

## **LAND AT NEWGATE LANE (NORTH) AND LAND AT NEWGATE LANE (SOUTH), FAREHAM**

# **UPDATE ON HOUSING NEED AND SUPPLY MATTERS**

**ON BEHALF OF FAREHAM LAND LP AND BARGATE HOMES LTD**

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**1. BACKGROUND**

1.1 My name is Neil Tiley. My qualifications and experience are set out in my Proof of Evidence.

1.2 The evidence which I have prepared and provide for these appeals (APP/A1720/W/20/3252180 and APP/A1720/W/20/3252185) is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

## 1. INTRODUCTION

- 1.1 This short update note has been prepared to inform the Inspector of newly arising material considerations that have arisen since the exchange of evidence

## 2. THE NEW STANDARD METHOD

- 2.1 The Government updated the standard method on 16<sup>th</sup> December 2020. However, this update does not affect the minimum local housing need in Fareham Borough and so does not affect the respective positions on the five-year land supply previously set out, namely that the Council consider that they are able to demonstrate a **3.9 year land supply**<sup>1</sup> and I consider that they are only able to demonstrate a **1.11 year land supply**<sup>2</sup>.
- 2.2 Regardless of the precise housing land supply position, it is therefore agreed that the Council is unable to demonstrate a five-year land supply and that as such paragraph 11d of the NPPF is engaged.

## 3. THE HOUSING DELIVERY TEST RESULTS

- 3.1 The Housing Delivery Test results were due to be published in November 2020, but these are still not available.
- 3.2 As set out in paragraphs 8.108 and 8.109 of the Proof of Evidence of Ms Parker, the Council expect that the Housing Delivery Test results will require the application of a 20% buffer. Once the Housing Delivery Test results are published it will therefore be necessary to apply a 20% buffer. This would result in the Council identifying a **3.40 year land supply**<sup>3</sup> and I would identify a **0.97 year land supply**<sup>4</sup>.
- 3.3 It will therefore remain the case that the Council is unable to demonstrate a five-year land supply such that paragraph 11d of the NPPF will continue to be engaged, although the extent of the shortfall will increase.

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<sup>1</sup> As set out in paragraph 8.6 of the Proof of Evidence of Ms Parker.

<sup>2</sup> As set out in Table 14.1 of my Proof of Evidence.

<sup>3</sup> The annual local housing need for 514 homes per annum as identified in paragraph 8.111 of the Proof of Evidence of Ms Parker produces a five-year requirement for 3,084 homes with a 20% buffer. The deliverable supply of 2,094 homes identified in paragraph 8.6 of the Proof of Evidence of Ms Parker is compared with this to identify a 3.40 year land supply with a shortfall of 990 homes.

<sup>4</sup> As set out in Table 14.2 of my Proof of Evidence.

3.4 The Council however suggest that the new Housing Delivery Test results will not automatically engage paragraph 11d of the NPPF.

3.5 It is evident from paragraphs 3.2 to 3.4 of the Rebuttal of Ms Parker that the Council reach this conclusion on the basis that the Development Sites and Policies Plan and the Welborne Plan reviewed the housing requirement contrary to the view of:

- The Council to the examination as set out in paragraph 3.1 of their response to the examining Inspector's Question 2 (CDXXX) which states that it was not the role of these plans to review housing requirements as these have already been set in the Core Strategy;
- The examining Inspector who did not review the need, as would be necessary to review the housing requirement, as set out in paragraph 44 of his Final Report (CDE.4);
- The Council within every five-year housing land supply assessment they have prepared; and
- Two of Ms Parker's colleagues in paragraph 9 of the Old Street, Stubbington appeal decision (Appendix 3 to my Proof of Evidence) and in paragraph 87 of the Land East of Down End Road appeal decision (CDJ.1)<sup>5</sup>.

3.6 Even if, contrary to all of the material considerations and the interpretation of the courts, these plans did review the housing requirement, it has become apparent from paragraph 3.5 of Ms Parker's Rebuttal that the Council has erroneously calculated the expected Housing Delivery Test results using the housing trajectory of Table 10.1 of the Welborne Plan rather than the housing requirement of Policy WEL3.

