

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



APPENDIX 10

TO THE APPELLANT'S STATEMENT OF CASE

HOUSING LAND SUPPLY STATEMENT

SUBMITTED BY TERENCE O'ROURKE LTD

MARCH 2021

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INTRODUCTION

- 1.1 This written statement addresses housing land supply (HLS) matters in respect of the appeal case relating to proposals for 350 homes at land to the east of Downend Road, Portchester. Farnham Borough Council (FBC) refused permission on 25 November 2020.
- 1.2 The National Planning Policy Framework (NPPF) paragraph 73 requires that:
- 1.3 *“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.”*
- 1.4 The starting point is FBC’s Five-Year Housing Land Supply Position, as set out in its statement dated June 2020 and its update to committee on 24 June 2020 (appendix HLS_1). Together, these reports are referred to as the Housing Land Supply Position (HLSP). In these reports the Council contends that it has a 4.03 year housing land supply in the period 1 April 2020 to 31 March 2025. This is measured against a requirement of 514 dpa together with a 5% buffer.
- 1.5 The publication of the 2020 Housing Delivery Test confirmed that only 79% of the requirement has been delivered in Fareham district over the last three years. FBC is therefore a 20% buffer authority.
- 1.6 In response, FBC’s position has been updated through evidence with respect to an ongoing appeal. The position is set out in the Updated Statement of Common Ground on Housing Land Supply Matters (dated 22 January 2021 Appendix HLS_2) which confirms that it is necessary to apply a 20% buffer and that in doing so the LPA can identify a 3.4 year land supply (paragraphs 2.3 and 2.4).
- 1.7 Clearly, this is a substantial shortfall, not only engaging the presumption in favour of granting planning permission for sustainable development, noting that FBC has confirmed its intention to allocate the site in its latest Reg 19 local plan consultation, but giving substantial weight to the benefit of delivering additional housing, including affordable housing, within the current five-year period.
- 1.8 The appellants position is that the shortfall is more significant than reported by FBC, as set out in this statement.

2 HOUSING REQUIREMENT

Baseline requirement

- 2.1 For the purposes of maintaining housing supply and delivery the NPPF, at paragraph 73, requires that that:

“Local planning authorities should 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 strategic policies are more than five years old.”

- 2.2 The Core Strategy, which sets the planned housing requirement for Fareham District was adopted in 2011 and is in need of review. In these circumstances, no alternative to the LHN is allowed for in the NPPF or National Planning Practice Guidance (PPG), for the purposes of assessing the five-year HLS. FBC’s HLSP therefore rightly uses the standard methodology local housing need (LHN) as its housing requirement.
- 2.3 At the present time and as set at 1 April 2020, the LHN for Fareham is 514 dwellings per annum (dpa).

Buffer

- 2.4 When using the LHN as the housing requirement for the purposes of calculating the five-year HLS, there is no requirement to take account of any accumulated shortfall from previous years (PPG ID: 68-031-20190722), as this is intended to be reflected in the affordability ratio as part of the LHN calculation. However, there is a requirement to add a buffer (NPPF para 73).
- 2.5 The extent of the buffer is determined by the Housing Delivery Test (HDT). The latest 2020 HDT, published February 2021, confirms that FBC is a ‘buffer’ authority, because its delivery over the last three years has only achieved 79% of the requirement. The 20% buffer is added to the requirement. This position is accepted by FBC (appendix HLS_2 paragraph 2.3).
- 2.6 To note, when FBC published its HLSP, the 2019 HDT identified FBC as a ‘no action’ authority, meaning at that stage it only needed to apply a 5% buffer to the requirement.
- 2.7 The effect of the 20% buffer is to increase the total housing requirement for the district, for period 1 April 2020 to 30 March 2025, from 2,699 dwellings to 3,084 dwellings.

Five-year requirement and supply position

- 2.8 To be clear, the five-year HLS requirement is the LHN plus buffer, as such the calculation is $(514 \times 5) \times 1.20$, which is **3,084 dwellings**. This can be divided into an annual requirement of 617 dwellings (rounded up to the nearest whole number).

