be kept intact in this location, with the Fareham Landscape Assessment finding this landscape to be highly sensitive to development. My findings therefore support this consistent evidence base.

8.20 I therefore conclude that the proposed developments are inappropriate on landscape grounds, and that my evidence supports the Council's first four reasons for refusal for each application.

10.47 I conclude on this basis of Mr Dudley's detailed evidence, that criteria iii of Policy DSP40 is not met as the Appeal Developments fail to minimise adverse impacts on the countryside and strategic gap. I also conclude that the appeal developments are contrary to Policy CS22 as the integrity of the strategic gap will be significantly affected.

10.48 Mr Dudley's conclusions are consistent with a number of appeal decisions related to strategic gap policies locally that demonstrate the importance of the Strategic Gap as a spatial planning tool and as a means to direct development to appropriate locations.

10.49 In determining the Bubb Lane, Hedge End appeal (3063753, [CDG.5]) Inspector Woolcock concluded on the long and respectable provenance of strategic gaps at paragraph 30 of his decision letter, as follows:

'The use of strategic gaps, as a planning instrument, has a long and respectable provenance in South Hampshire. There are clear indications that local planning authorities would like to continue to rely on such designations to assist in shaping future growth. What form these take is a matter for the development plan process, as an important planning policy tool, is a consideration which should not be dismissed in determining this appeal'

10.50 Inspector Ellison dismissed an appeal for residential development at the same site, in September 2017 (3153828, [CDG.7]). She found that the strategic gap policy was wholly consistent with the NPPF. Paragraph 52 of her decision letter states in full:

‘The main adverse impacts relate to the substantial erosion of the West End – Hedge End Gap; harm to the character of the landscape by virtue of the change from countryside to urban area; and the relatively weak degree of connection with Hedge End. These impacts would run counter to the core planning principle of recognising the intrinsic character and beauty of the countryside, to the use of policies to identify land where development would not be appropriate because of its particular significance and to designing developments which add to the overall quality of an area. In my judgement, each of these harms carries significant weight’

10.51 In determining an appeal for 250 dwellings in the strategic gap at Grange Road, Southampton, Inspector Dignan concluded at paragraph 15 of his decision letter (3005761, [CDG.8]) that ‘protecting gaps between settlements is a long-established spatial planning tool in Eastleigh Borough and Hampshire as a whole’. He also considered the weight to be afforded to the strategic gap policy within the context of a housing policy which only ran up to 2011. At paragraph 21 he stated:

‘Nor do I accept that the gap policies are out of date because they reflect housing policy intended to run only up to 2011’

10.52 Whilst I accept that every case should be considered on its own merits, I consider that the conclusions reached by these Inspectors all add weight to the importance of the Strategic Gap policies as a spatial planning tool in South Hampshire. All of these appeals were dismissed and two of the decisions were made in the context of a housing land supply shortfall.

10.53 Mr Dudley’s evidence makes it clear that the development of the appeal sites would individually and cumulatively significantly affect the integrity of the gap and the physical and visual separation of settlements.

10.54 On this basis, I conclude that the Appeal Developments do not meet the requirement of policy DSP40 criteria (iii) and are contrary to adopted Policy CS22.

Reason for Refusal E (as it relates only to Newgate Lane North) (Inspector’s Issue 6)

The proposal would result in the loss of best and most versatile agricultural land

10.55 The fifth test of Policy DSP40(v) is that the proposal must not have any unacceptable environmental implications.

- 10.56 Policy CS16 seeks to prevent the loss of the best and most versatile agricultural land. The NPPF paragraph 170(b) recognises the economic and other benefits of the best and most versatile agricultural land.
- 10.57 The site is classified as predominantly Grade 3a, i.e. best and most versatile (BMV) agricultural land, with a small area of Grade 3b land on the western edge of the site. The proposal would therefore be contrary to Policy CS16 and the permanent loss of BMV agricultural land weighs against granting planning permission in the balance of issues.

11 DEVELOPMENT PLAN CONFLICT: SUSTAINABILITY ISSUES

- 11.1 This section outlines the extent to which the Appeal Developments conflict with the relevant Development Plan policies on sustainability, specifically in relation to Policy DSP40(ii) and reason for refusal (d).

Reason for Refusal D

The application site is not sustainably located adjacent to, well related to or well-integrated with the existing urban settlement boundaries (Inspector's Issue 8)

- 11.2 Policy DSP40 criteria (ii) is relevant to the consideration of the above matters, that is, whether the Appeal Developments are sustainably located adjacent to and well related to the existing urban settlement boundaries and can be well-integrated with the neighbouring settlement. I set out below why I consider that the Appeal Development fails to meet this requirement.

The site does not represent a sustainable location

The Approach of the Appellant

- 11.3 The respective Transport Assessments (TAs) submitted by the Appellant do not assess the appeal sites on their own merits but rather the accessibility of the sites to local services and facilities are assessed in combination on the assumption that there will be a north-south pedestrian link between the two sites.
- 11.4 A range of services and facilities are described as within convenient walking and cycling distance from the appeal sites at paragraph 3.37 and 3.38 (page 12) in the revised TA for Newgate Lane North [CDA.57] and at paragraph 6.2 and 6.3 (page 22) of the TA for Newgate Lane South [CDA.128]. The location of the services and facilities are shown on Figure 7 of the respective TAs. Figure 7 shows the location of those services and facilities within an 800m and 2000m walk and within a 5km cycling distance from the centre of the Appeal sites combined. The Appellant has provided no justification for the walking and cycling distances selected with reference to recognised standards and the actual distance to each local service and facility is not recorded with the exception of those in Table 1 (page 13) in the revised TA for the Newgate Lane North.

The Council's Approach

- 11.5 I have taken a different approach to the Appellant in assessing the accessibility of the Appeal sites to local facilities and services.
- 11.6 I have not assumed that the development proposed at Newgate Lane South will be approved, and even if it were to be approved, it is possible that the consent may not be implemented. In terms of considering accessibility, I therefore have assessed both sites on their individual merits as stand-alone developments as this was the basis on which they were submitted. It is relevant to note also that the applications for Newgate Lane North and Newgate Lane South were submitted seven months apart by two separate developers. I have therefore placed no reliance on a north-south cycle and pedestrian link between Newgate Lane North and Newgate Lane South. This is also in line with the Appellant's statements at paragraph 1.6 (Newgate Lane South) and paragraph 1.7 (Newgate Lane North) of the respective Planning Statements which states that the two development proposals have been conceived to ensure that each is technically deliverable individually. I conclude from this that either site could come forward as a stand-alone development.
- 11.7 I have carried out a more detailed analysis of the walking distances to the services and facilities within 2km of each of the appeal sites as identified on Figure 7 of the respective TAs in relation to the accessibility standards set out in background paper on Accessibility (2018) which forms part of the emerging evidence base for the Regulation 19 consultation draft Local Plan [CDF.6], the recommended guidance set out in the CIHT Planning for Walking (2015) [CDH.11] and the CIHT Guidelines for Providing for Journey on Foot (2000) [CDH.12]. As it relates to accessibility to bus stops, I have also had regard to Buses in Urban Developments (January 2018) [CDH.13]. I set out the recommended accessibility standards identified in each document below.

Fareham Background Accessibility Background Paper (2018)

- 11.8 Recommended accessibility standards are set out in Table 1 of the Background Paper: Fareham Accessibility Study 2018 [CDG.10] as follows.

Facilities and Associated Accessibility Standards, Fareham Accessibility Study 2018

Facilities	Accessibility Standard in Metres (m)	Approximate Walking Time(minutes)
GP Surgeries	1,200m	15
Bus Stops	400m	5
Train Station	1,600m	20
Community and Leisure	800m	10
Secondary Schools	1,600m	20
Primary Schools	1,200m	15
Newsagents /Convenience Store	800m	10
Town / District Centres / Parades	1,600m	20
Designated Employment Areas	1,600m	20
Accessible Green Spaces (unrestricted and not including greenways or incidental spaces) or Play Space	800m	10

11.9 The Accessibility Paper explains at paragraph 3.1 that *“these facilities are often visited on a regular basis and so it therefore seemed prudent to identify accessibility standards for each of them”* Paragraph 3.2 states that *“The list of potential facilities to have access to is not exhaustive, those chosen are deemed to be the most relevant and important to the residents of Fareham Borough.”*

11.10 Paragraph 4.2 of the background paper clarifies that:

‘the community and leisure facilities used in this study are those facilities identified in the Community Infrastructure Background Paper. These are bullet pointed below:

- *Community Halls/ Centres*
- *Libraries*
- *Health and Social Care including Day Centres*
- *Art and Cultural Facilities including museums and art centres*
- *Adult Care Services*
- *Youth Centres*
- *Scout and Guide Centres/Huts*
- *Places of Worship*
- *Public Houses’*

11.11 The background paper goes on to explain in paragraph 4.2 that:

The accessibility distances and timings are based on an average time to walking distance ratio of 5 minutes = 400m. This ratio is what underpins

time-distance calculations used in web mapping applications such as Google Maps.

