

# LAND TO THE EAST OF DOWNEND ROAD, PORTCHESTER, FAREHAM BOROUGH

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

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.

LPA REFERENCE: P/20/0912/OA

## STATEMENT OF COMMON GROUND HOUSING LAND SUPPLY

LPA: FAREHAM BOROUGH COUNCIL  
APPELLANT: MILLER HOMES

Signed on behalf of the Appellant:



Jacqueline Mulliner MRTPI, Managing Director, Terence O'Rourke Ltd

Date: 2 July 2021

Signed on behalf of the LPA:



Richard Wright MRTPI, Principal Planner, Fareham Borough Council

Date: 2 July 2021

## Introduction

- 1.1 This Statement of Common Ground (SoCG) has been prepared by Terence O'Rourke on behalf of the appellant Miller Homes ("the Appellant").
- 1.2 It has been prepared in conjunction with Fareham Borough Council (FBC) the Local Planning Authority. It relates to a planning appeal made pursuant to Section 7 of the Town and Country Planning act 1990, in respect of Land East of Downend Road, Portchester.
- 1.3 The purpose of the SoCG is to identify the areas where the principal parties (the Appellant and the LPA) are in agreement and to narrow down the issues that remain in dispute on this matter.

## 2 Matters not in dispute

- 2.1 This section set out the matters that are not in dispute between the Appellant and the LPA.

### *Five-year housing land supply*

- 2.2 It is agreed that the LPA is currently unable to demonstrate a five-year housing land supply and that as a result the presumption in favour of sustainable development applies for the determination of this appeal.
- 2.3 It is agreed that whilst the respective parties differ on the precise extent of the current shortfall, with FBC identifying a 3.57 year housing land supply and the Appellant identifying a 1.75 year land supply, the shortfall is material on either basis. As such it is not considered necessary for the Inspector to conclude on the precise extent of the shortfall.

### *Assessment period*

- 2.4 It is agreed that it is appropriate to assess the five-year land supply position over the latest period for which information is available, which is 1 January 2021 to 31 December 2025.

### *Local Housing Need*

- 2.5 It is agreed that the five-year housing land supply should be assessed against the local housing need calculated using the standard method.

### *Buffer*

- 2.6 As a result of the 2020 HDT results published in February 2021, it is agreed that it is appropriate to apply a 20% buffer.

### *Five-year requirement*

- 2.7 FBC's position is that the five-year requirement is 539 dwellings per annum.
- 2.8 The Appellant's position is that the five-year requirement is 541 dwellings per annum.
- 2.9 The difference is 12 dwellings over the five year period. For the purposes of the Appeal it is agreed that the difference is not material.

### *Future land supply*

- 2.10 It is agreed that the Council is likely to remain unable to demonstrate a five-year housing land supply at least until the emerging Local Plan is adopted.
- 2.11 It is agreed that the Council is likely to be subject to a record of substantial under-delivery following the publication of the 2021 and 2022 Housing Delivery Test results until the 2023 results are published.
- 2.12 It is agreed that the standard method as of 1<sup>st</sup> April 2021 identifies a local housing need for 541 homes per annum.

*Affordable Housing Need and supply*

- 2.13 It is agreed that the Affordable Housing Strategy identifies a need for 3,500 affordable homes over the period 2019-36 equivalent to 206 affordable homes per annum and that the revised draft publication Local Plan acknowledges this need.
- 2.14 It is agreed that there has been a sizeable under-delivery of affordable housing in Fareham Borough since 2011.
- 2.15 It is agreed that there is substantial need for additional affordable housing.

## Matters in dispute

- 3.1 The Appellant considers that the Council is able to demonstrate a deliverable supply of 1,139 homes whilst the Council considers that it is able to demonstrate a deliverable supply of 2,310 homes. The respective positions in regard to disputed sites are set out in the table in appendix 1.
- 3.2 The Appellant considers that the Council is able to demonstrate a 1.75 year housing land supply.
- 3.3 The Council considers that it is able to demonstrate a 3.57 year housing land supply.

## Appendix 1: Respective positions on disputed Housing Land Supply Sites (Housing Land Supply sites taken from Five Year Housing Land Supply Position February 2021)

The intention is that this table will provide a list of disputed sites and a short summary of each parties' key points.

It should be noted that, given the Council's Housing Land Supply Position, the Appellant has undertaken a high level assessment and has not interrogated in detail all sites included on the Council's list.