- 2.9 FBC identifies a deliverable supply of 2,177 dwellings, which equates to a HLS of 4.03 years and provide a land supply shortfall of 522 dwellings.
- 2.10 Without looking into the detail at the supply, and therefore using FBC's supply of 2,177 dwellings, the increased requirement would result in a HLS of **3.5 years** (rounded up) (calculated as: $2,177 / 617$). The deficit is 907 dwellings.
- 2.11 FBC, in the statement of common ground (appendix HLS_2), states its position that there is a 3.4 year supply in the district. There is no update to the HLSP to accompany the statement of common ground and we can only assume the slight difference between our figure and theirs relates to the removal of some sites from the supply during the appeal process.
- 2.12 For the purpose of this statement, we start our assessment of supply on the basis of the HLSP June 2020 (2,177 dwellings) as the only comprehensive list available.

3 SITE ASSESSMENT METHODOLOGY

Definition of deliverable

3.1 There are a number of key paragraphs in the NPPF that specifically relate to the purpose of, and approach to, the HLS assessment and the definition of 'deliverable'. In a number of matters, the PPG further clarifies the policy. Attention is drawn to the following:

- NPPF para 73 – 76
- NPPF Glossary
- PPG 'Housing supply and delivery' ID68 (published 22 July 2019)

3.2 The Glossary to the NPPF provides a definition of deliverable; there are only two categories of sites, with the planning status of the site being a key consideration. In the first category (a) are small permitted sites and sites with detailed permission which should be considered deliverable unless there is clear evidence that housing completions will not be delivered within 5 years. In the second category (b) are outline permissions and development plan allocations which can only be considered deliverable if there is clear evidence that housing completions will start within 5 years.

3.3 It is highly relevant that the NPPF definition, in relation to category b) sites (including allocations and outline permissions), includes the requirement to demonstrate with clear evidence that *"housing completions will begin on site within five years."* This places the onus on the local planning authority to provide evidence and must be read alongside *'realistic prospect'*; it goes significantly further than the 2012 NPPF.

3.4 The PPG addresses in more detail how major allocated sites (more than 10 dwellings) which do not have planning permission or only have an outline permission, rather than detailed permission, might be included in the supply:

"What constitutes a 'deliverable' housing site in the context of plan-making and decision-taking?"

In order to demonstrate 5 years' worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the NPPF defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- *have outline planning permission for major development;*
- *are allocated in a development plan;*
- *have a grant of permission in principle; or*
- *are identified on a brownfield register.*

3.5 Such evidence, to demonstrate deliverability, may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;
- firm progress with site assessment work; or
- clear relevant information about site viability, ownership constraints or
- infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects. Plan-makers can use the Housing and Economic Land Availability Assessment demonstrating the deliverability of sites.” (ID: 68-007-20190722)

Relevant appeal decisions

3.6 To provide further context as to how the definition of deliverability is to be approached, the following appeal decisions are relevant (referenced in date order, with the earliest decision first):

3.7 The Woolpit decision dated 28 September 2018 (3194926) particularly paragraphs 65, 67, 72 & 73 93 (appendix HLS_3), which confirm that:

- The onus is on the LPA to provide clear evidence for outline permissions and allocated sites
- There is a clear cut-off date to the assessment, “... *The relevant period is 1 April 2017 to 31 March 2018. There is therefore a clear cut-off date within the AMR, which is 31 March 2018. The Council’s supply of deliverable sites should only include sites that fall within the definition of deliverable at the end of the period of assessment i.e. 31 March 2018. Sites that have received planning permission after the cut-off date but prior to the publication of the AMR have therefore been erroneously included within the Council’s supply. The inclusion of sites beyond the cut-off date skews the data by overinflating the supply without a corresponding adjustment of need. Indeed, that is why there is a clear cut-off date set out in the AMR.*” (para 67).

3.8 The Woolmer Green decision dated 26 October 2018 (3190821) particularly paragraphs 28 – 33 (appendix HLS_4) confirms that:

- There is no presumption of deliverability with respect to the second closed lists (outline permissions and allocations)
- Sites awaiting permission are treated with caution (excluded)
- The required evidence test for the second list must demonstrate homes “*will be delivered*”

3.9 The Bures Hamlet, Braintree, decision dated 27 March 2019 (3207509) (appendix HLS_5):

“Where there is to be reliance on an annual assessment then that clear evidence should logically be included in that published assessment or at least published alongside it. That would qualify as publicly available in an accessible format as the PPG requires. It would accord with guidance in PPG Paragraph 3-048 which applies to all forms of annual review including, but not limited to, annual position statements. That is not to say that there should be publication of every email or every note of a meeting or telephone conversation. The information can be provided in summary form but there needs to be some means of identifying the basis for the conclusion reached.

