

TOWN & COUNTRY PLANNING ACT 1990 SECTION 78

Site: LAND TO THE EAST OF DOWNEND ROAD

Appellant: MILLER HOMES

Local Planning Authority: FAREHAM BOROUGH COUNCIL

LPA reference: P/20/0912/OA

RULE 6 STATEMENT OF CASE

FOR THE APPELLANT

S78 APPEAL AGAINST THE DECISION BY FAREHAM BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR DEVELOPMENT DESCRIBED AS FOLLOWS:

OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT THE MEANS OF ACCESS) FOR RESIDENTIAL DEVELOPMENT, DEMOLITION OF EXISTING AGRICULTURAL BUILDINGS AND THE CONSTRUCTION OF NEW BUILDINGS PROVIDING UP TO 350 DWELLINGS, THE CREATION OF NEW VEHICULAR ACCESS WITH FOOTWAYS AND CYCLEWAYS, PROVISION OF LANDSCAPED COMMUNAL AMENITY SPACE, INCLUDING CHILDREN'S PLAY SPACE, CREATION OF PUBLIC OPEN SPACE, TOGETHER WITH ASSOCIATED HIGHWAYS, LANDSCAPING, DRAINAGE AND UTILITIES

SUBMITTED BY TERENCE O'ROURKE LTD

WITH INPUT FROM I-TRANSPORT LLP

30 March 2021

Contents

1. Introduction
2. Background: The Previous Decision
3. Committee Report & Decision
4. Development Plan
5. Transport Matters
6. Other Material Considerations
7. Planning Assessment
8. The Evidence

Appendices

1. Appendix 1 – Site description and content of the application
2. Appendix 2 – HCC response to the application dated 20 October 2020
3. Appendix 3 – Mayer Brown Technical Support for the Local Plan HA4 Downend Road East Highway Review, dated November 2020
4. Appendix 4 – Screening Opinion, June 2017
5. Appendix 5 - Fareham Borough Council's Habitats Regulation Assessment, 4 November 2020
6. Appendix 6 – Natural England's letter dated 20 November 2020
7. Appendix 7 – Fareham Borough Council's Committee Report dated 18 November 2020
8. Appendix 8 – Appeal Decision APP/A1720/W/19/3230015 dated 5 November 2019
9. Appendix 9 – Fareham Borough Council Local Plan 2037 extract policy HA4
10. Appendix 10 – Housing Land Supply Statement
11. Appendix 11 – Agreed Statement of Transport Matters
12. Appendix 12 - Extracts of Transport Assessment and Junction Mitigation Report by Atkins and HCC
13. Appendix 13 – JCT Audit and Associated Correspondence
14. Appendix 14 - PMV² Assessment for Downend Road
15. Appendix 15 – Fareham Borough Council's Executive Meeting Minutes dated 1 February 2021
16. Appendix 16 – SHLAA
17. Appendix 17 – Relevant policy extracts from Fareham Core Strategy and Local Plan Part 2

1. INTRODUCTION

Appeal Reason and Appeal Process

- 1.1 The appeal is made by Miller Homes under section 78 of the Town and Country Planning Act 1990. It is against Fareham Borough Council's (FBC) decision to refuse an outline planning application for up to 350 homes on land to the east of Downend Road, Portchester (see decision notice submitted with the appeal).
- 1.2 Notice of the proposed appeal, and intention to request an inquiry procedure, was issued to FBC and the Planning Inspectorate on 27 November 2020.
- 1.3 The site description and content of the application are set out at Appendix 1 to this Statement of Case ("SoC").
- 1.4 The site lies outside the urban boundary, as defined by the Fareham Local Plan Part 2 (adopted June 2015) (see appendix 17). However, the local plan supports the release of additional land outside the urban boundary on suitable sites in circumstances where there is a housing land supply shortfall. Further, the site is subject to an emerging allocation (Reg 19 plan published, policy HA4) for 350 homes.
- 1.5 In this context, and given the lack of objection to the planning application from statutory consultees, the single reason for refusal is limited to highway matters and there are no other technical or 'in principle' reasons to withhold planning permission, for example with regards to the location, sustainability and suitability of the site for residential development of the scale proposed.
- 1.6 This SoC is provided pursuant to the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 and has been written in accordance with Annex F and Annex J of the Procedural Guide (PINS, Nov 2020).
- 1.7 An inquiry procedure is requested because the reason for refusal centres on a complex technical matter relating to the operation of the highway network and pedestrian safety. The evidence includes detailed technical assessment and modelling work, which, having been agreed with the Hampshire County Council (HCC) as Local Highway Authority but not accepted by FBC members, will need to be fully explored through evidence in chief and cross-examination of expert witnesses. Cross-examination is also likely to be necessary in relation to FBC's 5-year housing land supply.
- 1.8 For the remainder of the evidence, on matters such as planning and the planning balance, environmental impacts, section 106 agreement and conditions, the Appellant would be content with an informal hearing process, as there is a significant amount of agreement between the parties that, subject to resolution of the technical transport / highway matters, there is no reason to withhold development. Hence, a combined procedure, under The Business and Planning Act 2020 is respectfully suggested as being appropriate.
- 1.9 Given that a combined procedure is requested, it is anticipated that a Statement of Common Ground and suggested conditions will be agreed with FBC prior to the inquiry/hearing. Further, whilst this Statement of Case sets out and contains the

Appellant's case and evidence, given the complete lack of evidence for FBCs position at the current time, the Appellant will as a matter of fairness need to respond to the Council's Statement of Case in evidence, and reserves the right to submit further evidence to address the points raised if FBC presents new points / new evidence.

Context

1.10 To briefly set the context for the appeal and identified reason for refusal, the application was made in outline with all matters reserved except for means of vehicular access to the site:

- The existing farm access from Downend Road would be closed.
- A new access would be created in the form of a ghost island priority junction arrangement (right turn pocket into the site when travelling northwards)

Pedestrian and cycle access to the site would be provided in three locations:

- From Downend Road, with the vehicular access
- From 'The Thicket' via Cams Bridge (which would be improved in accordance with outline permission P/18/0001/OA)
- From 'Upper Cornaway Lane' via footpath 117 (which would be improved)

1.11 None of these arrangements are matters to which the reason for refusal refers.

1.12 Downend Road is located on the western boundary of the site and connects southwards onto the A27, which is the main road into Fareham town centre. Before connecting with the A27, it passes across a road bridge over the railway line. This bridge is narrow and, whilst there is a painted white line to depict a pedestrian area, there is no formal pedestrian provision across the bridge. Some vehicles passing on the bridge stray into the pedestrian area.

1.13 The solution is to modify the existing railway bridge to provide shuttle working with the introduction of traffic signals. This would secure:

- a single 3.5 m carriageway for vehicles provided on the eastern side of the existing bridge and allowing one-way vehicular flow controlled by traffic signal control;
- a formal raised footway 2m in width, with raised kerbs, on the western side of the bridge for unimpeded two-way pedestrian flow across the bridge;
- a pedestrian crossing refuge would be provided just south of the vehicular access to the site and north of the traffic lights (so in between the two new highway features), to connect the footway internal to the site with the existing footway on the west side of Downend Road.

1.14 This scheme, in combination with the proposed site access arrangement, has been through an independent stage 1 road safety audit and is approved by HCC, as Highway Authority, as confirmed in their response to the application of 20 October

2020 (Appendix 2). It has also been assessed independently by Mayer Brown, FBC's own highways consultants, who confirm that the solution is acceptable and agree what the impact would be in terms of queue lengths and journey delay, concluding that the projected queues are 'modest' (Appendix 3).

- 1.15 However, whilst FBC officers recommended the application for approval, FBC members were not willing to accept the results of the highway modelling work, and objected to the nature / arrangement of the off-site highway provision. As explained below, this approach was inconsistent with the views of HCC, FBC Officers and its specialist transport advisors, and FBC's own evidence supporting the emerging draft allocation, which was well known to members (see section 3 below).

Reasons for Refusal and Main Issues

- 1.16 The reason for refusal focuses specifically on the off-site highways provision, and states that the proposed highway arrangement across the railway bridge would unacceptably affect the operation of the highway, through queuing and driver delay, resulting in unacceptable harm to the safety and convenience of users of the highway. Additionally, it is alleged that the arrangement does not provide for acceptable pedestrian crossing (noting that the development is on the eastern side of Downend Road and the existing footpath on the western side).
- 1.17 Reflecting on the reason for refusal, it is suggested that the main matters with regards to this appeal are:
- i. Whether the development would, as a consequence of the associated highway works, cause unacceptable vehicle queuing and delay, and unacceptable harm to the operation and safety of the highway
 - ii. Whether the development would make adequate provision for pedestrians to cross Downend Road
 - iii. Whether the development accords with the development plan
 - iv. Whether material considerations support the release of the site for residential development
- 1.18 The informative attached to the decision notice identifies matters relating to s106 and habitats, which are also addressed in the evidence.
- 1.19 Relevant to the scope of the main issues, on submission of this SoC it is understood that Fareham Borough Council agrees that:
- a) It cannot demonstrate a five-year supply of land for housing, engaging the presumption in favour of granting permission for sustainable development in accordance with the National Planning Policy Framework (NPPF) paragraph 11 d) ii. ('tilted planning balance')
 - b) The NPPF is a material planning consideration, paragraphs 11 d) ii., 109 and 110 c) are particularly relevant to the appeal

c) The most important policies for the determination of the appeal (appendix 17) are:

- **CS5 of the Local Plan Part 1 Core Strategy** (adopted 4 August 2001), the relevant part of the policy being:

“3. The Council will permit development which: 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.”

- **DSP40 of the Local Plan Part 2 Development Sites and Policies** (adopted June 2015), the relevant part of the policy being:

“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.”*

1.20 These matters will be re-confirmed through the Statement of Common Ground (SCG), a draft of which is attached with this appeal submission.

The Appealed Application

1.21 The development is non-EIA development, as determined by a screening opinion from FBC in June 2017 (Appendix 4). The EIA regulations have been amended since, but nothing has changed such that it would alter the screening opinion.