3.7 A housing requirement and a housing trajectory are distinct concepts, the former identifies the number of homes required and the latter identifies the supply to respond to that requirement. Paragraph 12 of the Housing Delivery Test: Measurement Rule Book (CDD.4) is clear that it is the housing requirement (rather than the housing trajectory) that must be used to assess the Housing Delivery Test contrary to the calculations of the Council.

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<sup>5</sup> As is evident from the fact that the five-year requirement for 2,730 dwellings arose from the standard method (see paragraph 4.1 of Appendix 2 to my Proof of Evidence) which would only be applicable if the housing requirement was more than five-years old.

- 3.8 If it is concluded that the Development Sites and Policies Plan and the Welborne Plan did not review the housing requirement and/or Table 10.1 of the Welborne Plan identifies a housing trajectory rather than a housing requirement, the result would be that the Council will have a record of substantial under-delivery when these are published providing they are calculated correctly. I had tried to progress a Statement of Common Ground on this specific matter, but the Council were unwilling to engage in this.
- 3.9 The fact that the Council will be subject to a record of substantial under-delivery when the new results are published if these are calculated correctly has also independently been reached by every specialist of which I am aware that has considered this, with the sole exception of Ms Parker. Examples include the analysis undertaken by Planning (Appendix U1) and Savills (Appendix U2).

**APPENDIX U1: PLANNING INSIGHT REPORT**

**APPENDIX U2: SAVILLS MAP**

- 3.10 The Council has recently notified me that another appellant has previously sought clarification on this matter and have provided an e-mail exchange between the relevant parties<sup>6</sup>. The e-mail from MHCLG on 12<sup>th</sup> June 2019 identifies that the Housing Delivery Test calculation was based upon information supplied to MHCLG by the LPA. This accords precisely with the responses that I have received from MHCLG which also identify that the Housing Delivery Test is calculated based on the information provided by the LPA in accordance with footnote 7 of the Housing Delivery Test: Measurement Rule Book (CDD.4). There is no indication that MHCLG have scrutinised the returns of the LPA, and even if they had that they would be able to replace the DELTA returns of the LPA with the correct figures as this would not accord with footnote 7. As such the fact that the Housing Delivery Test results have been calculated on the assumption that the housing requirement has been reviewed and the housing trajectory provides a housing requirement should not be taken as an indication that these positions are necessarily supported by MHCLG. It is merely a result of the information provided by the LPA.
- 3.11 I assume that, notwithstanding the fact that the position is based on a proposition which is contrary to that adopted by the courts and by every professional of which I am aware with the exception of Ms Parker, the Council will continue to identify

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<sup>6</sup> It is understood that this correspondence will be submitted to the inquiry by the Council and so I do not append it to this statement.

to MHCLG that the Development Sites and Policies Plan and the Welborne Plan did review the housing requirement and that the housing requirement in the Welborne Plan is the housing trajectory. Indeed, I do not see any incentive for the Council to do otherwise. The result will be that paragraph 11d may not be automatically engaged although this will depend upon the precise information provided by the Council as it will be close even if the housing requirement was reviewed and the housing trajectory is used.

- 3.12 On this basis, whilst I accept that paragraph 11d may or may not be automatically engaged following the publication of the new Housing Delivery Test results<sup>7</sup>, this position will arise as a direct result of the incorrect information provided by the Council. I therefore maintain that it is at least material that the Council should definitely be subject to a record of substantial under-delivery even if they are not, and that this goes to the weight to be afforded to policies and to the supply of housing.

#### **4. SITE SPECIFICS**

- 4.1 I briefly outline any changes of circumstances of which I am aware on the sites in dispute below.
- 4.2 Land East of Brook Lane & South of Brookside Drive, Warsash – In paragraphs 8.16 and 8.17 of the Proof of Evidence of Ms Parker, it was identified that the application for the approval of reserved matters on this site was subject to a request for an extension of time to 22<sup>nd</sup> December 2020 whilst amended plans were submitted and that following the receipt of these, it was expected to go to planning committee on 16<sup>th</sup> December.
- 4.3 The amended plans have still not been submitted according to the Council's website and the application did not go to planning committee as envisaged. Accordingly, the Council's trajectory is now even less realistic than it previously was.
- 4.4 Fareham Magistrates Court – The outline planning application gained a resolution to grant planning permission on 16<sup>th</sup> December 2020. However, there remains no clear evidence that this site will achieve completions by 31<sup>st</sup> March 2025.