The information published here in the AMR is minimal and relies heavily on unsupported assertions that a site will be delivered. That does not amount to evidence. In most cases it does not include the additional information that was introduced only in oral evidence at the inquiry such as: the date when a reserved matters submission was made or anticipated; when a S106 obligation was completed; why a full planning application and not a reserved matters application was submitted on a site that already had outline permission; the source of an estimate of delivery rate; any assumptions and yardsticks that were applied where direct information was in doubt or missing; or other information of the type that could be readily summarised and published, possibly in tabular form.” (paras 66 & 67)

- 3.10 The Darnhall, Cheshire, decision dated 4 November 2019 (2212671) (appendix HLS_6) where the SoS confirmed that:

“He has gone on to consider the deliverability of six non allocated sites without planning permission that are disputed. The Secretary of State disagrees with the reasons given at IR 365 to 367, and does not consider that the sites, amounting to 222 dwellings, are deliverable since they do not fall within category a or b of the Framework’s definition of deliverable, and he does not consider that there is clear evidence of deliverability within five years as required by the Framework, given the outstanding issues of the need for legal agreements and agreements on reserved matters.” (DL para 18)

- 3.11 I note that the Barbrook Lane, Tiptree, Inspector did not approach the NPPF definition as a closed list (appendix HLS_7 para 168) but the SoS did not endorse this approach, restricting his endorsement of the Inspector’s conclusions to the assessment of sites in paragraphs 172 – 193. However, in judicial review proceedings brought by East Northamptonshire Council, the SoS for MHCLG has conceded that:

“he erred in his interpretation of the definition of deliverable within the glossary of the National Planning Policy Framework (“NPPF”) as a ‘closed list’. It is not. The proper interpretation of the definition is that any site which can be shown to be ‘available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years’ will meet the definition; and that the examples given in categories (a) and (b) are not exhaustive of all the categories of site which are capable of meeting that definition. Whether a site does or does not meet the definition is a matter of planning judgment on the evidence available.” (12 May 2020, Claim No. CO/917/2020).

Methodology

Baseline information

- 3.12 The 24 June 2020 Housing Land Supply Position (HLSP) report to committee and its update have been used as a starting point.
- 3.13 All larger sites (of 10 or more dwellings) included in the HLSP have been assessed for their deliverability, with reference to the above and, in particular, current planning status, history and potential yield.

Base Date

- 3.14 As confirmed above, it has long been established that in order to provide a robust position of supply against requirement, without over-inflating supply relative to the requirement, the base date must be treated as a cut-off date.
- 3.15 In this case the cut-off date is 31 March 2020; supply sites that are not allocated and have not yet achieved a planning consent at the base-date cannot be included, or later introduced into the HLS (through planning permissions or any other mechanism) until the next full and comprehensive update to the position statement.

Categories of sites

- 3.16 I have approached this evidence on the basis that, whether the NPPF delivery definition list is closed or not, major sites that do not benefit from detailed planning permission need to be confirmed through clear evidence. I have deleted those sites that are unsupported by the clear evidence necessary to demonstrate deliverability, taking the position that sites said to be in some other category (than a or b) cannot be subject to a lesser test of deliverability, in terms of the requirement for clear evidence, than those sites falling within category b).

4 FAREHAM BOROUGH COUNCIL'S HLS

4.1 The following identified sites contributing to FBC's total anticipated provision of 2,177 dwellings, are included in FBC's HLS trajectory:

- Sites with full planning permission (small and large)
- Outstanding outline Planning Permissions (large)
- Resolutions to grant planning permission (large)
- Local Plan policy compliant brownfield sites
- Local Plan adopted housing allocations
- Windfall

4.2 The following paragraphs only address those elements of the HLS which the appellant challenges.

Outstanding full planning permission

4.3 With respect to large sites (with full planning permission, 20 sites are considered by FBC to be deliverable in the five-year period contributing 371 dwellings to the HLS. Generally, as category a) sites, these are not challenged. However, one site is included with respect to which, my research suggests, planning permission has expired:

Land at 3-33 West Street, Portchester

4.4 A planning application to erect a second floor delivering 16 flats over the existing ground floor shops and first floor flats was approved 16 April 2007 (reference: P/07/0042/FP). Condition 1 of the decision requires development to have begun before the expiry of three years of the date of the permission. Therefore, before the 16 April 2010 (see appendix 8). Almost 11 years have elapsed since this planning permission expired.