1.22 The outline planning application drawings for determination are:

1. Site location plan (ref: 2495-01 /PP-002)
2. Landscape parameter plan (ref: 2495-01 /RS-PP-001)
3. Site access arrangement – ghost island (ref ITB12212-GA-014 Rev E)

1.23 In terms of the reason for refusal, the relevant plans (amended plans submitted 14 October 2020), to be delivered under a s278 agreement are:

- ITB12212-GA-049 Rev F, Downend Road Bridge – Proposed Signal Arrangement with Footway, Inter-visibility Plan
- ITB12212-GA-051 Rev D, Downend Road Bridge – Proposed Signal Arrangement with Footway, General Arrangement
- ITB12212-GA-052 Rev D, Downend Road Bridge – Proposed Signal Arrangement with Footway, Vehicle Tracking – Articulated Vehicle
- ITB12212-GA-053 Rev B, Downend Road Bridge – Proposed Signal Arrangement with Footway, Vehicle Tracking – Large Refuse
- ITB12212-GA-054 Rev B, Downend Road Bridge – Proposed Signal Arrangement with Footway, Vehicle Tracking – Bus
- ITB12212-GA-055 Rev B, Downend Road Bridge – Proposed Signal Arrangement with Footway, Vehicle Tracking – 10m Rigid
- ITB12212-GA-056 Rev B, Downend Road Bridge – Proposed Signal Arrangement with Footway, Dimensions
- ITB12212-GA-061 Rev A, Downend Road Bridge – Proposed Signal Arrangement with Footway, Pedestrian Visibility Splay
- ITB12212-GA-062 Rev A, Downend Road Bridge – Proposed Signal Arrangement with Footway – 160m Visibility Splay to Signal Head (Southbound)
- ITB12212-GA-063 Rev A, Downend Road Bridge – Proposed Signal Arrangement with Footway – 120m Visibility Splay to Signal Head (Southbound).

1.24 The site falls within a location where residential development may impact on important habitats designated as European Protected Sites, in this case:

- Portsmouth Harbour Special Protection Area (SPA)
- Solent and Southampton Water SPA
- Chichester and Langstone Harbours SPA
- Solent and Dorset Coast SPA
- Solent Maritime Special Area of Conservation (SAC)
- Solent and Isle Wight Lagoon SAC
- Portsmouth Harbour Ramsar site

1.25 This potential impact necessitates a Habitat Regulation Assessment (HRA). TOR submitted information to support a HRA with the application (see application submission pack enclosed with the appeal form). FBC undertook an Assessment (drafted 4 November 2020, Appendix 5) and concluded that subject to mitigation (in accordance with the agreed mitigation strategies) there would be no adverse impact on the integrity of the protected sites. In accordance with NPPF paragraph 177, the tilted planning balance can apply in circumstances where an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site. Natural England confirmed that they are satisfied that the approach provides sufficient mitigation to avoid adverse effects on the integrity of the designated sites (letter dated 20 November 2020, Appendix 6)

1.26 As outlined in the Committee Report (Appendix 7, section 7) none of the statutory consultees objected to the planning application or even raised concerns.

2. BACKGROUND: THE PREVIOUS DECISION

2.1 The decision taken by members, to refuse planning permission, was made contrary to officer advice, both from FBC's planning officers and from the Strategic Transport Manager at Hampshire County Council, as Highways Authority (HCC) and in the context of a long planning history.

2.2 The currently appealed outline application was submitted in August 2020. It is a re-submission of refused application P/18/0005/OA (the original application) and was made under the 'free go' provisions, as described in the Planning Supporting Statement submitted with the current application (see application pack submitted with the appeal form). However, the off-site proposal for Downend Bridge for the 2018 application involved highway works to achieve shuttle working as a priority controlled arrangement, not as a signal-controlled arrangement.

2.3 The original application was refused by FBC on 26 April 2019. The reasons were two-fold:

"The development would be contrary to Policies CS5 of the adopted Fareham Borough Core Strategy 2011 and Policy DSP40 of the adopted Local Plan Part 2: Development Sites and Policies Plan and is unacceptable in that:

a) *The proposal would result in a material increase in pedestrian movements along Down End Road across the road bridge over the railway line. The works to the bridge as shown on drawing no. ITB12212-GA-003 Rev B (titled "virtual footway proposal") and the works to the bridge as shown on drawing no. ITB12212-GA-004 Rev B (titled "reduced width formal footway") would provide inadequate footway provision to ensure the safety of pedestrians using the bridge and other highway users. The works to the bridge as shown on drawing no. ITB12212-GA-011 Rev B (titled "priority shuttle working") would result in unacceptable harm to the safety and convenience of users of the highway.*

b) *The application site is not sustainably located in terms of access to local services and facilities."*

2.4 It is notable that the reasons for refusal for the original application did not highlight any issue with pedestrians crossing Downend Road, which the current reason does despite the provisions for pedestrians being identical between the two schemes. Nor did FBC raise any such concerns in relation to pedestrian crossing provision of Downend Road as part of the earlier Appeal scheme.

2.5 That decision was appealed and the appeal was dismissed (APP/A1720/W/19/33230015, dated 5 November 2019) (appendix 8). The Inspector rejected reason b), confirming the site to be sustainably located. He concluded:

"On this issue I therefore conclude that there would not be an unreasonable level of accessibility to local services and facilities for the occupiers of the development by a range of modes of transport. I therefore consider that the development would accord with Policy CS5 of the Core Strategy and Policy DSP40 of the DSP [Local Plan Part 2]

because it would not be situated in an inaccessible location and it would be well related to the existing urban settlement boundary for Portchester.” (paragraph 80)

2.6 With reference to reasons for refusal a) the Inspector considered the following matters:

1. Proposed pedestrian routes
2. Pedestrian demand and distribution
3. Options for altering Downend Road railway bridge

2.7 In terms of pedestrian demand and distribution, there was agreement between the Appellant and Council in relation to the number of additional pedestrian movements that would be generated by the development across the bridge (35-36 each day). The previous Inspector's conclusions with regards to the equal attractiveness of pedestrian access across the improved Downend Road railway bridge and Cams Bridge, have been fully accepted in the current assessment for the appealed application.

2.8 In terms of the options to improve Downend Road Bridge to provide for the increased pedestrian demand across it, the Inspector considered:

- Option 1: Introduction a formalised virtual footway
- Option 2: Introduction of a 1.2 metre wide traditional raised footway, retaining two-way traffic flow
- Option 3: Introduction of a 2 metre wide footway and reduction in the width of the carriageway to single lane, controlled by priority shuttle working
- Option 4: Introduction of a 2 metre wide footway and reduction in the width of the carriageway to single lane, controlled by traffic signal controlled shuttle working (i.e. the current scheme)
- Option 5: No footway provision but traffic lights to include an all red phase to allow pedestrians to cross the bridge at a separate time to vehicles (i.e. either vehicles crossing or pedestrians but never at the same time).

2.9 Option 1 had been earlier discounted by HCC, and not taken forward by the Appellant.

2.10 The Inspector discounted Option 2 as being unsafe to accommodate the additional pedestrian demands expected.

2.11 With respect to the priority shuttle working, Option 3, it was common ground between the Appellant and FBC that the scheme provided adequate and safe facilities for pedestrians, and the Inspector confirmed that Option 3 would provide a safe pedestrian route.

2.12 FBC's concerns related solely to the impact of the priority shuttle control on queueing and delay on Downend Road.

2.13 It is highly relevant that, at the time of the previous application there was no established modelling software to assess the priority shuttle working arrangement. Modified 'ARCADY' software was used by the Appellant's transport consultant, which had been agreed with HCC. FBC, for the appeal appointed Mayer Brown as transport consultants, who used Paramics modelling software, introduced more recently (after refusal of the application) and uncalibrated and untested.

2.14 Ultimately, the Inspector failed to have full confidence in either model and came to the conclusion that:

"I recognise that the Council's running of PDV22 [paramics] may have generated unduly pessimistic queuing lengths and delay times. That said I consider more credence can be attached to the Council's running of PDV22 than either the appellant's running of ARCADY or the appellant's modified running of PDV22, the latter understating the reasonable observance of the signed priority that would underpin the functioning of option 3. The degree of vehicle queuing and driver delay would probably be somewhere between levels estimated through the appellant's and the Council's running of PDV22. Given that the scale of the delay may well exceed that which led HCC to believe that a traffic light variant of option 3, ie option 4, should be discounted. I therefore consider that option 4 may well have been prematurely discounted by HCC. That is because HCC accepted option 3 as being a safe and efficient option, based on modelling reliant on the use of ARCADY." (paragraph 69)

2.15 In conclusion, the Inspector determined that the two options then proposed for the Downend Road railway bridge (Options 2 and 3) would either make inadequate provision for pedestrian access (Option 2), or would unacceptably effect the operation of Downend Road as a result of vehicle queuing and driver delay (Option 3). He found that these impacts would be unacceptable and in conflict with the development plan; Policy CS5 of the *Core Strategy* and Policy DSP40 of the *Development Sites and Policies (DSP)*. (Decision Letter paragraph 97)

2.16 In concluding the Inspector stated that the development proposal would lead to:

"... unacceptable harm to pedestrian safety and the operation of the public highway that... could not be addressed through the imposition of reasonable planning conditions... in the overall planning balance... the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole." (paragraph 100)

2.17 It is for that reason that the signal-controlled shuttle arrangement has been re-visited subsequently, progressed, tested and confirmed as acceptable to HCC. The detailed modelling work has demonstrated that the proposal will not lead to severe impacts upon the operation or safety of Downend Road, and is set out in full in section 5 below.

2.18 In pedestrian safety terms, the scheme proposed is essentially identical to that considered acceptable by the Inspector for Option 3.

- 2.19 To highlight here (and covered in full later), in testing this revised option, there is no reliance on ARCADY or Paramics modelling. Traffic light controlled junctions are instead assessed using industry standard modelling packages such as JCT's LinSig3, which is a tried and tested modelling software used for many years across the country by all highway authorities and consultants, including within Hampshire and is frequently accepted by FBC. Indeed, the modelling of a traffic signal controlled junction, with fixed and determined periods for priority between traffic streams, eliminates driver judgment, carries many less variables than the priority arrangement proposed earlier, and can be more confidently modelled.
- 2.20 Setting aside transport matters, in reaching his decision, the Inspector also concluded that:
- The accessibility to local services and facilities other than by private motor vehicles weighed in favour of the social benefits of the development,
 - The development could be implemented to safeguard the integrity of off-site designated habitats, having a neutral effect on the natural environment
 - There would be compliance with some of the development plan's policies (except for elements of CS5 and DSP40)
 - There would be significant social and economic benefits arising from the construction and occupation of up to 350 dwellings
 - The development would provide a short-term boost to the supply of market and affordable homes within the Borough
 - Whilst there would be some harm to the setting of nationally designated heritage assets, this would be less than substantial, and would be outweighed by the social and economic benefits of the development.
- 2.21 This lack/low level of harm and these benefits remain with the current re-submission scheme.