*The Time-Distance standards are an indication of the maximum preferred distance for walking to facilities. **It is felt that beyond these distances, the majority of able-bodied people would begin to consider taking alternative modes of transport in particular, the private car to make journeys.** It is acknowledged however, that there will always be exceptions to the rule in both directions. As such, this study acts as a guide and tool to enable the creation and a judgement to be made on sustainable development in Fareham.” (emphasis added).*

CIHT Guidelines for Providing for Journey on Foot (2000)

11.12 Table 3.32 of the CIHT 2000 guidance sets out suggested acceptable walking distances to town centres, commuting/school and elsewhere. The walking distances are defined as desirable, acceptable and preferred maximum but which standard should be applied depends on the circumstances of the route as explained at paragraph 3.31:

“Acceptable” walking distances will obviously vary between individuals and circumstances. Acceptable walking distances will depend on various factors including:

- *An individual’s fitness and physical ability*
- *Encumbrances, eg shopping, pushchair*
- *Availability, cost and convenience of alternatives transport modes*
- *Time savings*
- *Journey purpose*
- *Personal motivation*
- *General deterrents to walking.”*

Suggested Acceptable Walking Distance, CIHT (2000) Planning for Journeys on Foot

	Town centres (m)	Commuting / School Sight-seeing (m)	Elsewhere (m)
Desirable	200	500	400
Acceptable	400	1000	800
Preferred maximum	800	2000	1200

11.13 The CIHT guidance further advises at paragraph 3.40 that:

*‘if people are to choose to walk rather than drive, at least for more short trips, the pedestrian environment must be **more than just functionally adequate. It needs to be of high quality**, so that the walk is a pleasant experience.’ (emphasis added)*

CIHT Planning for Walking (2015)

- 11.14 More recent guidance on walking distances has been provided by the CIHT in a publication entitled 'Planning for Walking April 2015, (CDH.11). Section 6.4 of 'Planning for Walking' also emphasises the importance of the quality of the walking route and identifies that 800m is typically considered relevant for a 'walking neighbourhood':

'Walking neighbourhoods are typically characterised as having a range of facilities within 10 minutes walking distance (around 800 metres). However, the propensity to walk and cycle is not only influenced by distance but also the quality of the experience; people may be willing to walk or cycle further where their surroundings are more attractive, safe and stimulating. Developers should consider the safety of the routes (adequacy of surveillance, sight lines and appropriate lighting) as well as landscaping factors (indigenous planting, habitat creation) in their design.

The power of a destination determines how far people will walk to get to it. For bus stops in residential areas, 400 metres has traditionally been regarded as a cut-off point and in town centres, 200 metres (DOENI, 2000). People will walk up to 800 metres to get to a railway station, which reflects the greater perceived quality or importance of rail services.' (emphasis added).

Access to Bus stops

- 11.15 The recommended walking distance to a bus stop in the FBC 2018 Accessibility Background Paper [CDG.10] is 400m. This is in accordance with the CIHT 'Planning for Walking' (2015) (CDH.11). Section 6.4 (on page 30) states in part:

'The power of a destination determines how far people will walk to get to it. For bus stops in residential areas, 400 metres has traditionally been regarded as a cut-off point.'

- 11.16 Table 4 set out in 'Buses in Urban Developments' (2018) (CDH.13) further advises that the recommended walking distances to bus stops for less frequent bus services should be 300m not 400m which is only considered appropriate for single high-frequency routes (every 12 minutes or better).

Buses in Urban Developments (2018)

- 11.17 Section 4.5 (1) advises that:

'The 400 – metre criterion dates from a time when bus use was less challenged by competition from the private car, and it may not be consistent with the goal of shifting mode share from car to bus.'

- 11.18 The guidance goes on to advise at (2):

‘The acceptability of walking distance is not a stand-alone consideration. People take account of the total journey time, including the ‘in bus’ time as well as the walk at either end. Consequently, people will accept longer walks to reach bus services that are fast and direct, or more frequent, and to stops serving a wider range of destinations.’

11.19 At (5) it states that:

‘The quality of the walking route itself may affect people’s judgement of an acceptable walking distance. Safe routes, well overlooked and with visual interest along the way will be perceived as less onerous than isolated, poorly lit and uninteresting routes.’

11.20 Table 4 then sets out the recommended maximum walking distances to bus stops as follows:

Recommended maximum walking distances to bus stops, CIHT (2018) Buses in Urban Developments

Situation	Maximum walking distance
Core bus corridors with two or more high-frequency services	500 metres
Single high-frequency routes (every 12 minutes or better)	400 metres
Less frequent routes	300 metres
Town/city centres	250 metres

Analysis of Accessibility Guidance

11.21 Having reviewed the above guidance, I conclude that the recommended walking distances set out the CIHT 2000 guidance and the Council’s accessibility standards 2018 vary depending on the type of local service and facilities that are to be accessed. Furthermore, that in applying those standards, regard must also be had not only to the walking distance to those facilities but also to the power of the destination and quality of walking route. It follows, for example, that if walking routes are unattractive, or bus services infrequent, then the maximum recommended distance may not be a reasonable basis on which to judge the likelihood of journeys being undertaken by foot. An acceptable walking distance might be less than the maximum recommended in such circumstances. This is clearly a matter of planning judgement for the decision maker having regard to the particular circumstances in each case and I place great weight on this as being highly relevant in assessing whether the appeal sites are sustainably located.

11.22 Notwithstanding the location of the development within the countryside, the scale of the developments (comprising nearly 200 dwellings in total) and their proximity to Newgate Road East suggest that the guidance set out in Buses in Urban Developments is appropriate. I therefore also place great weight on the importance of having good accessibility to a frequent bus service which can provide onwards links to other destinations, including access to the rail network.

Analysis of Walking Distances

11.23 Having regard to the above guidance, I have assessed the accessibility of both appeal sites to local services and facilities as 'stand-alone' developments which I consider is the proper approach to take and indeed the approach advocated by the Appellant in submitting two separate applications. Adopting a precautionary approach, I have also assessed the accessibility of the site to local services and facilities should a pedestrian and cycle link become available across land to the south connecting to Woodcote Lane to the west of Newgate Lane East at some time in the future.

11.24 I have not only analysed the walking distances to those local facilities and services within 2km of the appeal sites as identified on Figure 7 of the Appellant's TA [CDA.128], which includes the nearest bus stop and railway station, but have also considered the quality of the walking route in assessing how sustainably located the Appeal sites are; the quality of the route will advise a planning judgement about the most appropriate walking distance in each circumstance.

Quality of the Walking Routes

Pedestrian Routes to the east

11.25 The most direct route to the local facilities and services in Bridgemarky is via Woodcote Lane, across Newgate Lane East and Brookers Lane. Woodcote Lane is relatively narrow and has a low level of lighting and poor natural surveillance. The mature trees and vegetation on either side of the lane lead to a feeling of being 'hemmed in'. The western extent of Brookers Lane is for pedestrians and cycles only (it is traffic free). There is no lighting. It has no natural surveillance from surrounding properties, and this also leads to a sense of being hemmed being enclosed by mature trees and vegetation along its length.

- 11.26 The existing pedestrian crossing on Newgate Lane East comprises a single informal, uncontrolled and narrow central refuge providing pedestrian and cycle access between Woodcote Lane and Bookers Lane. The road comprises a 7.3m wide carriageway with a speed limit of 40mph, designed to reduce journey times and peak hour congestion between Fareham and Junction 11 of the M27 and the Gosport peninsula. It is not designed for pedestrians. This particular section of the road is unlit and there are no pavements except a very short stretch providing access to a bus stop on the respective sides of the carriageway at the crossing point between Woodcote Lane and Bookers Lane.
- 11.27 At no point along the walking and cycling route is there any clear separation between pedestrians and cyclists which may also lead to a potential conflict between those on foot and those on a bicycle.
- 11.28 For these reasons, the pedestrian and cycle route to Bridgemary is not considered to be particularly attractive or stimulating. For the elderly, the young and the mobility impaired (including those with push chairs), there may be a perception of feeling unsafe particularly during hours of darkness and during the winter months. I note by contrast that there is a marked difference in the quality of the experience when walking through the residential neighbourhood in the vicinity of The Drive, within the existing settlement boundary of Bridgemary.

Pedestrian routes to the north

- 11.29 The walking route to the north would be along old Newgate Road. This route has a low level of lighting along its length and poor natural surveillance. The old road runs in parallel with Newgate Road East and the traffic noise from the very busy road detracts from the attractiveness of the route. The wide entrance to Peel Common Wastewater Treatment is frequently in use by heavy good vehicles entering and exiting the site which could be a potential safety hazards to pedestrians. On the day I walked the route, there was also a faint and unpleasant aroma from the site.

Pedestrian route to the west

- 11.30 The B334 to Stubbington is also not an attractive walking route. It is heavily dominated by road traffic, is unlit and has no natural surveillance.

Pedestrian route to the south

- 11.31 The B3385 is a busy main road. Whilst it is lit, there is no natural surveillance and it is not an attractive pedestrian route. Furthermore, there are no local facilities and services shown on Figure 7 of the respective TAs that can be accessed on foot within 2km of the Appeal sites.
- 11.32 I conclude that the walking routes are not particularly attractive and that the overall quality of the walking experience is poor. I am of the opinion therefore that the recommended walking distances set out in the FBC accessibility criteria and the CIHT 2000 preferred maximum walking distances are not appropriate in this case. I have therefore applied the 'acceptable walking distance' from the CIHT 2000 guidance which I consider is a more appropriate standard to assess whether journeys on foot are likely to be made from the Appeal sites.