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<sup>7</sup> At least until such time as the Housing Delivery Test is judicially reviewed as it has been successfully in Lewes District for example.

- 4.5 Land East of Brook Lane (South), Warsash – In paragraph 8.45 of the Proof of Evidence of Ms Parker it was identified that the s106 on this site was likely to be completed imminently. However, this has not been achieved and the site remains subject to a resolution to grant outline planning permission.
- 4.6 A new document has also been uploaded to the Council’s website in which the applicant identifies that:
- Delivery is postponed until a nitrate solution is found;
  - The lead-in time will be dependent upon when the Council approve the planning application;
  - The delivery of the eastern portion of the site will be assessed when there is more certainty in the market; and
  - The timescales for delivery are entirely dependent upon the Borough Council determining the application.
- 4.7 Therefore not only have the expectations of the Council not been forthcoming, but the applicant has also identified that at present in the absence of a planning permission it is not possible to forecast when or even if completions will be achieved.
- 4.8 Welborne – On 4<sup>th</sup> January 2021, a number of new documents were uploaded to the Council’s website in respect of this outline planning application including a Supplementary Planning Statement (Appendix U3) and Viability Statement (Appendix U4) which set out the progress made towards the delivery of this site. All of the following references are to the Supplementary Planning Statement unless otherwise specified.

**APPENDIX U3: WELBORNE SUPPLEMENTARY PLANNING STATEMENT**  
**APPENDIX U4: WELBORNE VIABILITY STATEMENT**

- 4.9 In paragraph 1.5 it is identified that significant progress has not been made in relation to addressing the funding gap notwithstanding positive discussions with Government regarding the potential for HIF funding, and that this has been further compounded by the reallocation of the Solent LEP funding of £24M<sup>8</sup> to other projects. It confirms that no solution has been found to address the funding

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<sup>8</sup> See paragraph 2.23 of the Supplementary Planning Statement.



gap notwithstanding the significant time, effort and resources which have been deployed in paragraph 1.7.

4.10 Additionally, in paragraph 1.5 it is recognised that uncertainty has arisen as a result of the current pandemic.

4.11 As set out in paragraph 1.5, these circumstances have placed the delivery of the project in jeopardy and this has significant implications in regard to project programming, delivery and the role of the County Council as Scheme Promoter.

4.12 Whilst there is the potential for additional Government funding to be identified to address the remaining funding gap, it is identified in paragraph 1.7 that there is no sign of this and in paragraph 2.16 it is identified that any such funding is likely to be focussed on 'easy wins' which have a shorter timeframe for delivery than Welborne.

4.13 This matter has now come to a head, as Hampshire County Council are likely to pause all work as Scheme Promoter if the necessary funding is not secured by April 2021 according to paragraph 2.23.

4.14 As a last resort, the applicant has proposed a potential solution by providing an additional £20M worth of funding to address the residual funding gap on the provisions that:

- £30M of funding is secured from HIF as set out in paragraph 3.1. Whilst the Supplementary Planning Statement identifies that Homes England have agreed in principle to this, it has yet to be secured;
- No CIL funding will be required on this site. This is something that is being proposed in the Review of the CIL Charging Schedule that has been submitted for examination but cannot be confirmed until this review has been approved. At present it does not appear that an Examiner has been appointed or that the format of the examination has been decided or scheduled.
- 10% affordable housing is provided across the entire scheme contrary to Policy WEL2 rather than the 30% proposed when the outline planning application was originally considered by committee. The acceptability or otherwise of this has yet to be subject to consultation or considered by committee;

- A revised affordable mix of 50/50 between affordable rent and intermediate tenures is provided across the entire scheme contrary to policy WEL18 as compared to the mix of 70/30 proposed when the outline planning application was originally considered by committee. The acceptability or otherwise of this has yet to be subject to consultation or considered by committee;
- No homes built to Passivhaus Standard are provided contrary to Policy WEL36 as compared to the proposal to provide such homes in later stages of the development when the outline planning application was originally considered by committee. The acceptability or otherwise of this has yet to be subject to consultation or considered by committee;
- No Lifetime Homes are provided contrary to Policy WEL17 as compared to the proposal to provide such homes in later stages of the development when the outline planning application was originally considered by committee. The acceptability or otherwise of this has yet to be subject to consultation or considered by committee;
- An updated Viability Review Mechanism is engaged. The acceptability or otherwise of this has yet to be subject to consultation or considered by committee.