4.5 There is no evidence on the planning file of any information submitted to discharge the four pre-commencement conditions and no evidence to suggest that a lawful start on site has been made.

4.6 Given the consent expired almost 11 years ago, the site would no longer fall within category a) and there is no evidence to confirm that it will now be brought forward for development, 11 years after the consent expired. I have removed the site from the HLS.

Outstanding Outline Planning Permissions – large (5+ dwellings)

4.7 Three sites are identified within this category, expected to deliver 99 dwellings in the five-year period, April 2020 to March 2025. Two are challengeable.

Land east of Brook Lane and South of Brookside Drive, Warsash (reference 16/1049/OA)

4.8 This site is identified as contributing 85 dwellings to the housing land supply position, 50 dwellings in year 21/22 and 35 dwellings in year 22/23.

- 4.9 Outline planning permission was approved on appeal 17 May 2018.
- 4.10 An application for the approval of the reserved matters details was submitted on the 25 March 2019 (reference: P/19/0313/RM). This application remains undetermined. As such the site remains a category b) site where clear evidence is required that the development will be delivered in the five year period.
- 4.11 Natural England responded to the reserved matters application on 1 May 2019 requiring further information to enable the impacts of the development on designated sites to be determined, specifically, the potential for significant effects on the Solent Special Protection Areas and Ramsar sites and Solent Maritime Special Area of Conservation. The information required includes a Habitats Regulations Assessment with a nutrient budget for the development. There is no HRA available on the application file.
- 4.12 Additional information was submitted on behalf of the applicant in February 2021. This did not include details of the nitrogen budget. Natural England respond to the submission on the 4 March 2021 reiterating its advice.
- 4.13 Until there is a nitrogen budget for the site, agreed and secured mitigation (if required) and an HRA confirming there are no significant effects on protected European sites, reserved matters permission cannot be granted. The site cannot be considered suitable. Without any evidence to suggest this matter can be overcome in relation to this site, it cannot be included in the HLSP.
- 4.14 Given the above, 85 homes are deleted from the HLS.

Land to East of Bye Road (self/custom build) (reference P/17/1317/OA)

- 4.15 Outline planning permission for 7 custom build dwellings was approved on 3 January 2019 and required reserved matter details to be submitted within a three-year period, therefore by 3 January 2022.
- 4.16 However, there is no evidence that reserved matters details have been submitted. The electronic files confirm that conditions have been approved but these do not relate to reserved matters detail.
- 4.17 As custom build properties, the site owner /developer will need to confirm and agree the sale the properties, before the details can be submitted, to ensure that the purchaser meets the requirements associated with the definition of 'custom build'. The Council has presented no evidence to demonstrate that discussions are on-going in this regard or that future owners have been secured.
- 4.18 As a category b) site, with no evidence presented by the Council to demonstrate delivery, 7 dwellings are deleted from the HLS.

Resolution to Grant Planning Permission – large (5+ dwellings)

- 4.19 There are 10 sites in this category identified in the HLSP, expected to delivery 709 dwellings in the five-year period. As proposed developments with a resolution to grant they do not fall into either category a) and are not named in category b). However, a similar approach can be taken as to category b) sites, requiring “*clear evidence that housing completions will begin on site within five years*” to be considered deliverable.

