

Town & Country Planning Act 1990 (as amended)

APPEAL REFERENCE: **APP/A1720/W/21/3272188**

LPA REFERENCE: P/20/0912/OA

LAND TO THE EAST OF DOWNEND ROAD, PORTCHESTER FAREHAM BOROUGH

S78 APPEAL AGAINST THE DECISION BY FAREHAM BOROUGH COUNCIL TO
REFUSE PLANNING PERMISSION

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.'

PLANNING EVIDENCE FOR THE APPELLANT

Jacqueline Mulliner BA (Hons) BTP (Dist) MRTPI
Managing Director, Terence O'Rourke Ltd

On behalf of Miller Homes

Submitted 6 July 2021
Inquiry 3 – 9 August 2021

CONTENTS

- 1 Qualifications
- 2 Introduction
- 3 Context
- 4 The proposal
- 5 The development plan
- 6 Material considerations
- 7 Interest parties
- 8 Planning assessment

APPENDICES

- JM1. HLS Statement (and its appendices)
 JM2. Previous SoCG Matter 1 (Pedestrian Accessibility & Safety)
 JM3. Previous SoCG Matter 2 (Accessibility to Services and Facilities)
 JM4. Previous Appeal Position Statement
 JM5. Previous Appeal SoCG

ABBREVIATIONS

ASoTM	Agreed Statement on Transport Matters
CD	Core Document
CIL	Community Infrastructure Levy
CMC	Case Management Conference
FBC	Fareham Borough Council
HA	Highway Authority
HBF	House Builders Federation
HCC	Hampshire County Council
HLS	Housing Land Supply
HLSP	Housing Land Supply Position
HRA	Habitats Regulation Assessment
LHN	Local Housing Need
LP1	Core Strategy
LP2	Development Sites and Policies Plan
LP3	Welborne Local Plan
NE	Natural England
NPPF	National Planning Policy Framework
OR	Officer Report
PPG	National Planning Practice Guidance
Rfr	Reasons for refusal
SAC	Special Area of Conservation (European nature conservation Site)
SEA	Sustainability Appraisal and Strategic Environmental Assessment
SHELAA	Strategic Housing and Employment Land Availability Assessment
SoC	Statement of Case
SoCG	Statement of Common Ground
SPA	Special Protection Area (European nature conservation Site)
TOR	Terence O'Rourke Ltd

CORE DOCUMENTS

There is an agreed list of Core Documents, which is not repeated here.

1. QUALIFICATIONS

- 1.1 My name is Jacqueline Mulliner. I hold a BA (Hons) and BTP (Dist) from the former Bristol Polytechnic and have been a full member of the Royal Town Planning Institute (MRTPI) for twenty-six years. I am currently the Managing Director at Terence O'Rourke Ltd (TOR). I have worked at TOR as a town planner since March 1993. During my time at TOR I have provided planning advice in respect of a range of development projects throughout England for both public and private bodies. In recent years, I have focused on the residential development sector and have participated in many development plan examinations and given planning evidence at s78 inquiries.
- 1.2 I have been involved in the promotion of the Appeal Site for residential-led development since January 2016. Since that time, I have maintained my view that the site has significant residential development potential, being in a sustainable location and suitable for residential use. Further, in the context of an emerging allocation for the site and in the absence of an up to date local plan (the Borough having acknowledged a significant housing land supply shortfall), that an early application would be an appropriate response to the Government's priority to boost the supply of land for housing and deliver sustainable development.
- 1.3 The planning strategy has been reviewed on several occasions since January 2016, including following the dismissal of a previous planning appeal (ref. 3230015, dated 5 November 2019, CD7.1), for the same development but with a different approach to off-site highway improvements.
- 1.4 With respect to the previous scheme (and conclusions of the 'previous Inspector'), the sole reason for dismissal of the appeal was the unacceptable harm to the operation of the highway arising from the proposal for unsignalized, priority shuttle, working across Downend Road rail bridge. In defense of the applicant, Hampshire County Council (HCC), in its capacity as Highways Authority and having agreed to the approach to modelling of the access arrangements and impact on the local highway network, had agreed to the proposed off-site works and had not raised objection to the application/appeal.
- 1.5 The shuttle working arrangement has, in the current application/appeal, been upgraded to a signalized arrangement, reflecting the previous Inspector's comments about the potential for delay likely to be caused by an uncontrolled priority arrangement.
- 1.6 In my professional judgment, previous concerns have been addressed, no new concerns evidenced, and the development of the Appeal Site represents sustainable development which complies with the development plan as a whole. Planning permission should be granted without delay.
- 1.7 I am familiar with the history of the site (in so far as it relates to its development potential), the application and appeal documentation along with planning policy issues relevant.
- 1.8 The evidence I have prepared, and provide for this appeal (APP/A1720/W/21/3272188), in this proof of evidence, is true and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions and are provided to the inquiry irrespective of by whom I am instructed.