4.15 Even assuming that all of these provisions are met, this would:

- provide absolutely no contingency to facilitate any slippages in costs as the applicants contribution is capped at £40M<sup>9</sup> such that if the costs are even marginally greater than predicted there would be no solution;
- provide a profit of only 1.5% as set out in paragraph 3.3, which in itself is likely to jeopardise the delivery of the scheme; and
- increase the need for affordable housing to be delivered on other sites across the Borough.

4.16 The Council is consulting upon these revised proposals and a number of other proposed changes until 25<sup>th</sup> January 2021, following which it is expected that the outline planning application will be taken to committee. Even assuming that the

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<sup>9</sup> Including the £20M previously proposed and the additional £20M now proposed which is capped as set out towards the bottom of the second page of the Viability Statement.

proposed changes to the outline planning application are recommended for approval by committee, and the s106 is able to be agreed, the funding gap will remain unresolved unless and until such time as the emerging review of the CIL Charging Schedule is recommended for approval and approved and the HIF funding is secured. There remains a lot of work for these milestones to be achieved.

- 4.17 I do however acknowledge that the applicant has provided some evidence of the best-case timescales that they envisage could possibly be achieved for the discharge of some conditions, the submission and determination of reserved matters, the pre-commencement works and the fulfilment of pre-occupation obligations in Table 3.
- 4.18 Such a best-case trajectory cannot provide clear evidence that completions will begin on-site as required by the NPPF, especially given the significant risks that could delay implementation on this site. Indeed, not only will the recent national lockdown be likely to further increase the financial and funding uncertainty which may have implications for the revised proposals of the applicant, it is acknowledged that even comparatively small delays could give rise to exponential delays in delivery in paragraph 2.19.
- 4.19 This best-case trajectory also assumes that:
- The M27 funding is secured and thereby Condition 52 is discharged in January 2021<sup>10</sup> which requires that both the review of the CIL Charging Schedule is approved and the HIF funding is secured in January 2021 as the funding is contingent upon both of these. I do not consider that these is a realistic prospect that the review of the CIL Charging Schedule will have been approved by the end of January given that an Examiner has yet to be appointed and there is no evidence that £30M will be secured through HIF and if so when this will be achieved.
  - Committee approve the revised scheme in January 2021 to allow the work identified in Table 3 to be completed within 2 years, notwithstanding the departures from the Welborne Plan. This is firstly unlikely to occur in January given that the changes are subject to consultation until 25<sup>th</sup>

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<sup>10</sup> As would be necessary to achieve 30 completions by April 2023 as assumed in Table 5 based on 15 homes per month as assumed in 2023/24 in Table 5.

January and secondly the conclusions of the committee cannot be pre-empted.

- The s106 will be agreed in January. Whilst the Supplementary Planning Statement implicitly assumes that this will be agreed in January, this is not a *fait accompli*. Indeed, the existing draft will need to be revised to take account of the proposed revised viability mechanism if this is agreed to be appropriate by committee.
- All of the pre-commencement or pre-occupation conditions (as set out in paragraphs 10.57 to 10.59 of my Proof of Evidence) will have been discharged in sufficient time to facilitate the work identified in Table 3 notwithstanding that there is no evidence of this.
- Strategic and Neighbourhood Design Codes as well as a Phase 1 Reserved Matters application will be determined favourably within 4 months. Based on my experience this appears unduly optimistic. Strategic Design Codes alone normally take many months if not years to agree.
- It will take 2 years from the grant of outline planning permission until the first homes will be completed which has never been achieved on any site of this scale to my knowledge. Indeed, looking at the sites of between 5,200 and 6,320 homes identified in the Start to Finish Report the shortest period that has lapsed from the grant of outline planning permission until the first completion is 3 years and 4 months at Sherford in Plymouth<sup>11</sup>

4.20 Given the above, I do not consider that there is a realistic prospect that the unprecedented best-case trajectory of the applicant will be achieved. Even assuming that planning committee resolve to approve the proposed changes in circa early February and the s106 is agreed shortly thereafter not that there is any evidence of either of these, I would expect that even if as is likely, the review of the CIL Charging Schedule is approved this will not be until spring 2021 at the earliest. Even if £30M of HIF funding is secured not that there is any evidence that this will rather than may be achieved, the funding necessary to address the existing gap will therefore not be in place until the spring and even this is very