Site details	Category included in Feb 2021 HLS Statement	Total included in Feb 2021 HLS Statement	Summary Position of Fareham Borough Council	Summary Position of the Appellant (Further detail to be provided in the Planning and Housing Land Supply proof of evidence).
Land east of Brook Lane P/19/0313/RM and P/16/1049/OA	Outstanding outline planning permission	85	<p>The applicant proposed to submit amended plans in November 2020 and that the first completions would then be achieved in 2022/23.</p> <p>The Council had agreed an extension of time for the determination of the RM application until 27<sup>th</sup> April 2021 to facilitate work to improve the overall quality of the scheme.</p> <p>The amended plans have been publicised. The applicant has confirmed that nitrate mitigation is to be provided using credits from the Whitewool Farm scheme (Meon Springs).</p>	<p>NPPF category 'b' site. There is no clear evidence that the site is suitable and that the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>• The Reversed Matters application has not been approved</li> <li>• There is no nitrate mitigation in place for this site. Natural England's response to the application on 23 March 2021 confirms they are still waiting information in regard to nitrates and the HRA/ AA.</li> <li>• There is an HCC Highways holding objection to the application.</li> </ul>

			An Extension of time has been agreed to 25 <sup>th</sup> June 2021.	
Wynton Way, Fareham	Local Plan adopted Housing Allocation	13	<p>The adopted Local Plan estimates that this site has a capacity of 10 dwellings. The site is identified in the Council's adopted Affordable Housing Strategy (2019) for delivery within the next 5 years. This site is a top priority as it is in an area of high affordable need.</p> <p>The site is part owned by the Council and Hampshire County Council (HCC). Active and positive discussions are currently underway to bring the ownership entirely within the Council's control. HCC has recently agreed to dispose of the adjacent Kershaw Centre and the Council are in active negotiations to also acquire this part of this site. The larger site (including the Kershaw Centre) will provide in the region of 19 new affordable homes overall, a higher number of dwellings than anticipated by the adopted Local Plan. An architect, MH Architects, has already been appointed with initial drawings provided and a planning application is expected in 2021. A nitrate solution is also in place.</p>	<p>NPPF category 'b' site. There is no clear evidence that the site is suitable and that the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>• Allocated for 10 dwellings.</li> <li>• In FBC's Affordable Housing Strategy (2019) for delivery with five years but part owned HCC.</li> <li>• No application.</li> <li>• The site will need to be purchased by FBC.</li> <li>• FBC suggest there is nitrate mitigation in place but there is no evidence of this as there is no a live planning application and no confirmation that Natural England has agreed the HRA/ AA is passed.</li> </ul>

			<p>The Affordable Housing Strategic Lead at the Council has advised that recent Fareham housing projects typically see a start on site within approximately 12 months of a planning consent. Construction works would be expected to take approximately 18 months and delivery is therefore expected within 5 years.</p>	
Land off Church Road	Local Plan adopted Housing Allocation	20	<p>The adopted Local Plan indicates that site has an indicative capacity of 20 dwellings however the landowner has indicated that the site is capacity of delivering 26 dwellings. It is accepted that to date, no applications for planning permission have been submitted. However, information provided by the landowner in March 2020 stated that it anticipated delivery of the site in 2022/23 subject to a solution for nitrate mitigation.</p> <p>The Council has adopted a more precautionary approach and identifies the delivery of the site in 2023/24. On the basis of discussions with the landowners, and the small number of dwellings estimated to be completed, the Council is confident in the yield and delivery of the site within the 5 year period.</p>	<p>NPPF category 'b' site. There is no clear evidence that the site is suitable and that the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>• There is no planning application for this local plan allocation.</li> <li>• FBC include the site within the supply as in March 2020 the landowner suggested the site could be brought forward in the five year period if a nitrate solution was found. There is no evidence that the landowner has found or presented a suitable nitrate solution and that this solution is acceptable to Natural England.</li> <li>• The site is adjacent to a SINC and no evidence that development in close proximity to the SINC will be acceptable.</li> </ul>