- 4.20 These sites were significantly delayed as a consequence of Natural England's advice in regard to UK and European protected sites in the Solent. FBC's position statement (available on the web site, a screen capture is included in appendix HLS_9) sets out the background and confirms that FBC was unable to grant permission for major development from January 2019.
- 4.21 Natural England identified two areas of concern;
- That increased levels of nitrates, from increased amount of wastewater from new dwellings, is likely to have a significant effect upon those species and habitats, and
 - That effects from increased traffic emission along roads withing 200 metres of the European Protected sites could also likely have a significant effect.
- 4.22 The result is that all applications in the district, where there is a net gain in residential dwellings, require a Habitat Regulations Assessment. To pass this appropriate assessment, applications need to complete a nitrate neutrality assessment and where nitrate levels are not maintained or reduced, mitigation is required.
- 4.23 Until recently, unless sites could deliver on-site mitigation (such as the appeal site) no mitigation was readily available to applicants. This included sites with respect to which there were resolutions to grant, because FBC has been unable to sign the section 106 agreements could not be concluded.
- 4.24 A report to the Director of Planning and Regeneration dated July 2020 confirmed that FBC were preparing to enter into a legal agreement with the Hampshire and Isle of Wight Wildlife Trust and Isle of Wight Council (HIOWWT) to deliver mitigation at Little Duxmore Farm, located on the Isle of Wight (appendix HLS_10).
- 4.25 Notwithstanding the agreement between the Council and the Trust, it is understood that the scheme requires individual developers to purchase nitrate credits directly from the HIOWWT and to confirm to FBC the purchase at the point of approval (see appendix HLS_11 for the HIOWWT Solent nutrients issues- a nature-based response, dated August 2020 which explains the mitigation).
- 4.26 The HIOWWT paper explains that Natural England has assessed the potential for Duxmore Farm to provide nitrogen credits and has determined that there are 800 nitrate credits available, estimated to provide nitrate credits for about **400 homes** (see appendix HLS_11, page 7 of 10).
- 4.27 The credits could be used/purchase by any development in the five fluvial catchments of the Solent ecosystem (East Hampshire, Isle of wight, River Itchen, River Test and Chichester Harbour, see appendix HLS_11 page 3 of 10). They are not ring-fenced for sites within Fareham district.
- 4.28 It is unclear as to whether other authorities have entered into an agreement with the HIOWWT. However, there is no certainty that all of the available credits (400 homes) will be used by Fareham sites. Further, it is unclear as to if, when and how other mitigation schemes that might be able to deliver nitrogen credits, will be brought forward.

- 4.29 To provide some context in Fareham alone, the HLS position statement identifies 709 dwellings that have a resolution to grant permission at the date of publication. Not all those homes will be able to benefit from the Duxmore Farm scheme.
- 4.30 It is also relevant to note that the HLOWWT statement (appendix HLS_11 page 7 of 10) suggests each credit will cost £2,500 each, and that each dwelling will need two credits. Hence, the cost per dwelling is £5,000. This could have a significant impact on scheme viability.
- 4.31 It is relevant to note that, at a presentation to the Planning Development and Scrutiny Panel on 24 February 2021, officers explained to members that, *“until a sustainable, long term nitrate mitigation strategy is in place, the Housing Delivery Test is going to be a concern from many years to come”* (appendix HLS_12 page 3). Clearly, officers recognise that Duxmore Farm cannot be a solution for every scheme.
- 4.32 On this basis, where planning permission has yet to be granted and without evidence to demonstrate that developers have reached an agreement to purchase nitrate credits from HLOWWT or provide on-site (or alternative) mitigation, in order to pass a HRA, the following can be deleted from the HLS:
- Land at Brook Lane, Warsash (reference: P/17/0845/OA) – **180 dwellings** (22/23 – 40 dwellings, 23/24 – 70 dwellings, 24/25 – 70 dwellings)
 - Land south of Greenaway Lane, Warsash (reference: P17/0998/OA) – **145 dwellings** (22/23 – 20 dwellings, 23/24 – 60 dwellings, 24/25 – 60 dwellings)
 - Land south west of Sovereign Crescent, Locks Heath (reference: P/18/0484/FP) – **38 dwellings** (21/22 – 24 dwellings, 22/23 – 14 dwellings)
- 4.33 In conclusion, **363 dwellings** area deleted from the supply until such time as evidence is presented to demonstrate that the schemes have passed the HRA, section 106 is signed and permission is issued.

Local Plan Policy Compliant Brownfield Sites

- 4.34 There are two sites identified in the HSLP in this category, expected to deliver 145 dwellings in the five-year period.

Warsash Maritime Academy

- 4.35 According to FBC’s HLPS the site is brownfield and its development compliant with local plan policy. It is not specifically allocated in the adopted local plan. There is no planning application or permission, timescales, and deliverability, remain uncertain.
- 4.36 The site contributes 100 dwellings to the HLS, 50 in year 23/24 and 50 in year 24/25.
- 4.37 On 19 March 2019 the Council determined a screening request for the re-development of the site to provide up to 100 dwellings (of which 66 would be sheltered apartments) together with 1735 sqm of employment floor space. In deciding that the proposed development represented EIA development, and an

Environment Statement would be required, the Council noted that, *“the environmental sensitivity of the site likely to be affected by the development has in particular led to this decision”* (decision reference: P/19/0202/EA).

- 4.38 There is no further evidence of any subsequent applications or submissions to the FBC to progress the site.
- 4.39 As an NPPF category b) site, there remains no clear evidence of progress since FBC determined a screening request two years ago. Without clear evidence of progress, to demonstrate both suitability and ability of the site to deliver 100 homes, 100 homes can be deleted from the HLS.