Bus Service and Bus Stop

- 11.33 The closest bus stop is located on Newgate Lane East and accessed via Woodcote Lane. Bus route 21/21A serves the site running between Fareham and Stubbington/Hill Head. The First Bus timetable shows that buses run infrequently on Monday – Saturday only every 1 hour and 15 minutes with the last bus at 16.45 from Fareham and 17.23 from Hill Head Road. There is no service on a Sunday or in the evenings. I do not therefore consider that bus service 21/21A can be considered to be frequent.
- 11.34 I observe that the location of the closest bus stop on Newgate Lane East is not well overlooked, is isolated and is unlit. There are no streetlights along this stretch of Newgate Lane East.
- 11.35 Having regard to this local context and the guidance in Buses in Urban Developments 2018, I therefore consider that the most appropriate walking distance against which to assess the relative accessibility of the site to a bus stop is 300m.

Analysis of Walking Distances

- 11.36 The detailed results of my analysis of walking distances to local services and facilities are set out at Appendix 2 for Newgate Lane North as a standalone development, Appendix 3 for Newgate Lane South and Appendix 4 for Newgate

Lane with a pedestrian and cycling link. Whilst not shown on Figure 7 of the respective TAs, the Appellant has also referred to the Carisbrook Local Centre and Brookers Lane recreation ground within its Statement of Case. I have therefore also assessed the walking distance to these local facilities. Appendix 2 contains a revised annotated map with these additional facilities added.

- 11.37 Walking distances have been measured from the centre of the respective sites to the point of entry to each of the facility using the measuring tool on Google Map and selecting the most appropriate walking route. The measurements for Schools therefore not taken to the boundary but into the school grounds.

Newgate Lane North (stand-alone)

- 11.38 The vast majority of the 26 local facilities and services listed in Appendix 2 are outside of any acceptable measure of walking distance as recommended in the CIHT 2000 guidance. Only 2 facilities and services meet this guidance.
- 11.39 Appendix 2 shows that within a walking distance of 800m (around 10 minutes walk) as recommended by the CIHT guideline (2015), and within an acceptable walking distance in the CIHT 2000 guidance, there is only Peel Common Evangelical Church. There are no other local facilities and services within a 800m walking distance or a desirable or acceptable walking distance as recommended by the CIHT guideline (2000). Peel Common Evangelical Church will only meet the needs of a narrow section of the local community and is not considered an essential service to meet the day to day needs of households. There are no other community facilities under the category of Community as defined in the FBC 2018 Accessibility background paper and I therefore place little weight on the accessibility to the Church.
- 11.40 The Spar convenience store in Tukes Road at a distance of 1534m is only just within the FBC 1600m recommended walking distance (20 minutes walk) for a parade of shops. The FBC 2018 Accessibility background paper recommends a walking distance of 800m for a convenience store. Judged against this distance, Newgate Lane North would fail to meet this criteria. However as Tukes Road is designated as an 'Existing Neighbourhood Shopping Centre', a precautionary approach has been adopted and the facility has been assessed against the more generous 1600m recommended distance even though the destination does not offer anything more than the Spar store to attract journeys

on foot. Having regard to paragraph 3.31 of the CIHT guidance, and the quality of the pedestrian route to Bridgemary it is unlikely that people will walk this distance for convenience shopping and I consider that 800m is a more appropriate indication of how far people will be prepared to walk to access this facility. On this basis, the Spar shop fails to meet this accessibility standard.

- 11.41 Peel Common Infant and Junior School, Holbrook Primary School, Bridgemary Secondary school would meet the recommended maximum preferred walking distances set out the CIHT 2000 guidance. However, having regard to the walking route, I consider that the CIHT acceptable walking of 1000m is more appropriate in this case. The walking distance to all the closest schools fail to meet this standard with the exception of Peel Common Infant and Junior School.
- 11.42 Peel Common Infant and Junior School and Holbrook Primary School are not however the local catchment schools. The local catchment school is Crofton Anne Primary School which at a distance of 3.6km is beyond a reasonable walking distance having regard to all the relevant guidance documents.
- 11.43 Bridgemary Secondary School is not the local catchment school. The local catchment school is Crofton Secondary school which at a distance of 2.1km also exceeds the maximum preferred walking distances in CIHT 2000 and the FBC Accessibility Background Paper.
- 11.44 A Lidl convenience store and McDonalds would also meet the 1200m maximum preferred distance in the CIHT 2000 guidance. The Lidl convenience store and the McDonalds are located on Speedsfield Park to the north of the site which is an out of town retail park that is car dominated. Both are approximately a 15-20 minute walk from the site at Newgate Lane North. The quality of the walking route to the north, coupled with the nature of the destinations, is unlikely to encourage walking in preference to the car. For this reason, the acceptable walking distance of 800m as set out the CIHT 2000 guidance is considered to be more appropriate. On this basis, both of these facilities fail this test.
- 11.45 I conclude therefore that Newgate Lane North is not sustainable located and would only meet one of the categories of local services and facilities set out the FBC's background paper on accessibility having applied an acceptable walking distance of 1000m to Peel Common primary and junior school. I have excluded

the Spar shop having applied an acceptable walking distance of 800m and have excluded access to community facilities which only comprises the Peel Common Evangelical Church.

Access to a bus stop

- 11.46 The bus stop on Newgate Lane East is approximately 740m from the Appeal site which exceeds the 300m recommended distance by 440m. Furthermore, the closest railway station is Fareham Station which is approximately 4km away which exceeds the CHIT 2015 recommended walking distance of 800m to a railway. Whilst bus service number 9/9A provides a more frequent service into Gosport (approximately every 20 minutes, the bus stop is located in Tukes Avenue close to the junction with Brookers Lane which is even further away.
- 11.47 I conclude therefore that whilst bus service 21/21A would provide a link to the railway station and Fareham town centre, given the poorly located environment of the bus stop, the infrequency of the bus service and its distance from the Appeal Site, the bus is unlikely to compete effectively with the car and to benefit a wide range of people with differing levels of motivation and walking ability as is the intention of the maxima set out in Table 4 of the 2018 'Buses in Urban Developments' and as referred to in Section 4.5 of that document.

Newgate Lane South (stand-alone)

- 11.48 The vast majority of the 26 local facilities and services listed in Appendix 3 are outside of any acceptable measure of walking distance as recommended in the CIHT 2000 guidance. Only four facilities and services meet this guidance.
- 11.49 Appendix 3 shows that within an 800m walking distance (10 minutes) there is only Peel Common Infant and Junior School, Brookers Field recreation ground, Peel Common Evangelical Church and the bus stop on Newgate Lane East. Having regard to the 2015 Planning for Walking guidance, an 800m walking distance has in my opinion the greatest potential to encourage journeys on foot.
- 11.50 Services and facilities within the FBC 2018 recommended walking distance beyond 800m would only include a limited range of additional services and facilities extending to Holbrook Primary School, Bridgemary Secondary School, the Carisbrooke Local Centre and the Spar on Tukes Avenue. There are a few other facilities that would fall within the CIHT 1200m preferred maximum

walking distance including St Matthews Church, the Carisbrook Arms public house. Within the preferred maximum walking distance of 2000m (approximately, a 20 minute walk) is Woodcot Primary School.

- 11.51 Peel Common Evangelical Church will only meet the needs of a narrow section of the local community and is not considered an essential service to meet the day to day needs of households. There are no other community facilities under the category of Community as defined in the FBC 2018 Accessibility background paper and I therefore place little weight on the accessibility to the Church.
- 11.52 Having regard to the walking route to local schools, I consider that the CIHT acceptable walking of 1000m is more appropriate standard to apply in this case. The walking distance to all the closest schools fail to meet this standard except for Peel Common Infant and Junior School. Peel Common Infant and Junior school is not the local catchment schools. The local catchment school is Crofton Anne Primary School which at a distance of 3.6km is beyond a reasonable walking distance having regard to the above guidance documents.
- 11.53 Bridgemaury Secondary School is not the local catchment school. The local catchment school is Crofton Secondary school which at a distance of 2.1km also exceeds the maximum and acceptable preferred walking distances in CIHT 2000 and the FBC Accessibility Background Paper.
- 11.54 In respect of the local centre on Carisbrook Road and the Spar store on Tukes Road, and having regard to paragraph 3.31 of the CIHT guidance and the quality of the pedestrian route to Bridgemaury, it is unlikely that people will walk up to 1200m (the maximum preferred distance set out in CIHT 2000) for convenience shopping. I consider that 800m is the acceptable walking distance that far people will be prepared to walk to access these local facilities and services. On this basis, the Carisbrooke Road local centre and the Spar shop on Tukes Road fails to meet this acceptable walking distance standard.
- 11.55 In respect of St Matthew's church and the Carisbrooke Arms public house, I consider that as the quality of the walking route to Bridgemaury is poor, an acceptable walking distance of 800m (10 minutes) as set out in the CHIT 2000 guidance is likely to be more appropriate to encourage journeys on foot.

11.56 I conclude therefore that Newgate Lane South is accessible to up to three categories of local services and facilities as set out the FBC's background paper on accessibility; access to a bus stop, a primary and Junior School and the Brookers Lane recreation ground. I have excluded the other primary and junior schools, the secondary school and local centres (at Carisbrooke Road and on Tukes Road), applying an acceptable walking of 1000m and 800m respectively given the quality of the walking route, having also excluded access to communities facilities which only comprises the Peel Common Evangelical Church. I therefore consider that the Appeal Development at Newgate Lane South is not sustainably located.

Access to a bus stop

11.57 The closest bus stop is approximately 250m from the Appeal site which is within the 300m recommended walking distance. The closest railway station is Fareham Station which is approximately 4km away which exceeds the CHIT 2015 recommended walking distance of 800m to railway. Whilst bus service number 9/9A provides a more frequent service into Gosport (approximately every 20 minutes, the bus stop is located in Tukes Avenue close to the junction with Brookers Lane is located beyond the 300m or even 400m.