4. THE COMMITTEE REPORT AND DECISION

- 3.1 Before turning specifically to the development plan and material considerations, including technical highway matters, it is relevant to consider the Planning Committee's approach to the application, at its meeting on 18 November 2020.

Transport Matters Addressed

- 3.2 As referenced above, the site is subject to an emerging allocation for up to 350 homes in the Fareham Borough Local Plan 2037 (Reg 19 consultation ended 18 December 2020 – see Appendix 9 for relevant extract). The relevance and weight of the policy is addressed further below. But of some significance to the member approach, the policy contains the provision that:

"I Highway improvements to facilitate the development including:

- i. A pedestrian footway or footbridge over the existing Downend Road bridge and connections and improvements to wider pedestrian and cycle networks at The Thicket and Upper Cornaway Lane; and*
- ii. Provision of pedestrian and cycle links to the A27 Bus Services and future Rapid Transit connecting Fareham Town Centre and railway station, Portchester, Portsmouth and local employment hubs; and*
- iii. Improvements to the Downend Road, A27 and Shearwater Avenue junction."*

- 3.3 This draft policy was discussed at FBC Planning and Development Scrutiny Panel on 1 October 2020, after which the Regulation 19 local plan was published. The Chair of the Planning Committee, Cllr Nick Walker is on the Planning and Development Scrutiny Panel, as is Cllr Davies (Vice Chair of the Planning and Development Scrutiny Panel). Cllr Price, on the Planning Committee, attended and spoke at the Planning and Development Scrutiny Panel. Cllr Cunningham attended and spoke at the Planning Committee and is on the Planning and Development Scrutiny Panel.

- 3.4 There was particular discussion during the meeting of the Planning and Development Scrutiny Panel regarding i) and whether the policy should refer solely to a 'footbridge'. An amendment to the policy was advanced by Cllr Price, as follows:

*"Before I make this comment, I as a member of the planning committee am not saying whether I am for or against this planning application other than people know of what my view was when the item was discussed before. The issue is that the last time that this came before the planning committee it was refused. It went to appeal and the Inspector agreed with the planning committee's decision to refuse it and it was refused on highway grounds and the main issue was all relating around the Downend road bridge in crossing the railway line. I would like to suggest to you is that in the wording which is on page 75 under al1 the first line reads at the moment "a pedestrian footway or footbridge over the existing Downend Road bridge" I believe that that wouldn't resolve the issues over which the Inspector refused it on. **I think it should be "a new pedestrian footbridge over Downend Road by the bridge" so it is definitive to say that there is a need for a footway bridge over the railway line** and I think that concurs in my opinion in line with what the Inspector was saying and I think what the*

members of the planning committee were saying as well.” (TOR transcript from the Committee)

- 3.5 In response, planning officers confirmed that the policy had been considered by FBCs own transport consultant, Mayer Brown (the same consultant that had defended FBCs position at the previous appeal), who were content with the policy approach, and flexibility offered with regards to the options, and who were aware of the application proposals. The advice provided to Members was based on a Technical Note titled ‘Technical Support for Local Plan – HA4 Downend Road East – Highway Review’ prepared by Mayer Brown attached as Appendix 3 (Although the report is dated November 2020, officers clearly knew of and understood the conclusions that had been reached in time for the Scrutiny Panel in October).
- 3.6 The policy was not amended.
- 3.7 When taking the matter up at the Planning Committee for the appeal application, Cllr Price and Cllr Walker (the latter of whom took the casting vote to refuse the application) spoke at length about their view on the inadequacy of the modelling work (or more accurately their mistrust of any computer modelling approaches to reflect real world conditions) and inadequacy of the proposals with regards to Downend bridge.
- 3.8 In defending the position, officers clearly referenced the emerging local plan evidence base and the Mayer Brown report (Appendix 3) which had addressed the Downend Road bridge improvements. The Mayer Brown report / conclusions, was clearly by then known to members and confirmed that (paragraphs 4.6 – 4.8 & 4.19 – 4.21 & 5.14):
- The proposed improvement shown on i-Transport’s drawing ITB12212-GA-051D and comprised a traffic signal shuttle arrangement.
 - The capacity of the proposed improvement had been assessed by i-Transport using industry standard software LinSig. The modelling results indicate that the junction will operate well within capacity, and that the maximum average queues are modest.
 - The new application for development on allocation HA4 proposed a signalised shuttle arrangement at the Downend Road bridge which addresses the single reason for dismissal of the appeal (insufficient provision for pedestrian access over the railway bridge) **and would not result in a severe impact on the road network.**
 - An outstanding concern regarding pedestrian visibility could be addressed through the detailed design of the S278 works to ensure that there would not be an unacceptable impact on highway safety.
 - In summary, allocation HA4 would not result in any unacceptable highway safety impacts or severe residual cumulative traffic impacts and was compliant with the NPPF and should be brought forward as proposed in the Publication Plan.
- 3.9 Further reference to the Mayer Brown report is made in section 5 below addressing the technical details. However, to highlight here, members:

- a) Were fully aware that LinSig software was industry standard and capable of modelling accurately how the junction will operate (including with reference to the HCC response of 20 October 2020, appended to the Planning Committee Officer Report). Indeed, officers pressed this matter to members during the course of discussion and HCC Highways officers present at the committee explained the provenance and reliability of LinSig modelling to members.
- b) Had no alternative evidence to doubt the accuracy of the impact on the highway, as set out by the Appellant's Transport Consultant, i-Transport. Members relied upon anecdote alone.
- c) Quite the contrary, HCC and FBC's own transport consultant, both of whom were well aware of the proposals, are technically expert in matters of transportation, understood the background and all issues surrounding the matter, confirmed that the improvements to the Downend Road railway bridge were acceptable
- d) Specifically, that the development would not result in a severe impact

3.10 It is clear that members, in the face of the evidence, acted unreasonably and without justification.

3.11 At the current time, FBCs evidence-based case is entirely unknown to the Appellant.

Other Matters Addressed

- 3.12 The Officer Report to committee (Appendix 7) also re-confirms the following key matters:
- i. That FBC cannot demonstrate a sufficient five-year housing land supply (The committee report references a housing land supply of 4.03 years, representing a significant and serious shortfall of 522 dwellings (paragraph 8.3) but the reality is that this is now much lower – see below).
 - ii. The presumption in favour of sustainable development set out in NPPF 11 does apply (paragraph 8.10).
 - iii. The site lies outside the urban settlement boundaries and is contrary to countryside protection policies (paragraph 8.15), but more weight is given to policy DSP40, which is engaged (paragraph 8.88).
 - iv. Subject to mitigation secured through planning conditions/obligation there would be no likely significant effect alone or in combination with other plans and projects, with reference to the potential impact on the habitats of European protected sites (paragraph 8.25).
 - v. Policy DSP40 is engaged (paragraph 8.88), to allow the release of land for residential development outside the settlements boundaries (where there would otherwise be conflict with other countryside protection policies of the plan) and that the proposal complies with all five criteria (paragraphs 8.26 – 8.68).

- vi. In terms of affordable housing provision, the proposal is policy compliant (paragraph 8.69).
- vii. In the context of the impact on the setting of heritage assets, these impacts are less than substantial, and of a low magnitude (i.e. at the lowest end of the spectrum). The public benefits of the proposal outweigh the harm, even when such harm is given considerable weight, in accordance with NPPF paragraph 193. Further, the duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act has been considered and fulfilled (paragraphs 8.71 & 8.72).
- viii. The draft emerging plan proposes to allocate the site but at this stage the plan carries little weight (paragraph 8.77).
- ix. Greater weight should be given to policy DSP40, over countryside protection policies, and when considered against the development plan as a whole, the scheme should be approved (paragraph 8.88).
- x. In applying the tilted balance, there are no policies within the NPPF that give a reason to refuse planning permission, and the adverse impacts of the proposal do not significantly and demonstrably outweigh the benefits (paragraph 8.89).
- xi. Planning permission should be granted (paragraph 8.90).

3.13 The Appellant is in full agreement with these matters, further noting that:

- The results of the 2020 Housing Delivery Test moved FBC from a 5% buffer authority to a 20% buffer authority
- On 16th December 2020, and with respect to Fareham Borough, the Government reverted to the 2017 Standard Methodology to calculate local housing need which reconfirmed the requirement as 514 dpa

3.14 In this context, and taking into consideration a robust evidence of 'deliverable sites', it is the Appellants position that the housing land supply is 1.7 years (2,032 shortfall). This is set out in Appendix 10 to this SoC.

4. THE DEVELOPMENT PLAN (INCLUDING CONSISTENCY WITH THE NPPF AND SCHEME COMPLIANCE)

General Provisions

- 4.1 The starting point for decision taking is the development plan; Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that planning applications be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 4.2 The National Planning Policy Framework (NPPF) is a material planning consideration (NPPF paragraph 2) and includes the presumption in favour of sustainable development, such that:
- “For decision-taking this means:*
- c) approving development proposals that accord with an up-to-date development plan without delay; or*
 - d) 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 this Framework taken as a whole.” (NPPF para 11 and footnote 6)*
- 4.3 NPPF paragraphs 12 and 47, reiterate the statutory provision, although paragraph 12 refers to an ‘up to date development plan’.
- 4.4 In this case, no footnote 6 policies are engaged to disapply the presumption in favour of sustainable development.
- 4.5 NPPF footnote 7 confirms that for the purposes of paragraph 11d (engagement of the tilted planning balance) the most important policies for applications involving the provision of housing will be considered as ‘out of date’ if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 4.6 The 11 d) provision bites at any point where the supply falls below five-years. Whilst paragraph 11 does not displace the statutory provisions and important policies do not become irrelevant, their weight, and therefore any harm arising from non-compliance, may be diminished according to the extent to which the development is needed.
- 4.7 Also, NPPF paragraph 213 clarifies that existing policies are not out of date simply because of the date on which they were adopted, instead due weight should be given to them according to their degree of consistency with the Framework. Hence, whether important policies are up to date requires an assessment of their consistency with the NPPF.