Local Plan Adopted Housing Allocations

- 4.40 There are seven sites in this category, expected to contribute 624 dwellings to the five-year HLS position.
- 4.41 As these sites are allocated in a development plan they fall within category b), where clear evidence is required to demonstrate housing completions can be within the five-year period.

Wynton Way, Fareham LP2 H3

- 4.42 The site is allocated in the Local Plan part 2. The supporting text of the local plan provides some background, indicating that it is a former community use deemed surplus to requirements by Hampshire County Council. The Local Plan anticipates the site could deliver between 8 and 10 dwellings.
- 4.43 The HLSP states that 10 dwellings will be delivered in the year 22/23.
- 4.44 The site does not benefit from planning permission or even a planning application. FBC has provided no evidence of any pre-application discussions or enquires in regard to this site.
- 4.45 There is no evidence to demonstrate that the site could successfully accommodate 10 dwellings, noting the allocation is between 8 and 10 dwellings.
- 4.46 As an NPPF category b) site, there is still no clear evidence of progress, and as such 10 homes are deleted from the HLS.

335-337 Gosport Road, Fareham LP2 H4

- 4.47 The site is allocated in the Local Plan part 2 for 10 dwellings, however it should be noted that only 8 dwellings are included in the HLS, to be delivered in year 23/24.
- 4.48 The supporting text of the local plan indicates that part of the site might be required as a construction compound for the Bus Rapid Transit, with potential for contamination and that an intermediate pressure gas main crosses the site. The allocation also confirms that the site is also 200m from the protected Portsmouth Harbour SPA / Ramsar / SSSI.
- 4.49 The site does not benefit from planning permission or even a planning application. FBC has provided no evidence of any pre-application discussions or enquires in regard to this site.

- 4.50 As an NPPF category b) site, there is no clear evidence of progress, and as such 8 homes are deleted from the HLS.

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

- 4.51 The site is an allocated site in the adopted Local Plan part 2 (2015). Its allocation was rolled forward from the Local Plan Review (2000). The supporting text of the local plan acknowledges that, at the time of writing, the 2.12 ha site was in multiple ownership, contained groups of protected trees together with a stream running north to south, and that Southern Water Sewage infrastructure crossed the site.
- 4.52 The site does not benefit from planning permission or even a planning application. FBC has provided no evidence of any pre-application discussions or enquires in regard to this site.
- 4.53 The site contributes 50 dwellings to FBC's HLS, delivering 20 homes in 2023/24 and 30 homes the year after. However, there is no supporting information in the HLPS from the site owners, promoters or developers (should they be on board) to demonstrate the site may be brought forward in the next four years to deliver 50 homes.
- 4.54 As an NPPF category b) site, there is no clear evidence of progress, and as such 50 homes are deleted from the HLS.

33 Lodge Road, Locks Heath (LP2 H10)

- 4.55 The site is an allocated site in the adopted Local Plan part 2 (2015). Its allocation was rolled forward from the Local Plan Review (2000).
- 4.56 The site contributes 10 dwellings to the HLS position in the final year of the five-year period (2024/25).
- 4.57 An outline planning application to develop 9 dwellings was refused 4 November 2019 (reference: P/20/0257/OA) due to *"insufficient evidence ... to demonstrate that the proposed development would not have an adverse impact upon protected species"*, in addition to the absence of a legal agreement to provide satisfactory mitigation against in combination effect on the Solent SPA and potential adverse effects upon European Protected Sites from increased wastewater and emissions from traffic. There is no record of any subsequent applications seeking to address these reasons for refusal.
- 4.58 With a refused application and no supporting information available from landowners or developers to demonstrate that the reason for refusal can be, or have been, addressed, there is no evidence to demonstrate that the site is suitable for development.
- 4.59 As an NPPF category b) site, without clear evidence, 10 homes are deleted from the HLS.

Land off Church Road (LP2 H8)

- 4.60 The site is an allocated site in the adopted Local Plan part 2 (2015). Its allocation was rolled forward from the Local Plan Review (2000). The supporting text to the

allocation notes that it is adjacent to Warsash Common Local Nature Reserve and Land South of Dibbles Road Site of Importance for Nature Conservation (SINC). Land use records also indicate that there could be contamination at the site.