<p>Heath Road, Locks Heath</p>	<p>Resolution to grant Planning Permission large 5+ dwellings</p> <p>P/17/1366/OA</p>	<p>70</p>	<p>The Council resolved to grant outline planning permission for 70 dwellings (P/17/1366/OA) subject to a Section 106 in February 2018. However, consent is likely to be delayed due to the need to carry out updated Phase II ecology surveys and a revised parameter plan/quantum of development accordingly given the time that has lapsed since the resolution to grant planning consent in February 2018. No decision is therefore anticipated until before August 2021 and the applicant has agreed an extension of time for determination of the application until the end of that month.</p> <p>The applicant Hampshire County Council has advised that they have developed a bespoke nitrate mitigation proposal using land within its ownership within Fareham Borough. Subject to approval being given at a forthcoming cabinet meeting the applicant intends to submit full details of the mitigation proposal during the summer 2021 to allow a decision to be issued within the agreed timescale.</p> <p>The conditions of the consent once issued require an application for</p>	<p>NPPF category 'b' site. There is no clear evidence that the site is suitable and that the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>• Applicant is HCC, there is no developer on board.</li> <li>• FBC acknowledge that further ecology survey work is anticipated and a revised layout before the scheme can be re-considered by planning committee. There is no update on the application internet page since September 2020, so no evidence this work has been undertaken.</li> <li>• HCC are pursuing a bespoke nitrate mitigation plan. However, FBC acknowledge that this does not have cabinet approval. There are no details of this mitigation or any agreement to the nitrate solution from NE or confirmation HRA/AA is passed.</li> </ul>
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			<p>approval of reserved matters applications is to be made to the local planning authority before the expiration of three years from the date of the permission. Work is to be commenced no later than two years from the approval of the final reserved matters. The conditions and obligations are standard and not onerous.</p> <p>Whilst some dwellings could be delivered in 2023/24, it is likely the scheme will not be substantially completed until 2024/25.</p>	
Welborne	Resolution to grant Planning Permission large 5+ dwellings	350	<p>Revised trajectory of 390 homes in the five year (Jan 2021 to Dec 2025) period based on the following trajectory:</p> <ul style="list-style-type: none"> <li>• 23/24 – 30 dwellings</li> <li>• 24/25 – 180 dwellings</li> <li>• 25/26 – 240 dwellings</li> </ul> <p>The funding position is nearing completion. Contingency funding identified for M27 junction works. HCC poised to take on role of Delivery Body (subject to Committee approval on 13<sup>th</sup> July 2021). Revised application currently being consulted upon. Delivery trajectory revised accordingly.</p>	<p>NPPF category 'b' site. There is no clear evidence the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>• At the time of writing there is no delivery body to secure the improvements to the M27 J10.</li> <li>• HIF funding is only secured in principle and without the Delivery Body the HIF cannot be secured at this time and the developer can therefore not discharge proposed condition 56.</li> <li>• Planning Committee needs to consider the latest amendments to the application in regard to reducing delivery of affordable housing to as little as 7%, this can only be done once the public consultation period has expired.</li> </ul>

				<ul style="list-style-type: none"> <li>If all the above is agreed and secured the section 106 still needs to be completed. This will be a complicated agreement and there is no evidence to demonstrate how far this document has progressed and how close its agreement might be.</li> </ul> <p>The Appellant notes that there is on-going consideration of this outline planning application and further updates may be available from FBC before the Inquiry. The appellant therefore reserves the right to review the delivery trajectory put forward by the Council if the above situation changes.</p>
Warsash Maritime Academy	Brownfield Register	100	<p>No planning application has been submitted for development on this site which has since been allocated for 100 dwellings in the Regulation 19 version of the draft Local Plan 2026. The landowner, Solent University, exchanged contracts with Metis Homes on 23rd December 2020 for the disposal of the land. Metis have requested pre-application advice from the Council and the Council is currently in the process of considering the material that has been submitted with a view entering discussions with the developer during July/August 2021.</p>	<p>NPPF category 'b' site. There is no clear evidence that the site is suitable and that the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>No agreed nitrate solution.</li> <li>No planning application</li> <li>Confirmation that EIA is required and therefore any proposals will need to be tested through the EIA process.</li> <li>Suitability of the site has not been tested.</li> </ul>

			<p>The latest information provided by site promoter in October 2020 (FBC.11, p16) confirmed the delivery of the site as follows: 2021/22 – 100 dwellings, 2022/23 – 50 dwellings. The site promoter has indicated that the site may be capable of delivering 150 dwellings which is more than the Council has projected over the five-years.</p> <p>A screening opinion (EIA) (P/19/0202/EA) for the development of up to 100 dwellings, a care home of up to 66 beds and employment space was issued by the Council on 29th March 2019 indicating that the application would need to be accompanied by an Environmental Statement. Having regard to the consultation responses, the requirements are not unduly onerous. The requirement for a Transport Assessment is a fairly typical requirement for a major planning application, regardless of whether an environmental statement is required and should not lead to significant delay. Matters in relation to European Sites in Fareham Borough are well rehearsed and any necessary mitigation measure to off-set nitrates and/recreational pressures are well</p>	
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			<p>understood. It is noted that the environmental health officer has indicated that an assessment with regard to contaminated land is not required. There is no reason why an environmental statement cannot be produced within 3 – 6 months.</p> <p>On 11th October 2019 (P/19/0344/FP) full planning permission was granted for the redevelopment of the adjacent retained section of the academy campus and works are already underway on site. This further provides clear evidence that the wider site is deliverable and capable of being brought forward during the next five-years.</p> <p>The Council has adopted a precautionary approach with the delivery of the site in 2023/24 and 2024/25, the latter part of five-year period. On the basis of the information provided by the site promoter, it is considered that the site is capable of being delivered within the five-year period.</p>	
Magistrates Court P/18/1261/OA	Resolution to Grant Planning	45	Section 106 legal agreements including nitrate mitigation expected to be completed by the end of June or early July 2021.	NPPF category 'b' site. There is no clear evidence that the site is suitable and that the development is deliverable at this stage for the following reasons:

	Permission - Large 5+			<ul style="list-style-type: none"> <li>Whilst a resolution to grant outline planning permission has been made in December 2020. There is no legal agreement in place to secure the nitrate mitigation required to make the development acceptable.</li> </ul>
Locks Heath District Centre	Brownfield Register	35	<p>Pre-application advice was provided by Officers in 2019.</p> <p>A planning application is currently under consideration for works to reconfigure the access roads, bus lane and car parking layout (reference P/21/0148/FP) to allow the future redevelopment of parts of the centre, including the petrol station site and part of the car park.</p>	<p>NPPF category 'b' site. There is no clear evidence that the site is suitable and that the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>No planning application to demonstrate feasible to be delivered on site or what use the landowner is seeking consent for.</li> <li>If residential development there is no nitrate mitigation in place.</li> <li>No timescale in place for submission of a planning application.</li> </ul> <p>It is noted there is an application for access works to future development areas 1 and 2 (P/21/0148) but given these works don't provide any details of the development proposed (e.g. no. homes to be delivered / trip generation) there is no way to assess if the proposed access arrangements are suitable for what may be proposed in the future. There is a holding objection form HCC Highways requesting alterations and further information in regard to these proposals to clarify this.</p>
Former Filling Station, Locks Heath Centre	Brownfield Register	30	<p>Pre-application advice was provided by Officers in 2019.</p> <p>A planning application is currently under consideration for works to</p>	<p>NPPF category 'b' site. There is no clear evidence that the site is suitable, and that the development is deliverable at this stage for the following reasons:</p>

			reconfigure the access roads, bus lane and car parking layout (reference P/21/0148/FP) to allow the future redevelopment of parts of the centre, including the petrol station site and part of the car park.	<ul style="list-style-type: none"> <li>• No planning application to demonstrate would is feasible to be delivered on site or what use the landowner is seeking consent for.</li> <li>• If residential development there is no nitrate mitigation in place.</li> <li>• No timescale in place for submission of a planning application.</li> </ul> <p>It is noted there is an application for access works to future development areas 1 and 2 (P/21/0148) but given these works don't provide any details of the development proposed (e.g. no. homes to be delivered / trip generation) there is no way to assess if the proposed access arrangements are suitable for what may be proposed in the future. There is a holding objection from HCC Highways requesting alterations and further information in regard to these proposals to clarify this.</p>
Hammond Industrial Estate	Brownfield Register	36	<p>A planning application for a care home on this site is currently under consideration. Amended drawings have been provided at the request of Officers and work is continuing on technical matters as it is on nitrate mitigation proposals.</p> <p>For these reasons, it is considered that planning permission may shortly be granted meaning care home accommodation to an equivalent of 36 dwellings could be delivered on this site within the 5 year period.</p>	<p>NPPF category 'b' site. There is no clear evidence that the site is suitable and that the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>• Planning application for care home has outstanding objection by Natural England</li> <li>• No planning permission</li> <li>• No evidence to suggest nitrate mitigation agreed and in place;</li> </ul>

Assheton Court	Brownfield Register	27	<p>Pre-app discussions have been held between Fareham Housing and Officers concerning the proposed redevelopment of this existing sheltered housing site. The proposals involve the demolition of the existing 33 flats and the site's redevelopment with around 60 new sheltered units. Detailed plans have been formulated and discussions are in an advanced state.</p> <p>A planning application is expected to be submitted later in 2021.</p>	<p>NPPF category 'b' site. There is no clear evidence that the site is suitable, and that the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>• Whilst we acknowledged the Council say pre-application discussions have taken place, there is no evidence of these discussions and no live planning application to demonstrate suitability.</li> <li>• Equally no evidence that nitrate mitigation solution has been agreed / can be secured.</li> </ul>
Wates House, Wallington Hill	Brownfield Register	20	<p>Prior approval was granted for the conversion of this former office building in January 2021. A subsequent application has been received proposing an additional storey to the building to provide a further nine residential units (P/21/0350/FP).</p> <p>For these reasons, it is considered that at least 20 units could be delivered on this site within the 5 year period.</p>	<p>NPPF category 'b' site. There is no clear evidence that the site is achievable, and that the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>• Whilst prior approval is granted, HRA is required and there is no evidence to demonstrate this has been undertaken by the applicant.</li> <li>• a further planning application has been submitted to add an additional storey to the building. This has yet to be determined and there is an outstanding objection from the Conservation Officer in regard to the potential impact on neighbouring listed buildings.</li> <li>• The submission of a further application suggests there may be viability concerns</li> </ul>