2. INTRODUCTION

- 2.1 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 (ref: P/20/0912/OA) for 350 homes on land to the east of Downend Road, Portchester (decision notice dated 25th November 2020, CD3.3). Only one reason for refusal is given, relating to highway matters.
- 2.2 If the appeal is approved, it will be necessary (and is normal to do so) to secure mitigation for some of the impacts of the development through conditions and legal agreement, including to secure nitrogen neutrality of the scheme associated with the effects of the development on European Protected sites which required a Habitats Regulation Assessment (HRA). The latter applies to all residential development within Fareham Borough, and must be addressed by the Inspector as the competent authority.
- 2.3 The Inspector, in the Case Management Conference Summary Conference Note (CMC), identified the following as the main issues at the Inquiry:
- *“The effect of the proposed development on the operation of the local highway network, with particular reference to vehicular and pedestrian movement across the Down End Road bridge across the railway line, and the provision for pedestrian crossing of Down End Road;*
 - *The effects of the proposed development on the integrity of the Portsmouth Harbour Special Protection Area and Ramsar Site, the Solent and Southampton Water Special Protection Area and Ramsar Site, the Solent and Dorset Coastal Protection Special Protection Area and the Chichester and Langstone Harbours Special Protection Area and Ramsar site (the designated habitats) and,*
 - *Whether the proposal conflicts with the provisions of the development plan and if so, whether there are any material considerations, including the level of housing land supply, that would outweigh that conflict.”*
- 2.4 This planning evidence and its separately bound appendices addresses the policy and general town planning issues arising from these main issues. In accordance with the statutory test and ‘presumption in favour of sustainable development’, it addresses the principle of development taking the development plan as the starting point for decision taking. It demonstrates compliance with the development plan as a whole, specifically with regards to those policies that are cited in the reasons for refusal and most important to the determination of the appeal, and their consistency with the National Planning Policy Framework (NPPF). In accordance with NPPF para 11 (c), permission should be granted ‘without delay’.
- 2.5 Notwithstanding this position, this planning evidence also confirms that, in national policy terms, the most important policies are out of date by virtue of a housing land supply shortfall and that the tilted planning balance is engaged. The presumption is in favour of granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

- 2.6 The Appellant’s evidence collectively, with reliance on all the technical information submitted with the planning application and consultation responses received (see application documents CD 1.1 and Committee Report 3.1), identifies the limited adverse impacts of the development, as proposed, and confirms its substantial benefits. The benefits by far outweigh the harm. Permission should be granted.
- 2.7 The planning evidence is supported by transport evidence, given by Mr Tim Wall MCIHT, Partner at i-Transport. It is further supported by my appended evidence on the housing land supply position across Fareham Borough.
- 2.8 The evidence is further supported by statements of common ground (SoCG) provided in relation to the following and included within the inquiry document library:
- a) Planning SoCG (SoCG)
 - b) Transport (with FBC) (Transport SoCG)
 - c) Habitat Mitigation (HRA SoCG)
 - d) Housing Land Supply (HLS SoCG)
 - e) Transport (with HCC – Agreed Statement on Transport Matters) (ASoTM)
- 2.9 My evidence is written in the context of the Case Management Conference (CMC) discussion and Summary Note and is structured as follows:

Section 3: Context

- An overview of the background and context

Section 4. The Proposal

- Scale and nature of the proposal
- The Appeal
- The Appeal Site
- The Application
- Transport matters
- Deliverability

Section 5: The Development plan

- General provisions
- The adopted development plan
- LP1: CS2, CS6, SC14
- LP1: CS5
- LP2: DSP40
- Conclusion / compliance with the policies

Section 6: Material Considerations

- The emerging local plan and evidence base
- Housing land supply
- Affordable provision
- Heritage matters

- Section 7: Third party comments
- Cross references to where third-party comments re addressed
- Section 8: The Planning Balance (assessment applying the tilted balance)
- Summary of Harm
 - Summary of Benefits
 - Conclusion