- 4.61 The site contributes 26 dwellings to the HLS position in the year 2023/24, however the allocations is for 20 dwellings.
- 4.62 The site does not benefit from planning permission or even a planning application. FBC has provided no evidence of any pre-application discussions or enquires in regard to this site. The site has been allocated since 2000, for 21 years, and there appears to be no progress made towards bringing the site forward for development.
- 4.63 There is no evidence to demonstrate that developing adjacent to the Local Natural Reserve and SINC would be acceptable.
- 4.64 There is no supporting information from the site owners, promoters or developers (should they be on board) to demonstrate the site would be brought forward in the next three years, to deliver 26 dwellings.
- 4.65 As an NPPF category b) site, there is no clear evidence of progress, and as such 26 homes are deleted from the HLS.

Welborne (LP3)

- 4.66 Welborne is allocated in the Fareham Core Strategy and the Local Plan part 3 (LP3). The LP3 identifies that the site could deliver up to approximately 6,000 dwellings and envisages completion by 2036.
- 4.67 An outline application for the site was received by FBC in March 2017 (reference: P/17/0266/OA). The outline application is for a 6,000 dwelling new community along with a variety of services, facilities and employment space, including the remodelling of M27 junction 10 and works to the A32 (including three new junctions) (see appendix HLS_13 for the submitted 'amendment' planning statement).
- 4.68 Welborne is a category b) site. The HLSP includes 450 dwellings from Welborne; 30 dwellings in year 22/23, 180 dwellings in year 23/24 and 240 dwellings in year 24/25.
- 4.69 The outline application was first considered by FBC planning committee in October 2019. A resolution to approve was given, subject to the agreement of a section 106. Permission has as yet to be issued.
- 4.70 Significant improvements are required to the M27 J10 as a critical element of infrastructure required to deliver Welborne. Hampshire County Council was the scheme promoter for the M27 J10 improvements, but this role ended February 2021, as set out below.
- 4.71 In terms of the planning application, it has been agreed that there is local highways capacity to deliver up to 1,160 homes prior to the implementation of the M27 J10 improvements. However, proposed planning condition no. 56 requires that details of the sources of all funding necessary to carry out the works to J10 of

the M27 must be submitted to and approved by the Local Planning Authority before any development can commence.

- 4.72 An amendment to the application was submitted December 2020. The amendment acknowledges the ongoing funding issues with the improvement works, notably identifying a £50 million funding gap (appendix HLS_13, page 6, table 2).
- 4.73 The supporting planning statement (appendix HLS-13) to the amendment to the planning application sets out the “best case” for anticipated delivery from site, which accords with the HLSP (paragraph 2.26). However, table 3 sets out the potential programme with key milestones. Within the programme there are two significant unknowns. The first, the period of time it will take to sign the section 106 agreement and the second the period of time to secure the M27 J10 funding. The applicant acknowledges that this timetable is “best case” and there are clearly two significant hurdles that remain unknown in terms of if, and then when, they might be resolved. The following paragraphs set out the significant issues with the funding and ability to secure the M27 J10 improvements, necessary to enable development to commence.
- 4.74 The amendment to the application seeks to provide a £40 million contribution from the development to the M27 J10 improvements, as opposed to the previous £20 million developer contribution, however, this alters the scheme viability.
- 4.75 Without these changes the planning statement states that there is *“little prospect of Welborne progressing further, as additional Government funding outside the HIF is unlikely to be secured imminently, meaning progress with HCC and Highways England will be lost”* (paragraph 3.8).
- 4.76 On the 27 January 2021, the planning committee agreed to the following amendments to the scheme, so that the £40 million contribution to the M27 J10 would be viable:
- A reduced affordable housing contribution with a longer period before the review mechanism in the section 106 is triggered.
 - The removal of the commitment to 10% Passivhaus and 15% Lifetime Homes
 - Zero rate the development at Welborne in terms of CIL (It should be noted that FBC has consulted on an amendment to the draft CIL Charging Schedule and that will be submitted to the Planning Inspectorate for examination but has yet to pass this point).
- 4.77 It is hoped that the remaining £30 million funding gap is secured through grant funding from Homes England, taken from the Housing Infrastructure Fund Marginal Viability Grant. This grant will need to be repaid.
- 4.78 In a letter date 3 February 2021, Peter Grimwood, FBC’s Chief Executive Officer (appendix HLS_14), states that the *“Homes England funding contract allows for review points in the scheme so that the project can be stopped at the point that the final tender cost is known”*. Even if development is commenced, this puts into question ongoing delivery, which can be stopped if any funding commitment is withdrawn.