11.58 I conclude therefore that whilst bus service 21/21A would provide a link to the railway station and Fareham town centre, given the poorly located environment of the bus stop and the infrequency of the bus service, the bus is unlikely to compete effectively with the car and to benefit a wide range of people with differing levels of motivation and walking ability as is the intention of the maxima set out in Table 4 of the 2018 'Buses in Urban Developments' and as referred to in Section 4.5 of that document.

Newgate North with a pedestrian and cycle link

11.59 The vast majority of the 26 local facilities and services listed in Appendix 4 are outside of any acceptable measure of walking distance as recommended in the CIHT 2000 guidance. Only three facilities and services meet this guidance.

11.60 I have concluded at that Newgate Lane North as standalone development is not sustainably located and would only meet one of the categories of local services and facilities set out the FBC's background paper on accessibility being accessible to Peel Common Infant and Junior schools if the acceptable

walking distance in CIHT 2000 is applied. I consider below whether a north south pedestrian and cycle link to Woodcote Lane would improve the accessibility of the site to local services and facilities.

11.61 Appendix 4 shows that with a pedestrian and cycling link in place, the following facilities would be within the FBC accessibility standards:

- Peel Common infant and junior schools (within 1200m);
- Bridgemary School (within 1600m);
- Brookers Lane Recreation Lane (within 800m);
- Carisbrook Centre (within 1600m).

11.62 Within the CIHT 2000 maximum preferred standard would also be Holbrook Primary School (within 2000m) and the Carisbrooke Arms (within 1200m).

11.63 However, notwithstanding that these additional facilities meet either the FBC accessibility standard and/or CIHT 2000 preferred recommended walking distances, when the quality of the pedestrian route to Bridgemary is taken into account (as described at paragraphs 11.25 - 11.28), all of these facilities, with the exception of Peel Common Infant and Junior School and Brookers Lane recreation ground would fail to meet the acceptable walking distances set out the CIHT 2000 guidance which I consider is the most appropriate standard to apply in this circumstance.

11.64 The acceptable walking distance in CIHT 2000 for a school is 1000m. The walking distance to Holbrook School and Bridgemary school is beyond this distance. The acceptable walking distance in CIHT 2000 for a local centre and public house is 800m. The walking distance to the Carisbrooke Local Centre and the Carisbrooke Arms is beyond this distance.

11.65 I conclude that Newgate Lane North with a pedestrian and cycling link in place is accessible to up to two categories of local services and facilities as set out the FBC's background paper on accessibility; Peel Common Infant and Junior School and Brookers Lane recreation ground, having excluded access to communities facilities which only comprises the Peel Common Evangelical Church. I therefore consider that the Appeal Development at Newgate Lane North is not sustainably located even with a pedestrian and cycle link in place.

Access to a bus stop

- 11.66 The bus stop on Newgate Lane East is approximately 362m from the appeal site, which exceeds the 300m recommended distance by 62m. The provision of a north-south pedestrian does not change the conclusion I have drawn in respect of the Newgate Lane north as a stand-alone development. My conclusions are the same as set out at paragraph 11.47.

Improvements to Pedestrian Links

- 11.67 Having regard to Mr Gammer's proof of evidence, a s106 contribution has been agreed towards the installation of a Toucan crossing at Woodcote Lane and Brookers Lane with the Appellant. In this respect Mr Gammer makes clear that:

“without this crossing, safe and suitable access to the site for all users is not achieved and the increase in pedestrian and cycle movements due to the proposed developments, either in isolation or combined, leads to a severe impact under paragraph 109 of NPPF.”

- 11.68 Notwithstanding that this improvement can be secured, this does not change my opinion that the overall quality of the walking route to Bridgemary will be unattractive such that journeys on foot will not be encouraged.

Overall Concluding Comments

- 11.69 On the basis of my evidence, I find that the Appeal Sites are not accessible as the appeal proposals would not create feasible opportunities to create a modal shift away from the use of a private motor vehicle that future residents of the developments are likely to be very reliant upon for most of their journeys. This is because of the distance to those facilities, taking into account the relative attractiveness of the pedestrian routes. I place significant weight on this factor. For this reason, I find that the Appeal Sites are not sustainably located.
- 11.70 In reaching this conclusion I have had regard to the decision of an Inspector who dismissed an appeal on 25th August 2020 in respect of Land East of Finchampstead Road, in Wokingham having concluded that the site in that particular case would not provide a realistic choice in sustainable transport modes [CDJ.24].

11.71 The site in this case was similarly located in the countryside and the range of facilities within a 1.3 km walking distance was limited. In this respect, he notes that paragraph 101 of that:

“The Framework at Section 9 also seeks to promote sustainable transport and opportunities to promote walking, cycling and public transport. Of relevance is the Framework’s distinction between opportunities in urban and rural areas. Whilst, the appeal site is in policy terms in the open countryside, it is not, in my view, in an isolated countryside setting. I consider that this is important when considering what opportunities are available to maximise sustainable transport options.”

11.72 In considering whether the proposed development was sustainably located to create a modal shift away from the use of a private motor vehicle, the Inspector adopted a similar approach to the one that I have taken looking at the distances as well as other factors. At paragraph 104 he states:

“Of particular relevance, is the IHTC guidance, which sets out that acceptability in terms of travel distance will depend on a range of considerations, including: the quality of the experience, the safety of the route; the mobility and fitness of the individual; the purpose of the journey; and the convenience of other options.”

11.73 The inspector found that the walking environments of two pedestrian routes and the location of the bus stops were unattractive as summarised as paragraphs 110, 111, 114 and 125. Whilst I accept these walking routes not direct comparable with the Appeal Sites, some of the key characteristics that describe the quality of the route are. The Inspector concluded at paragraph 118 that the proposed scheme was highly unlikely to encourage a modal shift away from the use of a private car and walking.

11.74 In respect of bus services, Inspector records that the frequency of the bus service did not constitute a good service (paragraph 125 and 126). Notwithstanding that the Appellant had offered a financial contribution to improve the frequency of the bus service (paragraph 130), which is not the case in respect of the Appeal Developments, the Inspector found that:

“my concerns with regard to the nature of the walking environment to the bus stops and the nature of the bus stops themselves remain. I consider that these matters are significant deterrents to the use of the bus service by the future residents of the scheme.”

11.75 In weighing up the planning balance and identifying the harm, the inspector concludes (at paragraph 158) that:

"I consider that the scheme would not create feasible opportunities to create a modal shift away from the use of a private motor vehicle that future residents of the scheme are likely to be very reliant upon for most of their journeys. This also weighs significantly against the scheme."

11.76 The Appeal was dismissed. I have reached a similar conclusion in respect of the Appeal sites on the basis of my evidence.

The site is not considered to be adjacent to the existing urban settlement boundary

11.77 The closest existing urban settlement boundary to the Appeal Sites is the urban area boundary of Bridgemary as defined on Policies Map (October 2015) Gosport Borough Local Plan 2011 – 2029. Whilst Peel Common is a small linear settlement adjacent to the Appeal sites, it is located in the countryside and does not have a defined urban settlement boundary.

11.78 The Appellant's position is that the site is adjacent to the existing settlement boundary of Bridgemary. The Appellant relies on case law [CD6] to assert that the word 'adjacent' does not necessarily mean [the fence has to be] abutting or touching.

11.79 In that case, the 'adjacent' was considered in the context of whether existing gates and piers could still be considered to be adjacent to the highway if they were moved further back from the highway by just 1m in to an appeal relating to a Certificate of Lawful Use or development (LDC). This is not comparable with the Appeal Developments.

11.80 The appeal sites are separated from the existing urban settlement boundary of Bridgemary by an intervening agricultural field which is itself adjacent to Bridgemary in addition to Newgate Lane East. This is not comparable to the distance of the fence from the highway in the above case. For this reason, there can be no doubt that the Appeal sites are not located adjacent to the existing urban settlement boundary. The Committee Report (CDC.1) noted in relation to Criterion (ii) of Policy DSP40 that the development "would essentially appear as an island of development." I consider therefore that the appeal developments are most definitely in breach of DSP40 criteria (ii).

The site is not well related to the existing urban settlement boundary

11.81 I have considered how well related the site is to the existing urban settlement boundary. In this context, I note that one of the objectives of the preferred development strategy, residential option 2F, as described in the SEA to the Regulation 18 consultation draft Local Plan [CDG.11] at Paragraph 4.4.10 and in the Regulation 19 Local Plan [CDG.12] at paragraph 4.5.8 is amongst other things:

“A preference towards urban extension sites that provide a logical extension to the existing urban area and/or a defensible urban edge for the future.”

11.82 This objective confirms my understanding of what 'well related' means.

11.83 I note that additional housing sites are being identified by the Council in the emerging Local Plan. I therefore turn to consider whether the Appeal sites are consistent with this strategic objective.

11.84 The Appeal Site at Newgate Lane South (ID 3129) was considered by the Council in the SEA 2017 and was rejected for site selection for the following reason:

‘site does not provide a logical extension to the urban edge as it will sit on the west side of the Newgate Lane south relief road and will intrude into strategic gap’

11.85 The Appeal Site at Newgate Lane South (ID 3129) was further considered by the Council in the SEA 2020 and was rejected for site selection for the following reason:

‘the development in this location would not be keeping with the settlement pattern...’

11.86 The Appeal Site at Newgate Lane North (ID 3161) was considered by the Council in the SEA 2020 and was rejected for site selection for the following reason:

‘development of the scale promoted would not be in keeping with the settlement pattern.’