4.8 With respect to emerging policies, these can be given weight, subject to criteria relating to the stage of preparation reached, outstanding objections and consistency with the NPPF (NPPF para 48).

4.9 To consider whether the development plan policies can be considered consistent with the NPPF, with relevance to this appeal, the following are particularly relevant:

- Paragraph 59: *“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”*
- Paragraph 73: *“Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should 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”*
- Paragraph 109: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*
- Paragraph 110 c): *“Within this context, applications for development should create places that are safe, secure and attractive –which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards”*

The adopted development plan

4.10 The development plan documents containing policies relevant to this appeal are:

- Fareham Plan Part 1: ‘Fareham Core Strategy’ adopted August 2011 (LPP1), covering the period 2006 - 2026
- Fareham Plan Part 2: ‘Development Sites and Policies’ adopted June 2015 (LPP2)

4.11 The development is contrary to countryside protection policies (LPP1, Policy CS14 ‘Development Outside Settlements’) but this policy is overridden by policy LPP2, Policy DSP40, as described in the officer’s report and further addressed below. Hence, the most important policies for the determination of the appeal comprise LPP2, Policy DSP40 and LPP1, CS5 of the Part 2 plan.

4.12 It is the Appellant’s case that compliance is achieved with these important policies and with the development plan as a whole. Planning permission should be granted *“without delay”*.

LPP1, Policy CS14 ‘Development Outside the Settlements’

4.13 The Core Strategy set out in LPP1 covers the period 2006 - 2026. Its policies for housing provision, including the requirement and spatial distribution, and such as those relating to settlement boundaries (saved policies CS2 ‘Housing Provision, CS6 ‘The Development Strategy’ and CS14 ‘Development Outside Settlements’) are out of date. This is because:

- a) There is a five-year housing land supply shortfall, hence by virtue of NPPF footnote 7 restrictive policies would be viewed as out of date, if they were considered important.
- b) In any event, the overall housing requirement was set in compliance with the now revoked South East Plan and does not reflect the current standard methodology assessment of local housing need¹.
- c) The development strategy focusses development within the urban area (including at Portchester) and towards two strategic development locations, the culmination of which fails to meet current need, indicating a need for additional land releases through a revised strategy (as accepted by FBC in progressing its Local Plan 2037).
- d) The policies strictly control general residential development outside the settlement boundaries and Policy CS14 is a negatively worded policy which doesn’t allow for the cost/benefit approach advocated by the NPPF.
- e) The settlement boundaries must be breached to accommodate established housing needs.

4.14 These policies are not considered important to the determination of the appeal because of the five-year housing land supply shortfall engages DSP40.

4.15 In any event, the policies are inconsistent with the NPPF and are therefore out of date.

4.16 These policies carry no weight for the purposes of this appeal.

LPP1, Policy CS5 ‘Transport Strategy and Infrastructure’

4.17 Policy CS5 is in three parts:

- 1) Part one relates to the safeguarding of land for schemes unrelated to this appeal site and is irrelevant.
- 2) Part two, relates to accessibility and for sites to be well served by public transport, walking and cycling. The previous Inspector confirmed that the site has an acceptable level of accessibility, and this is no longer part of FBCs case, as confirmed by the reason for refusal.

¹ The LPP1 housing requirement is 3,279 dwellings (outside Welborne) plus 6,500 - 7,500 dwellings within Welborne (with anticipated delivery of 5,350 dwellings within the 20 year plan period to 2026). Collectively this provides for the delivery of 431 dpa across the plan period; falling significantly short of the LHN, at 1 April 2020, of 514 dpa.

- 3) Part three allows development to be permitted where it provides necessary and appropriate transport infrastructure including management measures, does not adversely affect safety and operation of the network and is designed to encourage safe and reliable journeys by walking, cycling and public transport.

- 4.18 Only part three is relevant to the determination of this appeal. It has been cited in the reason for refusal and clearly relates to those transport matters therein referenced: highway operation, safety and convenience.
- 4.19 The previous Inspector considered that the elements of the policy with which the previous scheme conflicted were consistent with the NPPF.

Compliance with Policy CS5

- 4.20 The following transport evidence confirms that the necessary and appropriate transport infrastructure has been identified and is secured, to be provided in a timely way, in association with the development. Further, that the proposed improvements to the Downend Railway bridge will not adversely affect the safety and operation of the road network and will provide safety benefits to vehicles and pedestrians. The demonstrable level of impact/harm falls far short of the 'severe impact' (with reference to Policy CS5 when applying it consistently with NPPF 109) necessary to justify a refusal on planning grounds.

LPP2, Policy DSP40 'Housing allocations'

- 4.21 LPP2 was adopted in June 2015. The supporting text confirms that:

"The Development Sites and Policies Plan sets out the Council's approach to managing and delivering development identified in the Core Strategy (together with the additional requirements set out in the South Hampshire Strategy) for the Borough to 2026, except for the area covered by The Welborne Plan." (LPP2 paragraph 1.3)

"The role of the Development Sites and Policies Plan is to identify development sites and development management policies for the Borough (excluding Welborne) up to 2026 and to help deliver the Vision and Strategic Objectives set out in the Core Strategy." (paragraph 1.12)

- 4.22 Policy DSP40 'Housing Allocations' introduces flexibility into the plan to ensure that FBC can continue to maintain a five-year housing land supply throughout the plan period, as measured *"against the requirements of the Core Strategy"*; facilitating a positive response to planning applications for housing in suitable locations outside settlement boundaries, should the allocated housing sites be insufficient to maintain the supply, or not deliver at the point envisaged.
- 4.23 As outlined above, the Core Strategy housing requirement does not reflect the up to date assessment of local housing need and the settlement boundaries as drawn do not accommodate the current need. In so far as Policy DSP40 refers to meeting the requirements of the Core Strategy, it is out of date and inconsistent with the NPPF.

- 4.24 However, the previous Inspector considered that the element of DSP40 that the previous scheme was in conflict with was consistent with the NPPF and he gave that conflict great weight.

Compliance with DSP40

- 4.25 The Officer Report, paragraphs 8.26 – 8.68 addresses compliance of the scheme with DSP40.
- 4.26 With reference to the reason for refusal the only conflict with DSP40 claimed is with respect to criteria v):

“The proposal would not have any unacceptable environmental, amenity or traffic implications.”

- 4.27 Further, the previous Inspector identified a relatively narrow area of conflict with DSP40 which can only relate to criteria v), as follows:

“For the reasons given above I have found that the development with the implementation of the option 2 alteration to the Downend Road railway bridge would make inadequate provision for pedestrian access via Downend Road. I have also found that while the implementation of the option 3 alteration to the Downend Road railway bridge would make adequate provision for pedestrian users of Downend Road, the development would unacceptably affect the operation of this road because of the vehicle queuing and driver delay that would arise. I consider those unacceptable effects of the development give rise to conflict with Policy CS5 of the Core Strategy and Policy DSP40 of the DSP and paragraphs 109 and 110c). I consider that the elements of Policies CS5 and DSP40 that the development would be in conflict with are consistent with the national policy and are the most important development plan policies for the purposes of the determination of this appeal. I therefore consider that great weight should be attached to the conflict with the development plan that I have identified.” (appendix 8 paragraph 97)

- 4.28 No conflict with any other Policy DSP40 criteria is either stated or implied.
- 4.29 It should be further noted that there is no suggestion of unacceptable environmental or amenity impacts, as supported by consultation responses from the relevant statutory consultees. There is no suggestion of unacceptable wider traffic impacts, beyond the issues surrounding Downend Road bridge.
- 4.30 It is the Appellant’s case that there is no unacceptable traffic impact, as addressed below.

Development Plan Conclusion

- 4.31 The development plan is out of date and/or inconsistent with respect to the following:
- Housing requirements

- Settlement boundaries
- Restrictive policies

4.32 The policies most important to the determination of the application are out of date as a consequence of the five-year housing land supply shortfall, which is substantial.

4.33 Notwithstanding the fact that the development plan is out of date, the important policies are consistent with the NPPF and carry significant weight.

4.34 The proposal complies with the relevant policies, and planning permission should be granted without delay.

5. TRANSPORT MATTERS

5.1 The application was refused for a single reason, which can be considered in two parts:

- 1) the alleged impact of the proposed highway improvements to Downend Road bridge on the safe and efficient operation of the local highway network; and
- 2) the safety of the provisions made for pedestrians crossing Downend Road.

5.2 The Appellant has sought clarification from FBC in advance of preparing this Statement of Case to confirm and better understand the reasoning for the refusal, which remains entirely unclear in relation to the alleged harm created to the safety of highway users.

5.3 In the Appellant's view the refusal of the application for the reason provided is wholly unjustified when considered against the extensive assessment work carried out, the lack of any evidence base to underpin FBC reaching a different conclusion to its officers, consultant advisors and the Local Highway Authority, and does not clearly address what harm it believes will arise from the proposed scheme.

5.4 FBC has so far been unwilling to provide clarification, instead intending that this is addressed in its Statement of Case and the Statement of Common Ground. This leaves the Appellant in the dark and to guess what the alleged harm Members had in mind when they refused the application.

5.5 At this time, it is presumed that the issues that led Members to refuse the application are as follows:

- They did not accept the traffic modelling assessment of the future operation of the Downend Road bridge and considered that the modelling approach (or indeed any computer-based modelling) would not properly reflect its operation.
- The Appellant's assessment underestimates the projected queueing and delay that will arise at the bridge approaches, leading to a severe impact on the convenience of road users.
- The operation of the bridge, with its associated queueing and delay, will give rise to unacceptable safety impacts for road users.
- The proposed pedestrian crossing (a pedestrian crossing refuge island north of the Bridge) will not deliver a safe pedestrian crossing of Downend Road for residents of the development site.

5.6 These matters are addressed in the following sections, which demonstrate that; firstly, there were no evidence-based grounds for FBC to reach its decision, contrary to the advice of its officers and advisors; secondly, that the allegations of harm arising from the scheme are unfounded and unjustified. The Appellant's position on transport matters is supported by HCC as Highway Authority as will be set out in the Agreed Statement of Transport Matters (appendix 11 for draft).