				with the prior approval. No evidence that the additional storey is acceptable so no guarantee this site will come forward if the additional storey is not acceptable.
Land at Brook Lane Warsash (P/17/0845/OA)	Resolution to grant planning permission	174	<p>The s106 legal agreement is substantially drafted with only matters in relation to maintenance costs for a pedestrian/cycling link and the inclusion of the affordable housing allowance cap remaining outstanding. These are not substantive issues. This evidence clearly shows that good progress is continuing to be made although it is accepted that the Council is not yet in a position to issue the planning consent.</p> <p>The applicant has not expressed an interest in nitrate credits available under the HIWWT scheme and has, as yet, not advised what mitigation it is proposing. However, a legal agreement has recently been entered into to allow nitrate mitigation to be brought forward at Warnford Park and it is anticipated that this will enable those sites remaining without proposals in place to achieve nitrate neutrality.</p> <p>The submission of all reserved matters is to be made to the local planning authority no later than 12</p>	<p>Site does not fall into NPPF category 'a' or 'b'. There is no clear evidence that the site is suitable, and that the development is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>• No planning permission</li> <li>• Further survey work required</li> <li>• No nitrogen budget of HRA/ AA</li> </ul>

			<p>months from the date of the permission. The implementation period for the developments has been further reduced to 12 months from the approval of the last reserved matters application.</p> <p>The delivery of the site within the five years remains a realistic prospect. The Council's trajectory shows only a small number of dwellings (40) being provided in 2022/23 with the remainder being delivered in 2023/24 and 2024/25. The conditions attached to the outline consent are standard and not onerous and strictly limit the time for the submission of reserved matters applications and the commencement of works thereafter. There are no complex or particular onerous matters that suggests there will be any delay in delivery.</p> <p>On this basis, this clear evidence, proportionate to the circumstances of the case has been provided to demonstrate that this site is deliverable within five years.</p>	
Land south of Greenaway Lane, Warsash P/17/0998/OA	Resolution to grant planning permission	157	The s106 legal agreement is almost concluded but requires signing and sealing. All the developers have expressed an interest with HIWWT to	Site does not fall into NPPF category 'a' or 'b'. There is no clear evidence that the site is suitable, and that the development is deliverable at this stage for the following reasons:

Also known as East of Brook Lane and West of Lockswood Road, Warsash			<p>purchase nitrate credits. FBC has already contacted the applicants to set out the final steps required for them to demonstrate nitrate neutrality (by obtaining a Nitrogen Mitigation Proposals pack from HIWWT) and this is expected imminently. FBC will carry out an HRA/AA, consult Natural England and then move to issue the decisions.</p> <p>Once outline permission is granted the submission of all reserved matters is to be made to the local planning authority no later than 18 months from the date of the permission. The implementation period for the development has been further reduced to 12 months from the submissions of the last reserved matters application. The conditions and obligations are standard and not onerous.</p> <p>For these reasons, the Council's projected housing delivery 157 dwellings at Land to the East of Brook Lane and West of Lockswood is entirely deliverable within the 5 year period.</p>	<ul style="list-style-type: none"> <li>• No planning permission</li> <li>• FBC have informed the applicants they need to demonstrate nitrogen neutrality and obtain a nitrogen mitigation proposals pack from HIWWT – until there is evidence this has been secured there remains uncertainty as to whether the site can be delivered.</li> <li>• Change in ownership</li> </ul>
18 Titchfield Park Road, Titchfield	Outstanding Outline	6	Section 106 agreement is agreed and out for signature.	NPPF category 'b' site. There is no clear evidence that the site is suitable, and that the development

P/20/0235/OA	Planning Permission			<p>is deliverable at this stage for the following reasons:</p> <ul style="list-style-type: none"> <li>• There is a resolution to grant subject to securing the nitrogen neutrality measures through a section 106. Until those measures are secure the development is not suitable.</li> <li>• Net gain would be 5 dwellings if approved.</li> </ul>
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