11.87 I consider that this provides a very clear indication that in the context of the emerging spatial development strategy that the Council does not consider that

the Appeal sites meet the objectives of the preferred development strategy. The appeal sites are not in keeping with the settlement pattern because they do not provide a logical extension to the urban edge given their location on the west side of the Newgate Lane East relief road and their intrusion into the strategic gap.

11.88 The HA2 housing allocation, known as Land east of Newgate Lane and referred to by the Appellant, comprises the land to the east of Newgate Lane between the existing urban settlement boundary of Bridgemary and Newgate Lane East that was originally allocated in the Regulation 18 consultation draft plan (CDF.1).

11.89 However, as the HA2 allocation is no longer part of the preferred development strategy in the Regulation 19 Local Plan (2020), the Appellant cannot rely on the existing urban settlement boundary of Bridgemary being extended westwards. The allocation was in any case subject to a significant number of objections, including from the Highway Authority.

11.90 Furthermore, paragraph 4.7.4 of the SEA 2020 indicates that HA2 allocation has been removed from the draft Local Plan as the overall housing need for the Plan period has decreased. The SEA reports that the reason it has been removed is because it was one of the sites that *'performed more adversely in sustainability terms compared to those retained for allocation.'* It follows that land to the west of Newgate Lane cannot be considered to be sustainably located, being located further away from the existing urban settlement boundary of Bridgemary and severed from it by Newgate Lane east.

11.91 The HA2 allocation does not form part of the emerging Development Plan and it should therefore be disregarded in determining the acceptability or otherwise of the Appeal Sites.

11.92 With reference to the spatial strategy in the adopted Development Plan. I note that the strategic objectives of the Core Strategy are to prioritise residential development in existing urban areas in Fareham and the western wards and on previously developed sites [paragraph. 3.12]. With the exception of Welborne, the majority of the housing allocations are of a small size (below 50 dwellings). Only four allocated sites are between 50 - 80 dwellings and all are in highly accessible locations within existing urban settlement boundaries. Only one large edge of

settlement site is allocated for 230 dwellings at St Peter Road, Sarisbury which is immediately adjacent to the existing urban settlement boundary.

- 11.93 The location of the appeal sites does not therefore either accord with the adopted development plan strategy as it is not well related to the existing urban settlement boundary as required by Policy DPS 40.

The development is not considered well-integrated with Bridgemary

- 11.94 The Appellant considers that the proposals will be well-integrated with Bridgemary via Woodcote lane and with Peel Common.

- 11.95 By Design (DETR 2000), page 15, states that a key objective of good urban design is the ease of movement. That is:

“to promote accessibility and local permeability by making places that connect with each other and are easy to move through, putting people before traffic and integrating land use and transport.”

- 11.96 By the Appellant’s own admission, most of the services and facilities available to the new community will be located in Bridgemary. The closest pedestrian and cycling link will be via Woodcote Lane, an existing crossing point on Newgate Lane East and then via Brookers Lane.

- 11.97 As Mr Gammer makes clear in his evidence at paragraph [3.2], Newgate Road East has been realigned and upgraded as part of the ‘Improving Access to Fareham and Gosport’ strategy. The primary aim is to stimulate the provision of employment and investment in employment opportunities in Gosport. The road has been designed specifically to reduce peak hour journey times as set out a paragraph 5.5 of Mr Gammer’s proof of evidence. The severing effect of Newgate Lane East, including the erection of noise barriers along most of its length adjacent to the western boundary of the appeal sites, makes it very difficult to integrate the development with Bridgemary. Indeed, the road serves to obstruct connectivity and put people first. In my opinion therefore, the Appeal Sites cannot be considered to be well-integrated with Bridgemary.

- 11.98 In respect of Peel Common, the Appellant at paragraph 9.35 admits that Peel Common “contains no services or facilities with the exception of the Evangelical

church, and no discernible centre.” I see therefore that this has no bearing on the assessing the relative integration of the Appeal Sites in the context of Policy DSP40 criteria ii. It is irrelevant.

12 DEVELOPMENT PLAN CONFLICT: HIGHWAY ISSUES

12.1 This section outlines the extent to which the Appeal Development conflicts with the relevant Development Plan policies relating to highway issues.

Reason for Refusal (H) (Newgate Lane North) and Reason for Refusal (G) (Newgate Lane South) (Inspector's Issue 3)

The proposed development would have an unacceptable impact on the junction of old Newgate Lane / Newgate Lane East resulting in a severe impact on the road safety and operation of the local transport network

12.2 The third aspect of Policy DSP40(v) is that the proposal must not have any unacceptable transport implications.

12.3 As set out in Mr Gammer's evidence, the existing layout of old Newgate Lane / Newgate Lane East operates well under existing and future traffic conditions in the absence of the appeal proposals. However, the future operation of the junction including traffic from the appeal proposals would be unacceptable. This is a matter agreed with the Appellant.

12.4 The Appellant has suggested various options to address the unacceptable operation of the Newgate Lane / Newgate Lane East junction. These include full signalisation and a signalisation scheme with an indicative right turn arrow arrangement. It is the Highway Authority's position that the indicative arrow signalisation scheme is unacceptable on safety grounds.

12.5 Mr Mundy provides evidence on the proposed signalling of the right turn movement from Newgate Lane East into old Newgate Lane and the safety implications of the proposed method of signalling the right turn movement with reference to established practice within Hampshire and other local authorities.

12.6 The personal injury safety record at other similar junctions in Hampshire has been considered by Mr Mundy in his evidence, leading him to conclude that the Appellant's proposals would result in an inherent safety hazard. He notes that the Appellant's proposal is not only contrary to established practice in Hampshire, it is also contrary to the recommendations of their own independent Road Safety Audit.

- 12.7 Mr Gammer considers the impact of these mitigation options in his evidence and concludes that the proposed signalisation of old Newgate Lane/ Newgate Lane East junction, through either a fully signalised or indicative arrow arrangement, fails to mitigate the impact of the either development in isolation or both developments cumulatively with respect to capacity at the junction. The junction is forecast to operate over capacity, with significant resultant queuing and delay under the fully signalised proposals. Under both fully signalised and indicative arrow options, delay when egressing old Newgate Lane has not been mitigated and the introduction of new and substantial queuing and delay on the new and vital infrastructure of Newgate Lane East is unacceptable.
- 12.8 Mr Gammer concludes that the cumulative impact on the road network resulting from the forecast queuing and delay caused by implementation of either signalisation scheme is considered to have a severe impact on the local highway network. This is particularly relevant as the forecast delay in the AM peak erodes a significant proportion of the journey time savings and therefore benefits of the newly constructed Newgate Lane East.
- 12.9 Mr Gammer concludes that either of the developments in isolation, or the developments combined, would result in an unacceptable delay to users of the highway network. This conclusion is the same for both the fully signalised and indicative arrow signalisation. Inclusion of the toucan crossing adds further queuing and delay to Newgate Lane East. It is Mr Gammer's professional opinion therefore that the severe impact on the operation of the highway network justifies Fareham Borough Council's decision to refuse the application in accordance with paragraph 109 of the NPPF. Furthermore, the proposed signalisation of old Newgate Lane / Newgate Lane East alone, and when considering implementation of the toucan crossing, would result in unacceptable harm to the operation of the highway and would therefore not be in compliance with Development Plan policies CS5 and DSP40.
- 12.10 In light of Mr Gammer's and Mr Mundy's conclusions, I therefore consider that the appeal proposals, both individually and collectively, are not compliant with Policy CS5(3) which seeks to ensure that development does not adversely affect the safety and operation of the strategic and local road network.
- 12.11 Policy CS5 is entirely consistent with the Framework and should be given full weight. Furthermore, because there is an adverse effect on the safety and

operation of the strategic and local road network this would be unacceptable in Framework and CS5 terms and should in and of itself lead to the refusal of permission. It is submitted that the evidence clearly demonstrates that unless fully signalised the junction is unsafe and so permission should be refused. If fully signalised there are unacceptable impacts on the network through delay and congestion. Even if not fully signalised there are capacity issues in any event.

- 12.12 The appeal proposals are also contrary to Policy DSP40(v), which as I have previously discussed should be given substantial weight, as they would have unacceptable transport implications.

13 PLANNING BALANCE

13.1 The Appeal Developments must be determined in accordance with the Development Plan unless material considerations indicate otherwise as set out in the Section 38(6) test. I have accepted that the Council cannot currently demonstrate a 5YHLS.

13.2 Section 6 of this Proof of Evidence sets out two approaches to determining this appeal. They are as follows:

1. The planning balance judgement to be applied where the presumption in favour of sustainable development at NPPF Paragraph 11 does not apply (NPPF Paragraph 177).

2: The planning balance judgement to be applied where the tilted-balance at NPPF Paragraph 11(d)(ii) is engaged.

13.3 In both of these scenarios the statutory test set out at Section 38(6) applies. The existence of a housing land supply shortfall and the application of the tilted-balance at NPPF Paragraph 11 does not displace this test, as established in the Court of Appeal judgment in **Suffolk Coastal** (CDK.7). The planning balance in each scenario is addressed in this Section of my Proof of Evidence.

1: The planning balance judgement to be applied where the presumption in favour of sustainable development at NPPF Paragraph 11 does not apply, (NPPF Paragraph 177).