- 4.79 The letter also highlights other critical terms of the grant specifically, *“that of full repayment of the grant following specific events of default”*, the consequence of which, the letter indicates, would rule FBC as project lead.
- 4.80 FBC asked HCC to take on the role of Delivery Body for the junction improvements, a role that needs to be filled to progress the scheme and secure the funding. However, Hampshire County Council (HCC) is unwilling or unable to accept the risks associated with the grant (see appendix HLS_15, Addendum Revised Recommendations, recommendation 6).
- 4.81 The HCC Decision Report (HLS_16), following the cabinet meeting on 9 February 2021, confirms that there can be *“no further progression without confirmation of a Delivery Body”* (paragraph 8). The report confirms the HCC resolution that:
- “there can be no guarantee at this time that all funding is in place to deliver the Scheme, and cover the financial risks associated with potential cost escalation. This remains a fundamental red line for the County Council, which means that it would not be possible for the County Council to take on the role of delivery body. The risks to the County Council associated with becoming the named Delivery Body, in both financial and reputational terms are very significant, and the County Council is not in a position to take such risks on”* (paragraph 41, our emphasis).
- 4.82 Thus, despite the risk to the delivery of Welborne, HCC is not prepared to be the Delivery Body for the scheme but would provide a supporting or contractual role (paragraph 43). The report notes that without a Delivery Body the £30 million HIF funding is *“likely”* to be lost (paragraph 42).
- 4.83 In short, without an appropriate body able to take responsibility for the grant, funding is in significant doubt and so is the deliverability of the scheme.
- 4.84 It is important to highlight that the planning statement acknowledges that *“without funding certainty, the delay to delivery could be exponential”* (appendix HLS_13, paragraph 2.19).
- 4.85 At the current point in time the scheme is not available and is undeliverable.
- 4.86 There remain three significant issues to be resolved that create significant uncertainty around the site’s deliverability:
- The lack of a delivery body for the required improvements to the M27 J10.
 - The lack of ability to secure HIF funding to fill the funding gap for the M27 J10 improvements and therefore enable the developer to discharge the requirements of condition 56, if and when planning permission is issued.
 - The impact on the scheme’s viability if the revised CIL charging schedule is not adopted, thereby zero rating Welborne, to ensure the development can contribute £40 million to the M27 J10 works
 - The timescales for the completion of a signed section 106, with the contingency of £5-10 million also covered by the developer.
- 4.87 There is no clear evidence to demonstrate that these three issues can be resolved to enable delivery of the development within the five-year period.

4.88 At the current time, whilst there is an allocation, there is no outline planning permission, and no clear evidence that the site can be delivered in the five-year period. All of the evidence points towards demonstrating that this site if not deliverable.

4.89 In conclusion, 450 dwellings can be deleted from the HLS.

Summary

4.90 The above deletes the following from the HLS:

Table 1: HLS Reductions

Sites with full planning permission	
Land at 3-33 West Street	-16
Outstanding outline planning permissions	
Land east of Brook Lane and south of Brookside Drive	-85
Land to east of Bye Road	-7
Resolution to grant planning permission	
Land at Brook Lane	-180
Land south of Greenaway Lane	-145
Land south west of Sovereign Crescent	-38
Local Plan Policy Compliant Brownfield Sites	
Warsash Maritime Academy	-100
Local Plan adopted Housing Allocations	
Wynton Way	-10
335-337 Gosport Road	-8
East of Raley Road	-50
33 Lodge Road	-10
Land off Church Road	-26
Welborne	-450
Total	-1,125

5. REVISED HOUSING LAND SUPPLY

5.1 The HLS can be recalculated as follows:

Table 2: HLS re-calculation

	Housing Requirement	Supply	Shortfall	HLS
	3,084			
FBC Position		2,177		
Deductions		-1,125		
Revised HLS		1,052		
HLS Position			-2,032	1.7 years

6. SUMMARY AND CONCLUSIONS

- 6.1 This evidence has addressed the HLS position in FBC and demonstrates that the published position is far from robust. The deliverable supply HLS is 1.7 years, representing a substantial shortfall of 2,032 dwellings.
- 6.2 The provision of housing at the appeal site in the five-year period must carry substantial weight in the planning balance to help address this shortfall.
- 6.3 Overall, the evidence confirms that NPPF 11 (dii) is engaged, and that the shortfall in housing provision is substantial. The situation can only be managed through the grant of planning permissions for sites such as the appeal site.