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<sup>11</sup> At The Hamptons, Peterborough it took between 4 and 5 years (depending upon the date the outline planning permission was granted as I have only been able to identify that this was at some unspecified time in 1993), at Rugby Radio Station it took 3 years and 7 months, at East of Kettering it took 6 years and 10 months, and at Priors Hall, Corby it took 9 years and 10 months.

uncertain. Thereafter, even assuming that given the progress made by the applicant to progress matters as far as they are able, I would agree that it is possible that the first completions could be achieved in broadly the same timescales as the shortest lead-in time ever achieved on a site of this scale, namely within circa 3 years and 4 months. I therefore consider that it is possible although it is highly uncertain and there is no clear evidence that as a best-case the first completions could be achieved in circa summer 2024 which would equate to 135 completions within the five-years rather than the 450 identified by the Council. However, this is entirely reliant upon clear evidence being provided that the review of the CIL Charging Schedule will be approved by the spring of 2021, £30M of HIF funding will be secured by this time, the revisions to the planning application will be resolved to approve and the s106 will be agreed by this time. None of this necessary evidence is currently available. In the absence of this necessary evidence that completions will begin on-site as required by the NPPF, I do not consider that this site should currently be considered deliverable.

## 5. THE FUTURE FIVE-YEAR LAND SUPPLY

5.1 In Table 7.5 of my Rebuttal, I had estimated the future five-year land supply position of the Council under a number of scenarios, including on the basis of the previously proposed revised standard method and the emerging housing requirement of the Local Plan which was based upon the previously proposed revised standard method. These positions are no longer relevant given that it is now evident that the standard method has been reviewed in a different way. Accordingly, Table 7.5 of my Rebuttal is updated below to take account of only those scenarios which are relevant, namely against the current standard method and against the adjusted emerging housing requirement.

**Table 5.1 – updated version of Table 7.5 of my rebuttal**

	Current SM		The adjusted proposed annualised housing requirement
Currently for the period 2020-25			
Baseline five-year requirement	2,568		-
Five-year requirement including 5% buffer	2,697		-
Deliverable supply of the Council	2,094		-
Five-year land supply position according to the deliverable supply of the Council	3.88		-

	Current SM		The adjusted proposed annualised housing requirement
Deliverable supply of the Appellant	599		-
Five-year land supply position according to the deliverable supply of the Appellant	1.11		-
Following publication of the November 2020 HDT results for the period 2020-25			
Baseline five-year requirement	2,568		-
Five-year requirement including 5% buffer	3,082		-
Deliverable supply of the Council	2,094		-
Five-year land supply position according to the deliverable supply of the Council	3.40		-
Deliverable supply of the Appellant	599		-
Five-year land supply position according to the deliverable supply of the Appellant	0.97		-
Following publication of new standard method (based on the range between the current standard method and the proposed revised standard method) for the period 2020-25			
Baseline five-year requirement	2,568		-
Five-year requirement including 5% buffer	3,082		-
Deliverable supply of the Council	2,094		-
Five-year land supply position according to the deliverable supply of the Council	3.40		-
Deliverable supply of the Appellant	599		-
Five-year land supply position according to the deliverable supply of the Appellant	0.97		-
Following publication of new standard method (based on the range between the current standard method and the proposed revised standard method) for the period 2021-26			
Baseline five-year requirement	2,568		-
Five-year requirement including 5% buffer	3,082		-
Maximum deliverable supply of the Council	3,003		-
Five-year land supply position according to the maximum deliverable supply of the Council	4.87		-
Minimum deliverable supply of the Council	1,902		-
Five-year land supply position according to the minimum deliverable supply of the Council	3.09		-
Following adoption of the Local Plan for the period 2021-26			
Baseline five-year requirement	-		3,258
Five-year requirement including 5% buffer	-		3,910
Deliverable supply of the Council	-		3,003
Five-year land supply position according to the deliverable supply of the Council	-		3.84

5.2 It is therefore apparent that even based on the unrealistic trajectory of the Council there is no prospect of a five-year land supply being restored in the imminent future.