Introduction

13.4 NPPF Paragraph 177 directs that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects) unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

13.5 It is the Council's position, that the absence of an identified scheme to mitigate the adverse effects of the Project on the Brent geese and waders provides a clear reason for refusing the Appeal Developments.

13.6 As set out in Section 6, the Appeals are to be determined in accordance with the statutory test set out at Section 38(6) of the Planning and Compulsory Purchase Act, and in accordance with the Development Plan unless material considerations indicate otherwise. Without the 'presumption in favour of sustainable development' the Council's position is that there is a sufficiently robust adopted policy basis upon which to weigh up the material planning considerations, with specific regard to Policy CS4, Policy DSP13, Policy DSP14 which would carry significant weight, and Policy DSP40 which would carry very significant weight, in the determination of these appeal applications. On this basis, I invite the Inspector to dismiss the two Appeals.

2: The planning balance judgement to be applied where the tilted-balance at NPPF Paragraph 11(d)(ii) is engaged

Introduction

13.7 Should the tilted-balance at NPPF Paragraph 11(d)(ii) be engaged, planning permission should be granted for the proposed developments unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits of the developments when assessed against the NPPF.

13.8 The weight to be afforded to all Development Plan policies, in the context of a HLS shortfall, is a matter for the decision maker and I have provided evidence on the relevant factors which must be considered in determining this weight in this Proof of Evidence. I have concluded that LPP2 Policy DSP40 (housing allocations) is the key policy in the determination of these appeals and that it can be afforded full and very substantial weight in the planning balance as it expressly addresses the manner in which such applications should be decided in circumstances where a five-year supply cannot be demonstrated.

13.9 With regard to the remaining relevant Development Plan policies listed in the reasons for refusal, I have concluded that these can be afforded significant weight. I have also found that the most important Development Plan policies are all consistent with the NPPF, which in accordance with NPPF Paragraph 213, increases the weight which may be afforded to them.

Harm

13.10 Section 8 of this Proof of Evidence sets out the conflict with the relevant Development Plan policies.

The Appeal Sites location in the countryside

13.11 The appeal sites are located outside the defined urban settlement boundary and as such are contrary to the development strategy set out in LPP1 Policies CS2, CS6 and CS14 and LPP2 Policy DSP6.

13.12 Given the role of LPP1 Policy DSP40 in relation to areas outside the urban area boundary in the absence of a five-year supply of housing land, policies CS6, CS14 and DSP6 are applied through the prism of this policy. Policy DSP40 provides (insofar as is material) that permission for development outside of the defined development boundaries of settlements will only be granted where:

- a proposal is sustainably located adjacent to, well related to and integrated with, the existing urban settlement boundaries;
- is sensitively designed to reflect the character of the neighbouring settlement and any adverse impact on the Countryside and the Strategic Gaps is capable of being acceptably minimised; and
- the proposals will not have any unacceptable environmental, amenity or traffic implications (criteria (ii), (iii) and (v))

13.13 The supporting text provides at 5.163-4 that:

“Therefore, further flexibility in the Council’s approach is provided in the final section of DSP40: Housing Allocations. This potentially allows for additional sites to come forward, over and above the allocations in the Plan, where it can be proven that the Council cannot demonstrate a five-year land supply against the Core Strategy housing targets...”

5.164 In order to accord with policy CS6 and CS14 of the Core Strategy, proposals for additional sites outside the urban area boundaries will be strictly controlled.”

13.14 The Council has a clear development strategy, which seeks to focus development primarily on strategic allocations. The Council is taking very positive steps which will securely meet all housing needs in the medium-longer term. The imminence of Welborne Garden Village is a key consideration noting that a strategic

approach to residential development is specifically recognised and supported at NPPF Paragraph 72.

13.15 I consider each test in DSP40 where harm has been identified below.

The proposals are not sustainably located

13.16 I find that the Appeal Sites are not highly accessible on foot to local services and facilities having regard to both the distance to those facilities and the relative attractiveness of the pedestrian routes. Furthermore, I find that the Appeal Sites are not accessible to a frequent bus service which can provide onward links to other destinations, including access to the rail network. For this reason, I find that the appeal proposals are not sustainably located contrary to the first part of Policy DSP40(ii). I attach very substantial weight to this harm in the planning balance.

The proposals are not adjacent to the existing urban settlement boundary

13.17 The appeal sites are separated from the existing urban settlement boundary of Bridgemary by a large agricultural field and the Newgate Lane East relief road. There can be no doubt therefore that the appeal proposals are not located adjacent to the existing urban settlement boundary contrary to the second part of Policy DSP40(ii). I attach very substantial weight to this harm in the planning balance.

The proposals are not well related to the existing urban settlement boundary

13.18 The Appeal Proposals do to provide a logical extension to the existing urban area and/or a defensible urban edge for the future in accordance with the Council's strategic objectives set out in the emerging Local Plan. I do not therefore consider that the proposals are well-related to Bridgemary.

13.19 I have also considered whether the appeal sites are well related to the existing urban settlement boundary with reference to the strategic objectives of the Core Strategy which include the need to deliver the South Hampshire Strategy in a sustainable way, focussing development in Fareham, the Strategic Development Area north of Fareham and the Western Wards (SO1). All of the allocated sites of the scale of the appeal proposals are within or adjoining the urban settlement boundary in the adopted Local Plan. I attach very substantial weight to this harm in the planning balance.

The proposals are not well-integrated with the neighbouring settlement

- 13.20 The Appellant considers that the proposals will be well integrated with Bridgemaury.
- 13.21 However, the severing effect of Newgate Lane East, makes it very difficult to integrate the development with Bridgemaury. Indeed, the road serves to obstruct connectivity and put people first. I do not consider it to be well integrated with Bridgemaury.
- 13.22 I therefore conclude that the proposals are not well-integrated with the neighbouring settlement contrary to the final part of Policy DSP40(ii). I attach very substantial weight to this harm in the planning balance.
- 13.23 I have attached very substantial weight to each of these elements of DSP40 because they are all integral to the spatial strategy in the event of a 5-year housing land supply shortfall.

The proposals are not sensitively designed to reflect the character of the neighbouring settlement

- 13.24 The closest settlement to the appeal site is Peel Common. It is not an urban settlement as it does not have a defined settlement boundary in the adopted Local Plan.
- 13.25 As set out in Mr Dudley's evidence, the development of the Northern Site in isolation is likely to significantly erode the established settlement pattern by introducing an island of new development within the Strategic Gap. The proposed perimeter block design would be urban in character and would present hard faces to the surrounding countryside.
- 13.26 The development of the Southern Site is likely to entirely erode the ribbon development character of Peel Common, as well as its character as an isolated small settlement within the Strategic Gap.
- 13.27 Should both applications be permitted, then the effects described above would occur in unison, with the settlement character of Peel Common and the character and integrity of the Strategic Gap likely to be entirely lost through the creation of a large and prominent new settlement.

13.28 I attach very substantial harm to this harm in the planning balance.

Impact on the countryside and strategic gap

13.29 As set out in Mr Dudley's evidence, the development of the Northern Site in isolation is likely to appear highly incongruous within this open landscape. The Southern Site is more associated with the existing settlement of Peel Common, although it performs an important function in maintaining a sense of isolation at Peel Common. The introduction of up to 115 dwellings into this area would lead to the complete loss of this character, with the existing settlement at Peel Common coalescing with the newly develop area to create a greater urban mass.

13.30 Should the entire Site be developed, then the integrity of the Strategic Gap is likely to be entirely lost, with the new development coalescing with Peel Common to form a substantial settlement area within the centre of the Gap. Mr Dudley concludes that the remaining narrow belt of agricultural land between Newgate Lane East and Bridgemary would not be sufficiently wide to perform this function, and its rural character would be lost, particularly given the proposal to locate the tallest and therefore most dominant buildings on the eastern edge of the scheme

13.31 Mr Dudley's landscape appraisal included in his evidence concludes that the proposed developments represent inappropriate development within an established Strategic Gap and that individually or collectively, they would lead to the loss of rural land that performs an important local function.

13.32 Even when the illustrative landscape strategy is taken into account, Mr Dudley concludes that multiple adverse impacts would occur upon characteristic features and perceptual qualities of the site and its setting, and their combined character.

13.33 I therefore conclude that the appeal proposals are contrary to the second part of Policy DSP(iii).

13.34 I attach very substantial weight to this harm in the planning balance.

Loss of best and most versatile agricultural land

13.35 The appeal site at Newgate Lane North is predominantly Grade 3a agricultural land. The loss of this best and most versatile agricultural land would be contrary to Policy CS16 and Policy DSP40(v).

13.36 I attach limited weight to this loss in the planning balance.

Unacceptable impact on the junction of old Newgate Lane / Newgate Lane East

13.37 As set out in Mr Mundy's and Mr Gammer's evidence, the appeal proposals would have an adverse effect on the safety and operation of the strategic and local road network contrary to Policy CS5(3).

13.38 Policy CS5 is entirely consistent with the Framework and should be given full weight. Furthermore, if you find that there would be an adverse effect on the safety and operation of the strategic and local road network this would be unacceptable in Framework and CS5 terms and should in and of itself lead to the refusal of permission. It is submitted that the evidence clearly demonstrates that unless fully signalised the junction is unsafe and so permission should be refused. If fully signalised there are unacceptable impacts on the network through delay and congestion. Even if not fully signalised there are capacity issues in any event.

13.39 The appeal proposals are also contrary to Policy DSP40(v), which as I have previously discussed should be given substantial weight, as they would have unacceptable transport implications.