- 5.7 FBC’s approach runs contrary to the NPPF with regards to decision-making in particular paragraphs 11, 38, 109 and 111, including the expectation that a transport assessment (using computer-based simulation/modelling – see PPG sections on ‘Transport evidence bases in plan making and decision taking’ and ‘Travel Plans, Transport Assessments and Statements’) will be used to assess impacts and requirements that:

“Decision-makers at every level should seek to approve applications for sustainable development where possible.” (from NPPF 38)

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.” (NPPF 109)

“All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.” (NPPF 111)

Traffic Modelling Assessment

- 5.8 The planning application was supported by a detailed Transport Assessment (TA) prepared in accordance with the PPG.
- 5.9 The scope and methodologies applied in the TA are entirely consistent with the PPG, best practice and with the earlier TA prepared for the dismissed 2018 application/appeal. The scope and methodology of the TA was confirmed by Hampshire County Council (HCC) as the highway authority to be appropriate in the earlier Agreed Statement on Transport Matters (TA Appendix B).
- 5.10 Relevant sections of the TA, with reference to the reason for refusal, comprise:
- Section 4 presents information on the existing conditions at the Downend Road bridge including existing traffic conditions (speed and volumetric data), existing pedestrian usage of Downend Road (section 4.5) and recent accident record (section 4.6).
 - Section 5 presents the development proposals including the proposed access strategy, the proposed improvement to the Downend Road bridge and its associated modelling, the results of the Pre-Application Design Review of the proposed improvement (which is HCC’s internal highway design checking process), as well as the pedestrian demand assessment.
 - Appendix L provides the full traffic modelling outputs that underpin the TA and the proposed improvement to the bridge (using JCT’s LinSig3 software).
 - Appendix M provides the Pre-Application Design Review Submission and associated correspondence with HCC.

- Appendix K presents the results of an Independent Road Safety Audit of the proposed improvements (in combination with the adjacent site access works).
- 5.11 The thrust of Members' concerns at the Planning Committee, relating to the assessment of how the bridge will operate, was a general and unspecific mistrust of the use of any computer-based simulation of junctions, with Members alleging that such models do not reflect 'real world' conditions.
- 5.12 Clearly this allegation and approach is entirely unfounded and unjustified and inconsistent with the approach taken with respect to numerous other major applications across the district where computer-based simulation of future/proposed junctions is relied upon to assess schemes and assist in determining whether planning permission should be granted under development plan policy and the NPPF, as a material consideration.
- 5.13 Members offered no alternative methods by which the scheme could or should be assessed to identify the highway impact, provided no evidence to support their allegations that computer-based traffic models do not represent conditions fairly and accurately, and provided no substantive reasons as to why they were setting aside the assessments agreed with their technical advisors, and refuse the application.

LinSig Modelling Software

- 5.14 The Downend Road bridge improvement has been modelled using JCT's LinSig3 software.
- 5.15 LinSig is a traffic modelling software created specifically to design and assess the operation of signalised junctions and is the industry standard software applied to consider the operation of isolated or small networks of traffic signal-controlled junctions.
- 5.16 In this case, the proposed Downend Road bridge is an isolated traffic signal junction.
- 5.17 LinSig has been the standard traffic modelling package used to consider traffic signal installations since the mid 1980s, and since that time has been actively updated and improved by its owners, JCT Consultancy. LinSig3 is the latest and current version of the software.
- 5.18 FBC itself has used and approved LinSig assessments for various purposes including:
- To provide evidence to its Local Plan – Its Regulation 19 Local Plan is underpinned by a Transport Assessment and Junction Mitigation report prepared by Atkins and HCC respectively (appendix 12), each of which use LinSig3 to assess existing junction operation and potential mitigation schemes.
 - To support government funding bids and major improvements, including the recent delivery of the Newgate Lane South scheme, the A27 corridor improvements and the Stubbington Bypass Improvement.

- To determine numerous planning applications, including major development proposals at Welborne (P/17/0266/OA – resolution to grant planning permission made by the Planning Committee 16 October 2019), north Fareham, much of which relies on extensive LinSig assessment of key junctions including M27 Junctions 10 and 11.

5.19 In traffic signal terms, the proposed improvement scheme is a simple one, with two approach arms to a single junction, operating under two separate and distinct signal phases. Accurate and realistic modelling of this junction is wholly within the remit of LinSig to assess. There is no basis to reject its use or modelling results in this case.

Data Underpinning the LinSig Model

5.20 Any traffic model is only as good as the data upon which it is based, which is critical to the development of a realistic and accurate model.

5.21 In this case, the data used to construct the traffic model was robust, local and followed best practice. It was also approved by HCC.

Traffic Flows

5.22 LinSig models are reliant upon good quality and reliable traffic data to determine baseline and future year traffic demands. In this case the model was based on:

- Traffic survey data collected specifically at the Downend Road bridge.
- Forecast future year 2026 traffic flows adjusted using local area traffic growth projections (using the government's NTM/TEMPRO database) and including committed development allowances from the local area.
- Development traffic generation based on TRICS assessment, validated by local data collected at Condor Avenue in Portchester, and distributed onto the local highway network in accordance with a bespoke local area distribution model.

5.23 The LinSig model is based upon 5-day weekday average data collected from an automatic traffic count (ATC) survey carried out at the bridge, and so faithfully reflects existing traffic conditions. The survey equipment was located on the speed limit transition immediately north of the bridge. The survey was carried out in November 2016 in connection with the original application. At HCC's request, all 24 hours of the day were assessed in the model to consider its operation in both peak hours and during interpeak periods.

5.24 The TA (Section 4.5) presents more recent traffic data collected on Downend Road at the bridge from updated ATC surveys on Downend Road in December 2019. This updated survey demonstrates that the 5-day weekday average traffic flows in December 2019 were lower than those observed in November 2016. To present a robust assessment, the (higher) November 2016 traffic flows have been used to develop the traffic model with traffic growth thereafter applied.

- 5.25 Observed traffic flows were converted into PCUs (Passenger Car Units) to allow for the mix of traffic on the road network (light, medium and heavy vehicles) which take up different amounts of road space. A PCU factor of 1.5 for medium vehicles and 2.3 for heavy vehicles was applied which conforms to industry standards.
- 5.26 The LinSig model forecasts future traffic conditions in the year of 2026. This represents network conditions beyond the point that the proposed development would be occupied and established and is a robust approach.
- 5.27 Committed development traffic flows have been included in the assessment as described in TA section 7.4.
- 5.28 To forecast future year traffic flows, the Government's National Traffic Model and TEMPRO database have been used. This considers traffic growth on the local road network between the date of collection of the data and the future year to be assessed (so 2016-2026 in this case), using local traffic factors for the Fareham MSOA 010 which comprises Portchester (TA section 7.5 and Appendix R). The traffic growth factors applied are those that were applied in the 2018 application and agreed with HCC. Section 7.5 of the TA presents an analysis of traffic growth factors using a more recent version of the TEMPRO database (released in 2019), which produces lower traffic growth projections. To be robust the (higher) 2018 traffic growth adjustments were applied.
- 5.29 Development traffic generation is based on an assessment using the TRICS database, an industry standard traffic generation database used extensively to forecast likely traffic generation from development sites. The assessment used the 'Private Housing Only' category for TRICS in 'suburban / edge of town / neighbourhood centre' locations only, commensurate with the location of the site. The use of 'Private Housing Only' data (despite the significant proportion of affordable housing proposed on the site) presents a robust assessment, with private housing generating higher peak period traffic flows than affordable and mixed schemes (TA Appendix F).
- 5.30 To confirm the validity of the traffic generation data, the TRICS derived vehicle trip rates were compared to locally collected traffic generation data, using survey data collected at Condor Avenue to the south of the A27 in Portchester (TA Appendix B). The trip rates derived through TRICS were highly consistent with the locally collected data and are therefore appropriate and valid.
- 5.31 Development generated traffic movements were distributed and assigned to the local network based on a bespoke traffic distribution model prepared for the scheme and agreed with HCC. This uses 2011 Census Journey to Work data for the local Portchester area (Fareham 010 MSOA) to derive likely employment destinations of resident trips and routing, and uses a bespoke Gravity model to assign non-employment trips.

Geometric Data

- 5.32 LinSig models rely upon the accurate input of geometric data which informs the calculation of saturation flow of each approach (the amount of traffic that can pass the stopline assuming an infinite queue of traffic), as well as the inter-green periods (the

time between green phases allowed to enable the clearance of the junction by the traffic stream losing priority).

- 5.33 To ensure the geometry of the proposed junction has been accurately and faithfully modelled, detailed topographical survey information was used rather than OS Mapping (which is less accurate).

JCT Audit

- 5.34 To provide further confidence to the LinSig Model, the Appellant has subsequently engaged the software owners, JCT Consultancy, to carry out a full Audit of the model (Appendix 13).
- 5.35 The Audit confirmed that the model had been correctly constructed and that traffic flows, geometry and model settings had been properly reflected.
- 5.36 The Audit raised two matters for consideration:
- The use of hourly rather than peak hour flows (for the morning peak hour).
 - The calculation of the Inter-green period (the time between each junction approach gaining a green light, allowing for junction clearance)

- 5.37 These matters are considered further in the following sections.

Modelling Assessment Summary

- 5.38 Contrary to Members' scepticism, LinSig is the appropriate modelling software to be used to assess the operation of the proposed improvement. It is the industry standard software applicable to this type of junction and is consistent with the extensive use of LinSig models in Fareham Borough (and nationally).