3. CONTEXT

- 3.1 The Council considers the scheme to be contrary to policies CS5 of the Core Strategy (LP1 CD4.1) and DSP40 of the Development Sites and Policies Plan (LP2 CD4.2) as well as paras 109 and 110(c) of the National Planning Policy Framework (NPPF).
- 3.2 Policy DSP40 provides five criteria against which non-allocated development proposals can be assessed in circumstances where there is a five-year housing land supply shortfall. It is engaged in this case, the criteria cover:
- 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.”*
- 3.3 Only one reason for refusal is given, covering the effect that the proposed off-site highway improvement to Downend Road, across the road bridge over the railway line, would have on the operation of the highway and the provision for pedestrian crossing at the same junction / location. This relates only to criterion v. It is a matter of agreement, confirmed in the SoCG, that the only matter of dispute with regards to DSP40 is compliance with v.
- 3.4 To explain, Downend Road is located on the western boundary of the Appeal 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 at the present time. Some vehicles passing on the bridge stray into the pedestrian area. Because the development will add to pedestrian, bicycle, and vehicular flow across the bridge (the transport evidence quantifies the additional flow, including identifying the potential for 64 walking and cycling trips across the day¹), improvements are required.
- 3.5 The Appellant’s solution, in agreement with HCC as the highway authority, is to modify the existing arrangement to provide shuttle working across the bridge with the introduction of traffic signals. This would secure:
- a single 3.5 m carriageway for vehicles on the eastern side of the existing bridge and allow one-way vehicular flow controlled by traffic signals;

¹ This is increased from the previous position of 38 trips and specifically responds to the previous Inspector’s consideration of trip distribution (CD7.1 paras 14 – 23)

- a formal raised footway, 2m in width and with raised kerbs, on the western side of the bridge for unimpeded two-way pedestrian flow across the bridge;
- a pedestrian crossing refuge just south of the vehicular access to the Appeal Site and north of the traffic lights (in between the two new highway features), to connect the Appeal Site's internal footway with the existing footway on the west side of Downend Road (which leads southwards onto the bridge).

3.6 It is highly relevant that, for pedestrians and cyclists three access alternatives for the development are to be provided, offering linkages from the Appeal Site to the west, south and east, into both the urban area and countryside/local footpath network, as follows:

- A. Onto Downend Road, with the vehicular access and improved pedestrian provision across the bridge
- B. Onto 'Upper Cornaway Lane' via footpath 117 (which would be improved)
- C. Onto 'The Thicket' via Cams Bridge (which would be improved in accordance with outline permission P/18/0001/OA, for which reserved matters have been submitted) (CD3.5)

3.7 To clarify, the scheme before the previous appeal Inspector (CD7.1 for the decision), included these three pedestrian/cycle linkages but the arrangement across Downend Road Bridge has, in the current appeal proposal, been upgraded from priority shuttle working to signal-control shuttle working.

3.8 It is relevant to highlight here that the previous appeal Inspector did consider the issue of pedestrian demand and movement, particularly relative to the location of local schools and employment opportunities, and concluded that:

"Having walked routes A and B [as numbered above], and presuming that a safe pedestrian crossing for the Downend Road railway bridge would be available, I consider that qualitatively there would be very little to differentiate route A from B." (CD7.1 para 22).

3.9 Further, with regards to the Downend Road bridge improvement, the previous Inspector had been presented with two options (other options, numbered 1, 4 & 5 having been discounted by HCC and/or not preferred by HCC and therefore not proposed by the applicant/appellant), as follows:

- 'Option 2' would involve the provision of a 1.2 metre wide traditional (raised) footway, with a carriageway width of around 4.8 metres
- 'Option 3' would involve the provision of a 2.0 metre wide footway and a reduction in the width of the carriageway to form a single lane of 3.5 metres and would involve the introduction of a shuttle working arrangement, with the signed priority being in favour of the eastbound stream of traffic.

3.10 The current scheme, before this inquiry, is essentially a signalized version of option 3 above.

3.11 In respect of the two options the appeal decision reports that:

“The Council’s determination of the planning application was therefore based on options 2 and 3 being for its consideration and it contends that option 2 would be unsafe for pedestrians, while option 3 scheme would unacceptably affect the safety and convenience of road users...” (CD7.1 para 28)

3.12 With respect to Option 2, the previous Inspector concluded:

“I therefore consider that option 2 should be discounted as an appropriate alteration to the Downend Road railway bridge for safely accommodating the additional pedestrian use of the bridge that would arise from the development.” (para 38)

3.13 With respect to Option 3, the previous Inspector concluded:

“On the basis of the evidence before me I consider that the introduction of option 3 would result in unacceptable levels of queuing and delay for vehicular users of Downend Road.” (para 61)

“Option 3 through the narrowing of the carriageway to 3.5 metres would provide a safe pedestrian route. However, the narrowing of the carriageway would be likely to result in vehicle queuing and delay during the AM peak period. The precise degree of that queuing and delay is the subject of considerable disagreement, with it having proved quite difficult to model. That is because when Mr Wall prepared the original transport assessment (CD15) there appears to have been no readily available software capable of modelling a road narrowing such as that envisaged under option 3. That led to the use of ARCADY, which as I have explained above, I consider cannot be relied upon, not least because the TRL has stated that it is not suited to modelling shuttle working. In connection with presenting its appeal case the Council has used the comparatively new and not widely tested PDV22, the running of which suggests that considerable vehicle queuing and driver delay could be encountered by westbound vehicular traffic.” (para 67, my emphasis)