Lack of information to protect and enhance biodiversity interests including a substantial population of Chamomile

13.40 I accept that it is likely that subject to further information on the design of areas managed for chamomile and areas managed as meadow habitat, this reason for refusal can be withdrawn. If this matter remains outstanding at the Inquiry, I place moderate weight on this issue in the planning balance.

Absence of appropriate mitigation for the loss of a low use Brent geese and wider site

13.41 In the absence of an identified mitigation scheme managed by the Council, both Natural England and Mr Sibbett conclude that the appeal developments are unacceptable because there is demonstrable harm to the Solent SPAs for which no achievable mitigation has been proposed. The development therefore fails adopted Local Plan policies CS4, DSP13 and DSP14.

13.42 It is acknowledged that this issue is capable of being resolved subject to the agreement of an appropriate mitigation strategy. Should the matter therefore be resolved prior to the Inquiry, the Council accepts that there is no harm and therefore I attach no weight to this issue in the planning balance.

13.43 I have concluded that all of the relevant Development Plan policies are consistent with the NPPF and therefore significant weight should be afforded to them.

Benefits

13.44 The appeal proposals individually and collectively are relative in scale to the demonstrated five-year housing land supply shortfall and are deliverable in the short term. I consider this is a benefit but one of limited weight because of the conflict with three of the tests set out in DSP40, against which the acceptability of such a proposal must be judged.

13.45 The Appeal Development at Newgate Lane North would provide up to 75 dwellings, 40% of which would be affordable. The Appeal Development at Newgate Lane South would provide up to 115 dwellings, 40% of which would be affordable. In the absence of a 5YHLS I consider that these social benefits can be afforded significant weight.

13.46 The (limited) economic benefits of the Appeal Developments include temporary construction jobs; the support to the local economy through the increase in local population; and the payment of the New Homes Bonus. NPPF Paragraph 80 states that significant weight should be placed on the need to support economic growth. For this reason, I consider it logical to apply significant weight to these (limited) economic benefits associated with the Appeal Developments, albeit they could equally be achieved on other sites which are allocated within the Local Plan, or advanced as planning applications against Policy DSP40.

13.47 I do not consider there to be any significant environmental benefits associated with the Appeal Developments.

Balance

13.48 Applying the NPPF Paragraph 11 tilted-balance under this scenario, I consider that the adverse impacts significantly and demonstrably outweigh the benefits. I therefore conclude that the Appeal Developments should be dismissed and

planning permission refused even if the tilted balance does fall to be applied (and, presently the Council considers it does not).

Overall Conclusion on Planning Balance

13.49 I conclude that the Appeal Developments should be refused planning permission. I have set out two different approaches. I consider that my first approach, whereby the presumption in favour of sustainable development does not apply, is the correct approach to determining this appeal and the Appeal Developments should be refused on this basis.

13.50 Should it be concluded that the project will not adversely affect the integrity of habitats sites, NPPF Paragraph 11 applies to the determination of these appeals and the tilted balance is engaged, I consider that the harms are so great that they significantly and demonstrably outweigh the benefits. Accordingly, I invite the Inspector to dismiss the two Appeals.

14 SUMMARY

QUALIFICATIONS AND EXPERIENCE

- 14.1 My name is Jane Parker and I am an Associate at Adams Hendry Consulting Limited. I have over 25 years of planning experience spanning the full range of planning work.
- 14.2 I am instructed to appear at this Inquiry on behalf of the Council.
- 14.3 I am familiar with the local and national policies and guidance relevant to this Inquiry, have visited the Appeal Site, and I am familiar with the Fareham area.

THE APPEAL DEVELOPMENTS

- 14.4 The description of the appeal developments, and the site and surroundings are as set out in my evidence, and in the SOCG. The appeals were submitted on the grounds of non-determination.
- 14.5 Separate reports were presented to the Council's Planning Committee on 24th June 2020 to enable the Council to confirm the decision they would have made if they had been able to determine the planning applications. Both planning applications were subject to an officer recommendation for refusal.
- 14.6 Reasons for refusal (f), (g), (i) have since been resolved with the Appellant in relation to Newgate Lane North and reasons for refusal (e), (f), (h) have since been resolved with the Appellant in relation to Newgate Lane South.
- 14.7 It is common ground that a suitably worded legal agreement can be entered into and conditions agreed that would overcome reasons for refusal (k)-(o).
- 14.8 Reasons for refusal (a), (b), (c), (d), (e), (h) and (j) remain in dispute between the parties in respect of Newgate Lane North.
- 14.9 Reasons for refusal (a), (b), (c), (d), (g), (i) and (j) remain in dispute between the parties in respect of Newgate Lane South.

RELEVANT PLANNING POLICY FRAMEWORK

- 14.10 My evidence identifies those policies most relevant to the appeal in Local Plan Part 1: Fareham Borough Core Strategy (Adopted August 2011) and Local Plan Part 2: Development Sites and Policies (Adopted June 2015).
- 14.11 I have set out my assessment of the extent to which relevant development plan policies accord with the NPPF and concluded on the weight that can be afforded to them in the planning balance.
- 14.12 I accept in evidence that the Council does not currently have a five-year housing land supply. LPP2 Policy DSP40 provides a framework for decision making in such circumstances, having regard to the Development Plan as a whole.

PROPER APPROACH TO DETERMINING THIS APPEAL

- 14.13 In accordance with Sections 70(2) and 79(4) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, this appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point in determining these appeals is, therefore, the extent to which the Appeal Developments accord with or conflict with the adopted development plan policies. The decision maker must then turn to other material considerations, which in the case of the Appeal Developments include the NPPF.
- 14.14 Notwithstanding that the Council does not currently have a five-year housing land supply, the tilted balance in favour of sustainable development does not apply.
- 14.15 If the ecological issues to be assessed under the Habitats Regulations are still extant at the time of the inquiry, and the Appropriate Assessment concludes that the appeal proposals will adversely affect the integrity of the habitats site, then it is clear that the appeals should be refused on the basis of NPPF Paragraph 177.

- 14.16 If an Appropriate Assessment determines that the appeal proposals will not affect the integrity of the habitats sites, the test in NPPF paragraph 11d (ii) should be applied, and an assessment carried out against the policies in NPPF as whole, to determine whether the adverse impacts of the Appeal Developments would significantly and demonstrably outweigh the benefits.
- 14.17 The tilted balance set out at NPPF Paragraph 11 would apply to the determination of these appeals as the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.
- 14.18 In circumstances where the tilted-balance is engaged, weight can still be afforded to the Development Plan policies in line with **Suffolk Coastal**. The fact that the proposal is in breach of policy DSP40 must be given very substantial weight in the planning balance.

HOUSING LAND SUPPLY

- 14.19 It is the Council's revised position that it is able to demonstrate a 3.9 year land supply; a deliverable supply of 2,094 homes in the period 2020-2025. However, having regard to the substantially lower housing requirement as set out in the Regulation 19 draft local plan based on the Government's new standard methodology, assuming a 5% buffer is required, the Council is predicted to have **7.3 year** 5YHLS (a 970 dwelling surplus). Applying a 20% buffer, the Council is predicted to have a **6.4 year** 5YHLS (a 668 dwelling surplus). The current best evidence is therefore that the current housing shortfall will be translated into a significant surplus in the near future.

DEVELOPMENT PLAN CONFLICT

Reason for Refusal J – Loss of low use Brent geese and wader site

- 14.20 Reason for Refusal J relates to loss of a low use Brent geese and wader site for both appeals. In the absence of a legal agreement to secure appropriate mitigation the proposal would have an adverse effect on the integrity of European Protected Sites. My evidence assesses the extent to which the appeal developments conflict with the relevant development plan policies and the Habitats Regulations, drawing upon the evidence from Mr Sibbett and the

statement from Natural England. As no achievable mitigation has been proposed, Mr Sibbett concludes that there would be demonstrable harm to the Solent SPAs. For this reason, I find the appeal developments to be contrary to policies CS4, DSP13 and DSP14.

Reason for Refusal I – Impact on biodiversity interests (chamomile)

- 14.21 Reason for Refusal I relates to the lack of information to protect and enhance the biodiversity interests of the site, which includes a substantial population of chamomile in respect of Newgate Lane South. Subject to the submission of acceptable information on areas managed for chamomile and meadow habitat together with details of monitoring, the LPA expects to be able to withdraw this reason for refusal.

Reason for Refusal A – Development in the countryside

- 14.22 Reason for Refusal A relates to residential development in the countryside. My evidence assesses the extent to which the appeal development conflicts with Policy CS14, DSP6 and DSP40. I conclude that there is a clear conflict given the location of the Appeal Sites outside of the DSUB.
- 14.23 Policy DSP40 in particular, provides a policy framework for the determination of planning applications in circumstances where there is a housing land supply shortfall. I have attached very substantial weight to each of these elements of DSP40 because they are all integral to the spatial strategy in the event of a five-year housing land supply shortfall. All of the criteria of Policy DSP40 must be met, and my assessment is that whilst the appeal developments meet some of the criteria, there is significant conflict with remaining criteria such that the proposal conflicts with the policy as a whole.

Reason for Refusal B – Impact on the character and appearance of the countryside

- 14.24 Reason for Refusal B relates to the impact of the appeal developments on the character and appearance of the countryside. I consider this issue with reference to compliance with Policies DSP40(iii), CS14 and CS17. I draw on the evidence of Mr Dudley who concludes that the appeal development proposed at Newgate Lane North would erode the established settlement pattern by introducing an island of new development within the core of the Strategic Gap resulting in a

major/moderate adverse impact. The appeal development at Newgate Lane South would erode the character of Peel Common resulting in a major/moderate adverse impact. Should both applications be permitted, the settlement character of Peel Common and the character and integrity of the Strategic Gap is likely to be entirely lost through the creation of a large and prominent new settlement.