Traffic Modelling Results

- 5.39 Whilst Members rejected the modelling assessment presented in the application, as had been approved by both HCC and FBC's own consultant, no attempts were made to forecast or estimate what the impacts of the scheme would instead be. FBC has simply not provided any evidence-led basis to reject the modelling prepared or presented any alternative assessment.
- 5.40 Section 5.3 of the TA presents the results of the assessment, with the full results presented as Appendix L of the TA. Tables 1 and 2 below repeat the results and address a transposition error in the queue projection for the 0800 – 0900 period on Downend Road South (projected queuing of 6.1 PCUs not 3.1PCUs) which has no material impact on the results:

Table 1: LinSig Results – 2026 with Development – Morning Period

Approach	Time Period	Degree of Saturation	Mean Max Queue (pcu)	Average Delay per PCU (s/pcu)
	0700 - 0800	68.4%	6.1	21.7

Approach	Time Period	Degree of Saturation	Mean Max Queue (pcu)	Average Delay per PCU (s/pcu)
Downend Road - South	0800 – 0900	68.2%	6.1*	21.6
	0900 – 1000	53.2%	3.1	19.2
Downend Road – North	0700 - 0800	71.1%	5.6	29.1
	0800 – 0900	71.3%	5.7	29.2
	0900 – 1000	50.8%	2.8	20.5

Note - * corrected from TA Table

Table 2: LinSig Results – 2026 with Development – Evening Period

Approach	Time Period	Degree of Saturation	Mean Max Queue (pcu)	Average Delay per PCU (s/pcu)
Downend Road - South	1600 – 1700	63.7%	4.4	22.6
	1700 – 1800	66.3%	5.0	22.2
	1800 – 1900	54.6%	3.0	20.8
Downend Road – North	1600 – 1700	64.7%	4.8	23.1
	1700 – 1800	63.4%	4.4	24.1
	1800 – 1900	51.1%	3.0	19.2

- 5.41 For traffic signal junctions, the primary assessment of capacity is given by a measure of the Degree of Saturation (DoS). A DoS of 100% would represent a junction that is operating at theoretical capacity (as many do). Practical Reserve Capacity (PRC) is taken as 90% DoS to provide a level of comfort on junction operation and to allow for daily fluctuations in traffic flow and junction operation. A positive PRC identifies a junction that will operate with spare capacity below the design threshold.
- 5.42 The assessment of the proposed improvement demonstrates that the traffic signal control of the bridge will operate comfortably within capacity.
- 5.43 The highest DoS occurs in the morning peak hour on Downend Road North (for the southbound traffic flow), with a DoS of 71.1%, providing a PRC of +18.9%.
- 5.44 In terms of queueing, the greatest Mean Maximum Queue (MMQ) occurs on Downend Road South (for northbound traffic), with a projected queue of 6.1 PCUs. The greatest projected MMQ on the southbound approach is 5.7 PCUs. All projected queues clear the stop line within a single cycle (set to 45-50 seconds).
- 5.45 Average delays for southbound vehicles are 29 seconds and 22 seconds for northbound vehicles.

5.46 On any reasonable interpretation, this demonstrates that the junction will operate effectively and without any significant impact on the safety and convenience of road users.

JCT Audit Response

5.47 As identified above, the JCT Audit raised two comments on the model presented:

- The use of hourly rather than peak hour flows.
- The calculation of the inter-green period.

Peak Hour Flows

5.48 At HCC's request, the assessment presented in the TA identified the performance of the junction across a 24 hour period. This was done to understand the operation of the junction in peak and off-peak hours and to consider the total delay arising.

5.49 As correctly noted by JCT, this approach means that for the morning peak hour, the busiest hour had not been presented, which occurs between the hour of 07:30 – 08:30. For the evening peak hour the busiest hour is 17:00 – 18:00 and has been assessed and presented in the TA.

5.50 Table 3 therefore provides the morning peak hour (07:30-08:30) assessment.

Table 3: LinSig Results – 2026 with Development – Morning Period

Approach	Time Period	Degree of Saturation	Mean Max Queue (pcu)	Average Delay per PCU (s/pcu)
Downend Road - South	0730 - 0830	72.3%	8.1	24.6
Downend Road - North		69.6%	7.0	28.8

5.51 This assessment demonstrates that use of the morning peak hour rather than hourly traffic flows results in a marginal decrease in performance at the junction, but that the junction continues to operate well within capacity with a max DoS of 72.3% and a PRC of +17.7%. Queuing in this period on the northbound approach increases by two vehicles and delay by 3 seconds. On the southbound approach, queuing increases by one vehicle without any material impact to delay.

5.52 The application of peak hour traffic flows has no material impact on the operation of the junction. The junction continues to operate effectively.

5.53 Inter-green Period

5.54 The inter-green period is the length of time that is allowed within the traffic signal cycle between the green phases for the northbound and southbound traffic streams, set aside to allow traffic streams to clear the junction safely. Inter-green periods are based on the distance between potential collision points within a junction, and determined by the inter-green calculations set out in Chapter 6 of the Traffic Signs Manual.

- 5.55 Within its Audit, JCT identified that the model *could* underestimate inter-green periods and therefore considered the impact of a longer inter-green period (12 seconds not 10 seconds as allowed in the model). JCT confirms that this approach is '*overly robust*' and that furthermore they raise no issues with the calculation of Inter-green periods (10 seconds) in the original model supporting the application (Appendix 13).
- 5.56 To consider the robustness of the junction improvement to longer inter-green times, JCT carried out a sensitivity test which included 12 second inter-green periods, and peak hour traffic flows. The optimised results are presented in Table 4 for the worst performing period (the morning peak hour).

Table 4: LinSig Results – 2026 with Development – Morning Period – 12s Inter-green

Approach	Time Period	Degree of Saturation	Mean Max Queue (pcu)	Average Delay per PCU (s/pcu)
Downend Road - South	0730 - 0830	78.9%	9.1	30.2
Downend Road - North		78.3%	7.9	36.2

- 5.57 Even using the 'overly robust' approach outlined by JCT, the junction will operate wholly within capacity, with a Max DoS of 78.9% and PRC of +11.1%. Mean Maximum Queues are 8 and 9 vehicles and average delay is 30-36 seconds.
- 5.58 The worst-case assessment carried out by JCT demonstrates that even applying highly robust assessment assumptions the junction will operate within capacity and effectively.
- 5.59 In terms of assessing the impacts of development, this should however be based on a junction that includes a 10 second inter-green (Table 3) rather than the sensitivity test (Table 4). A 10 second inter-green is what is likely to be calibrated on site. A 12 second inter-green is excessive and will lead to long periods of junction inactivity between traffic phases and may result in driver frustration.

Impact on Convenience of Road Users

- 5.60 Central to the Reason for Refusal is an alleged **severe** impact on the convenience of road users as a result of the proposed improvement.
- 5.61 Neither HCC, nor the FBC Committee Report, allege that there will be a severe impact arising from the scheme. Furthermore, the independent assessment carried out of the site to support the local plan for FBC by its transport consultants Mayer Brown confirms to FBC that there will not be a severe impact:

“4.20 The new application for development on allocation HA4 proposes a signalised shuttle arrangement at the Downend Road bridge which addresses the single reason for dismissal of the appeal (insufficient provision for pedestrian access over the railway bridge) and will not result in a severe impact on the road network. An outstanding concern regarding pedestrian visibility can be addressed through the detailed design of the S278 works to ensure that there would not be an unacceptable impact on highway safety.”

5.62 Whilst there is no standard definition of what a severe impact constitutes, and impacts will need to be judged in their local context, it is clear that the NPPF deliberately sets a high bar to reject a development on traffic impact grounds. A severe impact is one that is very great and intense. That there is an impact from development, such as generating some delay on the network, is not grounds to refuse an application. Any such impact must be severe.

5.63 Members made no attempt to quantify what they considered the impact of the junction to be on the local network, and so it remains unclear how they concluded the impact will be severe.

5.64 Based on the LinSig model, as is agreed with HCC and which has been audited by the software owners, the impacts of the development will be:

- AM Peak – queues of 7-8 vehicles and delay of 25-30 seconds
- Interpeak - queues of 3-4 vehicles and delay of around 20 seconds
- PM Peak – queues of 4-5 vehicles and delay of around 25 seconds

5.65 Set in any context these impacts are not sufficient to be considered severe.

5.66 The FBC Transport Evidence Base for its Local Plan seeks to try to provide a threshold for both 'significant' and 'severe' impacts and can be used as a broad guide.

6.1.12 The change in RFC and delay between the scenarios has been calculated to identify locations where the forecast junction performance deterioration is most pronounced in terms of junction performance. The following criteria has been applied to identify junctions where operational performance worsens either significantly or severely (these criteria have been used on similar SRTM commissions in agreement with HCC):

- 'Significant' increase in RFC is where the RFC is greater than 85% and has increased by more than 5% on any approach arm; and
- 'Severe' increase in RFC is where the RFC is greater than 95% and has increased by more than 10%, or where delay is greater than 120 seconds and has increased by more than 60 seconds on any approach arm.

6.1.13 It should be noted that the above criteria are not the only measure by which junction/network performance or scale of impact associated to transport growth can be classified. They are considered a starting point (consistent with other SRTM commissions) for comparison of network performance from which subsequent more detailed assessment may refine those locations considered most impacted.

5.67 The FBC assessment identifies that where a junction reaches 85% Ratio of Flow to Capacity (equivalent to 90% DoS for signal junctions), then a 5% increase in RFC (or DOS) could be considered 'significant'.

5.68 In relation to 'severe' impacts, the FBC assessment identifies that these will potentially occur when an RFC of 95% is reached and has increased by 10%, or when delay is greater than 120 seconds and has increased by 60 seconds.

5.69 Using FBC's assessment criteria, the junction would not meet either the 'significant' or 'severe' impact thresholds. The junction operates well under 90% DoS, with significant space capacity (>15% PRC), and delays are some 30 seconds, not 120 seconds.

5.70 In more practical terms, the impacts that drivers on Downend Road will face will not be significant, let alone severe:

- A delay of up to 30 seconds in the context of a typical journey is small.
- All queues that occur at the junction will clear within a single traffic cycle, meaning vehicles will not be required to wait for more than one red light period.
- Traffic signal cycles are in real terms short (45-50 seconds).
- Much of the delay incurred at the junction will be absorbed downstream, for example any southbound vehicle that is delayed at the Downend Road Bridge is likely to be required to wait at the approach to the A27 junction and any delay incurred upstream will essentially be offset downstream.

Impact on Safety of Road Users

5.71 FBC has not clarified what the alleged safety impacts resulting from the operation of the traffic signals would be and it is unclear what safety impacts Members had in mind when refusing the application.

5.72 In relation to safety aspects, the Appellant notes that the scheme:

- Has been designed to accord with relevant design standards.
- No criticism of the design of the scheme was made by members.
- Has been subject to detailed and robust scrutiny by HCC as local highway authority who confirm it is acceptable.
- Was subject to an Independent Road Safety Audit, with all concerns addressed in the Designer's Response.
- Has been considered by FBC's own transport consultant and found to be acceptable. One issue was raised regarding the visibility to an informal crossing point south of the junction, but the response accepts this matter can be addressed through additional information and as part of the S278 process.

5.73 If the concerns from Members relate to the potential impacts of more extensive queueing and delay than the modelling projects, these are also unfounded and unevicenced.

5.74 These could really only relate to three matters:

- The potential for blocking back of adjacent junctions, impeding safe movement from adjacent junctions.
- The potential for vehicles to collide with queued vehicles waiting to access the junction

- The potential for waiting vehicles to jump the red light.
- 5.75 The assessment of the proposed junction presented and audited by JCT demonstrates that there will be no blocking of downstream junctions as a result of the scheme.
- 5.76 Drawing ITB12212-GA-066 demonstrates that there is 45m between the proposed junction stop line and the site access junction north of the bridge, and 55m between the proposed stop line and The Causeway to the south. Using the industry standard PCU equivalent (5.75m), this means that there is space for 8 vehicles on the southbound approach before impacting the proposed access junction, and 9 vehicles on the northbound approach without impacting The Causeway. The projected queueing on each approach falls short of these levels and there will be no blocking arising, even during the busiest periods of the day. Even using the overly robust JCT model the same is true.
- 5.77 Members disregarded the traffic modelling in its entirety and made no attempt to quantify what they believe the level of queueing and delay would be. Irrespective of this, in the event that longer queues arose, this would not cause any significant issue. HCC addresses this point in its response (Appendix 2) noting that:
- “Modelling has been provided for the proposed improvement using industry standard software (Linsig). This modelling has assessed the operation of the proposed layout to a design year of 2026. This modelling shows a maximum queue of 6.1 PCU’s in the AM peak period. The Highway Authority are aware of concerns regarding the queue at the signals extending back beyond the access to The Causeway. Whilst this is not borne out by the modelling undertaken, if this issue did arise, then ‘Keep Clear’ markings can be installed to ensure the junction is kept clear and able to continue operating.”*
- 5.78 Drawing ITB12212-GA-049 Rev F presents an assessment of visibility to the traffic signal junction. This demonstrates that adequate visibility is achieved to both the junction and the approaches to the junction, meaning any vehicles that were queueing on approach to the junction would be fully visible to approaching vehicles. Approaching vehicles would have ample time to slow / stop prior to queueing traffic.
- 5.79 In relation to the potential for vehicles to ignore a red light, this would not be likely in this case. The traffic signal cycles are short (45-50 seconds), delay low, and all queueing would clear within a single cycle phase. There would be no incentive or need for vehicles to ignore a red traffic signal, instead they will have confidence that any delay would be small. The inter-green periods are sufficient to ensure all vehicles using the junction can clear comfortably before the start of the new green stage.
- 5.80 The Appellant is unaware of the perceived safety harm that Members considered may arise from the proposed improvement. The scheme has been agreed with the local highway authority following detailed and robust scrutiny, and has been subject to Independent Road Safety Audit, as well as assessment by FBC’s own transport consultant. There are no expected safety issues arising as a result of the scheme.
- 5.81 To the contrary, it is considered that the improvement scheme will provide a road safety benefit to road users, particularly in that:

- The scheme will deliver a formal footway where none currently exists, improving the safety of Downend Road for existing and future residents and users
- The scheme will deliver reduced vehicle speeds, improving road safety.
- The scheme will regulate vehicle movements, removing the current overrunning of the centreline that persists at the junction and removing conflicts between vehicles.

5.82 HCC's response (Appendix 2) to the application recognised the safety benefits of the scheme:

“The Highway Authority is also conscious of the impacts of the proposed arrangement with regards the recent accident history at and in the vicinity of the bridge. It is considered that the implementation of the signals along with other supportive measures being taken forward by Hampshire County Council’s Safety Engineering Team as part of a programme to address existing road safety matters will aid with speed reduction on the approaches to the bridge.”

Safety of the Pedestrian Crossing Facilities

5.83 The final part to the Reason for Refusal relates to a perceived unsafe pedestrian crossing of Downend Road.

5.84 Some Members’ concerns appeared to relate to the lack of a pedestrian crossing phase at the traffic signal junction.

5.85 The improvement scheme and access works include the provision of a pedestrian refuge island. This is the most appropriate form of crossing for this location having regard to the limited scale of additional pedestrian movements that will seek to cross Downend Road and the existing road conditions and allows the crossing of the road in two stages where needed, providing safe refuge for any pedestrian.

5.86 The proposed pedestrian refuge island crossing is designed in line with relevant design standards and has been subject to detailed scrutiny by HCC in approving the works, as well as by Independent Road Safety Audit. FBC’s transport consultant (Mayer Brown) raised no issues with the form or safety of pedestrian crossing proposed.

5.87 It is relevant that the proposed pedestrian crossing / provision is identical to that proposed as part of Option 3 of the 2018 dismissed appeal. Whilst the Inspector dismissed Option 3 as part of that Appeal on traffic grounds, no concerns were raised regarding the type or design of the pedestrian crossing of Downend Road by FBC in its case, nor did the Inspector have any concerns in relation to the pedestrian safety provisions for Option 3.

5.88 One important consideration of the crossing is to ensure that there is adequate visibility of and at the refuge island. HCC sought additional information on this point prior to providing its response and Drawing ITB12212-GA-061 Rev A was submitted to demonstrate achievable visibility. This demonstrates:

- Visibility splays of 1.5m x 160m to the north, commensurate with a Design Speed of 50mph. Observed speeds confirm that a design speed of 40mph to the north is appropriate, and so more than adequate visibility is provided.
- Visibility splays of 1.5m x 49m to the south, commensurate with the visibility requirements derived from Manual for Streets based on observed northbound traffic speeds. Irrespective, additional visibility splays of 1.5m x 90m to the south (81.6m with no kerb off-set), are also shown to demonstrate more than sufficient visibility is available from the crossing.

- 5.89 To further demonstrate that the form of crossing is appropriate, HCC's PMV² assessment criteria has been used. This considers the most appropriate form of crossing for a particular road taking account of pedestrian demand and composition (including age), and the number of vehicles passing Downend Road. Whilst this guidance is designed to consider stand-alone crossings, it nevertheless provides the only guidance available to determine what type of crossing should be provided.
- 5.90 PMV² considers vehicle and pedestrian demands across the day, and determines whether:
- A controlled (signal) crossing is justified and should be provided using public or external funding (PMV² Value of >1.0).
 - A controlled crossing would be acceptable if external funding is available (PMV² Value of 0.5 < x >1.0).
 - A controlled crossing is not 'normally' justified. Zebra or pedestrian refuge crossings should be considered instead. (PMV² Value of 0.2 < x >0.5).
 - A controlled crossing facility is not justified. (PMV² Value of < 0.2).
- 5.91 The PMV² assessment for Downend Road demonstrates a score of 0.09 (Appendix 14). This falls well below the threshold where a controlled crossing would be justified and indeed suggests that no formal crossing provision would be required. Despite this, a pedestrian refuge crossing facility is provided as part of the scheme.
- 5.92 To confirm the robustness of this assessment, the PMV² assessment (Appendix 14) also considers an alternative assessment of pedestrian demands at Downend Road in line with the FBC assessment presented as part of the 2019 appeal. This identifies a PMV² score of 0.30, again well below a level that a controlled crossing is needed (1.0) or should be considered if funding allows (0.5 – 1.0). Using this assessment, a pedestrian refuge is identified as the most appropriate form of crossing.
- 5.93 The proposed crossing is appropriate to the site and future conditions on Downend Road and will provide a safe and appropriate crossing facility for new residents. Whilst Members may have preferred the inclusion of a pedestrian crossing phase in the traffic signal junction, to incorporate this would reduce the performance of the junction, increasing queueing and delay, and is not necessary in safety terms.

Summary of Transport Issues

- 5.94 The refusal of the application for transport reasons is unjustified and unfounded.

- 5.95 The proposed improvement to the Downend Road bridge will deliver a range of benefits to road users (including for pedestrians and vehicular traffic) in a manner that will not cause unacceptable disruption to users of the public highway or result in any safety concern.
- 5.96 The scheme has been assessed using industry standard traffic modelling software and found to work effectively. This modelling has been assessed independently by HCC and the software creators (JCT) and found to be acceptable. FBC's own transport consultant raises no concerns with the operation of the proposed improvement and confirm that it will not result in severe impacts, which is the test set by the NPPF.
- 5.97 Concerns relating to the safety of the proposed pedestrian crossing are equally baseless. The crossing provision is the same that was considered for Option 3 in the 2018 Appeal and in pedestrian safety terms found to be acceptable. The form of crossing (a pedestrian refuge island) is appropriate to the demands on Downend Road in terms of pedestrians and vehicles and will deliver a safe and suitable crossing of the road.

6. OTHER MATERIAL CONSIDERATIONS

6.1 This section addresses four important matters:

- The evidence base for the emerging strategy
- Housing land supply
- Affordable provision
- Third party representations

Emerging Plan Evidence Base

6.2 FBC is in the process of reviewing its development plan to cover the period to 2037. Consultation on a Regulation 19 version of the plan took place November – December 2020. However, following final confirmation of the revised standard methodology Local Housing Need FBC will need to revisit the housing requirement and associated allocations and undertake further consultation before submission of the plan for examination. The current position is set out in the public minutes from the FBC Executive Meeting dated 1 February 2021 (appendix 15).

6.3 Specifically, the 2020 Reg 19 plan had identified a housing requirement of 403 dpa, however the revised standard methodology has confirmed the local housing need to be 514 dpa (December 2020 MHCLG).