14.25 In respect of landscape character, Mr Dudley concludes that the development of the Northern Site in isolation would introduce an incongruous island of residential development into the effective centre of the Strategic Gap in this location, with no clear connection to any other settlement area. This would significantly erode the function and integrity of the gap, as well as the prevailing rural landscape character. The development of the Southern Site in isolation would fundamentally alter the settlement form of Peel Common, which is otherwise formed of ribbon development almost exclusively on one side of its component highways. The delivery of the proposed developments on both sites is anticipated to entirely neutralise the function of the Strategic Gap and the sense of separation of Peel Common would also be entirely lost.

14.26 Mr Dudley concludes that the appeal developments individually would have a major adverse impact on the open character of the site and wider setting, a major/moderate adverse impact on the relationship with wider settlements and on the overall character of the site. In relation to impacts on the overall character of the setting of the site, Mr Dudley predicts a major to major/moderate adverse impact for the northern site and a moderate adverse impact for the southern site.

14.27 Mr Dudley also concludes that there would be adverse visual impacts on a range of receptors including in particular a major adverse impact on residents of Hambridge Lodge and a major/moderate adverse effect on users of Newgate Lane as a result of the appeal development at Newgate Lane North. In relation to the appeal development at Newgate Lane South, adverse impacts include a major adverse impact on residents of Hambridge Lodge and residents along Woodcote Lane and a major/moderate adverse effect on users of Woodcote Lane.

14.28 I therefore conclude that the Appeal Developments do not meet the requirement of policy DSP40 criteria (iii) in relation to the impact on the character of the neighbouring settlement and countryside and are contrary to adopted Policy CS14 and CS17.

Reason for Refusal C – Impact on the integrity of the Strategic Gap

14.29 Reason for Refusal C relates to the impact of the appeal developments on the integrity of the strategic gap. I consider this issue with reference to compliance with the remaining part of Policy DSP40(iii) and Policy CS22. Again, I draw upon the evidence of Mr Dudley who concludes that the proposed developments represent inappropriate development within an established Strategic Gap, and that individually or collectively, they would lead to the loss of rural land that performs an important local function.

14.30 I conclude on this basis of Mr Dudley's detailed evidence, that criteria (iii) of Policy DSP40 is not met. I also conclude that the appeal developments are contrary to Policy CS22 as the integrity of the strategic gap will be significantly affected.

Reason for Refusal D – Sustainability considerations

14.31 Reason for Refusal D relates to the sustainability of the appeal sites. I consider this issue with reference to compliance with Policy DSP40(ii). I conclude that appeal proposals are not sustainably located contrary to the first part of Policy DSP40(ii) as the appeal proposals would not create feasible opportunities to create a modal shift away from the use of a private motor vehicle that future residents of the developments are likely to be very reliant upon for most of their journeys. This is because of the distance to those facilities, taking into account the relative attractiveness of the pedestrian routes. I furthermore conclude that the Appeal Sites are not accessible to a frequent bus service.

14.32 On the second part of Policy DSP40(ii) I conclude that appeal sites are not adjacent to the existing urban settlement boundary as they are separated from Bridgemaury by a large agricultural field and the Newgate Lane East relief road; and that are not well related to it as they are not an urban extension site that forms a logical extension to the existing urban area and/or a defendable urban edge for the future. I also conclude that the appeal sites are not well integrated with the neighbouring settlement due to the severing effect of Newgate Lane East which obstructs connectivity.

14.33 I conclude on this basis that criteria (iii) of Policy DSP40 is not met.

Reason for Refusal H – Impact on the highway

14.34 Reason for Refusal H (Newgate Lane North) and Reason for Refusal G (Newgate Lane South) relate to the unacceptable impact of the appeal development on the junction of old Newgate Lane / Newgate Lane East. My evidence considers the extent to which the appeal development conflicts with Policies DSP40(v) and CS5. I draw upon the evidence of Mr Mundy and Mr Gammer, who conclude that either of the developments in isolation, or the developments combined, would result in an unacceptable delay to users of the highway network. This conclusion is the same for both the fully signalised and indicative arrow signalisation. Inclusion of the toucan crossing adds further queuing and delay to Newgate Lane East. I therefore conclude that the appeal proposals are contrary to Policy CS5, and DSP40(v) as well as paragraph 109 of the Framework.

PLANNING BALANCE

14.35 The Appeal Development must be determined in accordance with the development plan unless material considerations indicate otherwise as set out in the Section 38(6) test. I have set out different approaches to the planning balance judgement.

14.36 The presumption in favour of sustainable development does not apply under the direction of NPPF Paragraph 177 as the Appeal Developments are likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects). It is the Council's position that in the absence of an identified scheme to mitigate the adverse effects of the project on Brent geese and waders, there is a sufficiently robust adopted policy basis upon which to weigh up the material planning considerations, with specific regard to Policy CS4, Policy DSP13, Policy DSP14 which would carry significant weight, and Policy DSP40 which would carry very significant weight, in the determination of these appeal applications. On this basis, I invite the Inspector to dismiss the two Appeals.

14.37 Should the tilted-balance at NPPF Paragraph 11(d)(ii) be engaged, planning permission should be granted for the proposed development unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits of the development when assessed against the NPPF.

14.38 In the context of a housing land supply shortfall, I have provided evidence on the relevant factors which must be considered in determining the weight to be afforded to all Development Plan policies, which is a matter for the decision maker. I have concluded that LPP2 Policy DSP40 (housing allocations) is the key policy in the determination of these appeals and that it can be afforded full and very substantial weight in the planning balance as it expressly addresses the manner in which such applications should be decided in circumstances where a five-year supply cannot be demonstrated.

14.39 With regard to the remaining relevant Development Plan policies listed in the reasons for refusal, I have concluded that these can be afforded significant weight. I have also found that the most important Development Plan policies are all consistent with the NPPF Paragraph 213 and therefore significant weight should be afforded to them.

14.40 I have considered the harms and the benefits of the Appeal Developments.

Harms

14.41 I have found that the appeal sites are located outside the defined urban settlement boundary and as such are contrary to the development strategy set out in LPP1 Policies CS2, CS6 and CS14 and LPP2 Policy DSP6. I have also considered each test in Policy DSP40 where harm is identified. I find that:

- **The proposals are not sustainably located** contrary to the first part of Policy DPS40 (ii) to which I attach very substantial weight in the planning balance.
- **The proposals are not adjacent to the existing urban settlement boundary, the proposals are not well related to the existing urban settlement boundary and the proposals are not well-integrated with the neighbouring settlement boundary** contrary to the second, third and final part of Policy DPS40 (iii) to which I also attach very substantial weight in the planning balance as they are all integral to the spatial strategy in the event of a 5 year housing land supply shortfall.
- **The proposals will have an impact on the countryside and the strategic gap** contrary to the second part of Policy DSP (iii) to which I attach very substantial weight in the planning balance.

- **The proposals will result in the loss of best and most versatile agricultural land** contrary to Policy CS16 and Policy DSP40(v) to which I attached limited weight.
- **The proposals will result in an unacceptable impact on the junction of old Newgate Lane / Newgate Lane East** contrary to Policy DSP40(v), to which I attached substantial weight, as they would have unacceptable transport implications.
- **There is a lack of information to protect and enhance biodiversity interests including a substantial population of Chamomile.** If this matter remains outstanding at the Inquiry, I place moderate weight on this issue in the planning balance.
- **There is an absence of appropriate mitigation for the loss of a low use Brent geese and wider site.** Should the matter therefore be resolved prior to the Inquiry, the Council accepts that there is no harm and therefore I attach no weight to this issue in the planning balance.

Benefits

- 14.42 The appeal proposals individually and collectively are relative in scale to the demonstrated five-year housing land supply shortfall and are deliverable in the short term. I consider this benefit is one of limited weight because of the conflict with three of the tests set out in DSP40, against which the acceptability of such a proposal must be judged.
- 14.43 In the absence of a five-year housing land supply shortfall, I consider that as 40% of the dwellings at Newgate Lane North and Newgate lane South would be affordable these social benefits can be afforded significant weight.
- 14.44 I have applied significant weight to the (limited) economic benefits associated with the Appeal Developments, albeit they could equally be achieved on other sites which are allocated within the Local Plan, or advanced as planning applications against Policy DSP40.
- 14.45 I do not consider there to be any significant environmental benefits associated with the Appeal Developments.

Balance

14.46 Applying the NPPF Paragraph 11 tilted-balance under this scenario, I consider that the adverse impacts significantly and demonstrably outweigh the benefits. I therefore conclude that the Appeal Developments should be dismissed, and planning permission refused even if the tilted balance does fall to be applied (and, presently the Council considers it does not).

Overall Conclusions

14.47 I conclude that the Appeal Developments should be refused planning permission. I have set out two different approaches. I consider that my first approach, whereby the presumption in favour of sustainable development does not apply, is the correct approach to determining these appeals and the Appeal Developments should be refused on this basis.

14.48 Should it be concluded that the projects will not adversely affect the integrity of habitats sites, NPPF Paragraph 11 applies to the determination of these appeals and the tilted balance is engaged, I consider that the harms are so great that they significantly and demonstrably outweigh the benefits. Accordingly, I invite the Inspector to dismiss the two Appeals.