6.4 It is notable that the previous Reg 19 draft plan also sought to defer the housing requirement as follows:

- 450 dpa during the period 2021/22 - 2025/26
- 480 dpa during the period 2026/27 - 2030/31
- 625 dpa during the period 2031/32 - 2036/37

6.5 The approach would have failed to meet the housing need until the very last two years of the plan period, as follows:

Year	21/22	22/23	23/34	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35	35/36	36/37
Need	514	514	514	514	514	514	514	514	514	514	514	514	514	514	514	514
Accumulating	514	1028	1542	2056	2570	3084	3598	4112	4626	5140	5654	6168	6682	7196	7710	8224
Requirement	450	450	450	450	450	480	480	480	480	480	625	625	625	625	625	625
Accumulating	450	900	1350	1800	2250	2730	3210	3690	4170	4650	5275	5900	6525	7150	7775	8400
Shortfall / surplus	-64	-128	-192	-256	-320	-354	-388	-422	-456	-490	-379	-268	-157	-46	65	176

6.6 FBC's approach in this respect, would be unjustifiable and in addressing the housing need opportunities for early delivery must be identified.

6.7 Notwithstanding the above, even in addressing the lower housing requirement of 403 dpa, the appeal site was proposed for a residential allocation for 350 dwellings (see appendix 9). Certainly, with a requirement of 514 dpa there will be reliance on the

appeal site and to address need and contribute to a rolling five-year housing land supply.

- 6.8 To date all alternative available sites have been assessed through FBC's Strategic Housing Land Availability Assessment (SHLAA); the SHLAA includes an assessment of "all known sites that have the potential for housing development" (SHLAA para 1.2). The SHLAA (see appendix 16 for various extracts) explains:

"A detailed assessment of each site was made including the involvement of specialist officers as required (such as Tree Officers, Conservation Officers, Highway Officers and Ecology Officers). All key characteristics for the sites were recorded in accordance with the PPG. This includes site size and location (including site mapping), current use and character (the site and surrounding area), constraints, development progress and an initial assessment on suitability." (SHLAA para 3.11)

- 6.9 The appeal site is referenced no. 3030 and is considered to be suitable, available and achievable for residential development. Significantly, the SHLAA states, "It is considered that suitable access can be achieved onto Downend Road. Off-site pedestrian/cyclist improvements would be required both on Downend Road and on the Cams Bridge link to The Thicket."
- 6.10 Whilst the SHLAA explains that it only provides a first sift of sites, ultimately the site has been selected for draft allocation by FBC alongside the other evidence, including the report from its own transport consultants, Mayer Brown (appendix 3).
- 6.11 The emerging policy includes provision for highway improvements, including the provision of a footway across the existing Downend Road bridge, and this is exactly what the appeal proposals would provide.
- 6.12 At this early stage, there are clearly ongoing objections to the plan and the policies carry little weight, but the evidence base to the plan does clearly support the appeal site's sustainability and suitability for development in the way proposed.

Housing Land Supply

- 6.13 For the reasons set out in Annex 1 attached, the 5-year housing land supply is no greater than 1.7 years.

Affordable Provision

- 6.14 FBC commissioned The Health & Housing Partnership Ltd to produce a Housing Evidence: Overview Report, published in July 2017. This examined the need for affordable housing in Fareham, largely based on the 2014 and 2016 update SHMA figures (covering the period 2011 – 2036). It identified a net annual need of 302 additional affordable dwellings in the borough. The same report identified that, over the ten-year period 2006/07 - 2015/16, on average, only 97 net affordable dwellings had been completed annually. It also shows that delivery had slowed in the second five years period, averaging only 67 net affordable dwellings per year. This highlights a pattern of historic under-delivery.

- 6.15 By way of update, FBC published an Affordable Housing Strategy, in 2019. This identified a need for approximately 3,500 affordable homes over the 16-year plan period, which will only be delivered in combination with market housing in the right locations.
- 6.16 It is notable that the housing land supply promoted in the draft local plan amounts to 8,389 new homes. However, 94 of those homes comprise outstanding small permissions and 1,224 'windfalls', noted in the plan as likely to comprise previously developed land. Both categories are highly unlikely to achieve any affordable housing. Further, as noted above, 847 homes are to meet needs from adjacent boroughs and would therefore attract affordable need from adjacent boroughs rather than addressing FBC's need. Discounting these elements of supply, housing supply will be in the region of 6224 dwellings, and in order to meet the affordable demand 56% would need to be affordable.
- 6.17 Put simply, FBC is not proposing to release sufficient land for development to meet the need.
- 6.18 This clearly demonstrates that the Borough is and will continue to significantly under-provide with respect to affordable housing.

Interested Parties Responses

- 6.19 Third parties raise no additional material considerations that would suggest the application be refused. Many related to the general sustainability / accessibility of the site and wider traffic impacts but these matters were resolved to the satisfaction of HCC and the previous Inspector and were again addressed in the application submission.

7. PLANNING ASSESSMENT

- 7.1 There is compliance with the development plan, including site specific policy criteria guiding the approach to development on the edge of the settlement in the absence of a five-year housing land supply.
- 7.2 There are no material considerations (technical or policy matters) that would indicate planning permission should be withheld; the statutory test is met and compliance with NPPF 11c achieved.
- 7.3 If there is any doubt about how the policy should be interpreted, in the context of the NPPF and with regards to the high bar set to justify a refusal (i.e. there must be a demonstrable severe impact with regards to the operation of the highway or unacceptable highway safety impact) then given the policy is out of date, and even though still carrying significant weight, the tilted balance would indicate that planning permission should be granted as follows:

Harm

- 7.4 Policy conflict: the important policies, in so far as they are used to set an exceptionally high bar to resist development in this location, beyond the 'severe impact' as set in the NPPF, is inconsistent with the NPPF and must be given reduced weight.
- 7.5 There is an inevitable landscape impact, but this would be the case with the release of any greenfield site, the need for which is demonstrated given the housing land supply and local housing need position.
- 7.6 The loss of a green field site cannot be considered harmful *per se*. The site is not in a designated or particularly sensitive landscape character area and the evidence to the emerging plan and consultee responses to the application demonstrate that the application should not be refused as a consequence of the low level of landscape harm.
- 7.7 There is some harm to the setting of heritage asset, but this is at the very lowest level of 'less than substantial' and, even when great weight is given to that harm it is outweighed by the public benefits to be derived from the scheme.
- 7.8 There is no evidence of any other significant and demonstrable harm.

Benefits

Social Benefits

- 7.9 Delivery of much needed homes. Given national policy, and in the context of a significant housing land supply shortfall and acute affordable need, the provision made for market and affordable homes, carries very substantial weight in favour of the proposal.
- 7.10 The site lies in a sustainable location and overall supports an appropriate spatial strategy for the Borough, as demonstrated by the evidence base to the local plan. This carries substantial weight in supporting sustainable patterns of development.

- 7.11 Highway benefits which go beyond simply addressing the transport demands arising from the proposal. These wider benefits relate to improvements to walking and cycling infrastructure in the locality, improvements to public transport infrastructure and improvements to the highway network. These are substantial wider benefits to which moderate weight can be given in the planning balance.

Economic Benefits

- 7.12 Jobs, both during construction and in the longer term through support services and additional spending in the local area, provides a benefit of moderate weight. The HBF calculator (based on HBF research) identifies that building 350 homes would support employment for 1,085 people and 11 training / apprentice positions.
- 7.13 Support for local retail and community services, again the HBF calculator identifies £282,170 worth of spending associated with 350 homes, providing a benefit of moderate weight.
- 7.14 New Homes Bonus, is a benefit of moderate weight, particularly given that housing delivery within the Borough is currently stalled.

Environmental Benefits

- 7.15 Environmental benefits, for example associated with landscape planting, sustainable urban drainage, area set aside for biodiversity and the provision of gardens, carry moderate weight.

Conclusion

- 7.16 This appeal focuses on a single matter: the acceptability or otherwise of the proposed improvements to Downend Road bridge in the context of the resultant impact on the operation of the highway and on pedestrian safety.
- 7.17 The concerns of the previous Inspector, with respect to the scheme then promoted (priority shuttle working or reduced width footway) have been fully addressed through the planning application resubmission and this appeal. Other than the highway issue, the Inspector's approach (explicit or inferred) was that the site is sustainable and suitable for residential development – nothing has changed to alter this position.
- 7.18 The proposal would comply with the development plan, read as a whole. Material considerations do not indicate that a decision should be made other than in accordance with the plan. Planning permission should be granted without delay.
- 7.19 Members had no evidence on which to doubt the industry standard LinSig modelling outputs, no evidence on which to base their conclusions and no evidence to raise objection to the pedestrian crossing, which had not been a concern with respect to the previous scheme. On the contrary, their own officers, HCC officers and their own transport consultants had confirmed the acceptability of the Downend Road Rail bridge improvements, as a signal-controlled shuttle working arrangement. Members were unreasonable and unjustified in their approach and have prevented the effective

operation of the NPPFs presumption in favour of sustainable development to “*approve development without delay.*”

- 7.20 In accordance with the statutory provision and material considerations, including policy considerations and under any approach to the planning balance, planning permission should be granted.

8. THE EVIDENCE

8.1 The Appellant would call three witnesses:

- 1) Transport (requested inquiry procedure)
- 2) Planning (requested hearing procedure)
- 3) Housing land supply (if FBC position changes) (requested inquiry procedure)

8.2 The evidence would further demonstrate:

- Overall site suitability for residential development, in terms of location and technical matters – highlighting further the lack of technical matters
- Highway operation and safety to demonstrate that the proposed improvement to Downend Road railway bridge does not result in unacceptable queuing and thus a harmful effect the operation of the highway, to a severe level, and is safe.
- Acceptable pedestrian crossing provision with respect to Downend Road, from the site onto the existing footway on Downend Road and onwards to the public footpath.
- Compliance with development plan policy, addressing also the weight to be given to policies
- If necessary, that FBC cannot demonstrate a sufficient housing land supply
- Planning assessment

8.3 Given that a combined procedure is requested, it is anticipated that s106 matters will be addressed in the normal way, before and at the event, and that conditions will be agreed between FBC and the Appellant and contained within an agreed statement of common ground.

8.4 Relevant documents will include:

- The planning application, together with its supporting documents, drawings and other materials submitted during the course of the consideration of the application.
- Town and Country Planning Act 1990 & the Planning and Compulsory Purchase Act 2004
- National Planning Policy Framework (2019)
- FB Local Plan Part 1: Core Strategy
- FB Local Plan Part 2: Development Sites and Policies
- Emerging Local Plan 2037 and its published evidence base
- Relevant officer reports, including the planning application committee reports and five-year housing land supply update to planning committee
- Relevant appeal decisions and court judgements