3.14 This led to his overall conclusion that:

“On this issue I conclude that the development with the implementation of option 2 would make inadequate provision for pedestrian access via Downend Road, while the implementation of option 3, in making adequate provision for pedestrian users of Downend Road, would unacceptably affect the operation of this road because of the vehicle queuing and driver delay that would arise. The development would therefore be contrary to the second criterion of Policy CS5 of the Fareham Core Strategy of 2011 (the Core Strategy) insofar as when the development is taken as a whole it would generate significant demand for travel and were option 2 to be implemented it would not provide a good quality walking facility for its occupiers. The development, were option 3 to be implemented, would also be contrary to Policy CS5 (the second bullet point under the third criterion) because it would adversely affect the operation of Downend Road as a part of the local road network.” (para 72)

3.15 It is clear (with reference to para 74 of the decision) that the Inspector considered the level of harm, in terms of vehicle queuing and delay (operation of the highway), to be 'severe'. This is significant in terms of the thresholds presented in the NPPF (para 109) which would justify a reason for refusal. Without evidence of a 'severe' impact proposals should not be refused on highways grounds.

3.16 Further, the Inspector considered that option 3 would safeguard the safety of pedestrians (para 74). In fact, he went further when considering the impact of improved safety for pedestrians:

"I therefore consider that there would be potential for more pedestrian use of Downend Road rail bridge than has been allowed for by the appellant. I also consider that as there is access to the circular countryside public footpath route just beyond the railway bridge that there would be potential for additional recreational walkers, originating from the existing built up area, to be drawn to Downend Road resulting in some additional crossings of the bridge. That is because the provision of enhanced pedestrian facilities would make it safer to cross the bridge and the bridge's existing condition may well be acting as a detractor for recreational walkers." (para 23)

3.17 This conclusion is reflected at para 97 of the decision 'Planning Balance and Conclusion.'

3.18 Importantly, and in response to FBC's SoC 'The Local Planning Authorities Case' with regards to the reason for refusal (see paras 8.1 – 8.5), which suggests that the proposals for Downend Road are; not safe; do not provide a high-quality environment; will have unacceptable environmental, amenity and traffic implications; and do not provide for the timely delivery of appropriate infrastructure, it is highly relevant that:

1. The current scheme is a signalised version of option 3 and the Appellant's transport evidence outlines the extensive and thorough process of design and safety review undertaken with regards to these proposals.
2. The Inspector concluded that option 3 would make adequate provision for pedestrians.
3. The previous scheme also included a pedestrian refuge, as is clearly depicted on the then application plan, 'Site Access Arrangement – Ghost Island' (ITB12212-GA-014 Rev A dated 18.08.17) (CD 1.2.3). This arrangement/refuge is repeated on the current application/appeal plan ITB12212-GA-014 Rev D.
4. The previous reasons for refusal by the Council (dated 26 April 2019 CD 7.1) took no issue with the pedestrian refuge, only with the works to the bridge itself, as confirmed in the decision notice with reference to plans ITB12212-GA-003 Rev B, ITB12212-GA-004 Rev B, ITB12212-GA-011 (CD 7.1).
5. The previous appeal Statement of Common Ground signed on behalf of FBC with regards to 'Pedestrian Accessibility and Safety' (Appendix JM2) recorded an agreed position with regards to the pedestrian access strategy, that:

- There are three proposed pedestrian access points available from the site which is considered to be a reasonable access strategy to serve the development.
 - Downend Road – the site access is available for pedestrian and cyclists to use. Pedestrian facilities are shown on Drawing ITB12212-GA- 014A and include a crossing refuge island.

6. The same Statement of Common Ground also under ‘design considerations’ agreed that a 2m footway *“will enable pedestrians of all mobilities to cross the bridge safely.”*
7. In all the previous extensive submissions and agreements of common ground, including the final agreed position schedule (Appendices JM3, JM4 & JM5), the acceptability of the environment and amenity provided by the pedestrian crossing refuge and by a 2m footpath across the bridge, was never highlighted as a matter of dispute. In fact, the final position statement on disputed issues (Appendix JM4) explicitly confirmed FBC’s position with regards to Policy DSP40(v)² as:

“Full conflict – ‘unacceptable traffic implications’ – highway safety and operation (no conflict with other environmental / amenity matters)”

So, the concern lay squarely with highway safety and highway operation, not with the environmental quality and amenity of pedestrian provision and/or the impact that this would have in terms of discouraging pedestrian and cycle movements.
8. At no time has an issue been raised with regards to option 3 that cycling would be unsafe or discouraged.
9. At no time has timing of the delivery of infrastructure been raised. The works to Downend Road are to be delivered ‘up-front’ before any residential development and is secured by legal agreement. If the infrastructure is delayed, so is the residential development.
10. This time, the highway impact has been assessed using LinSig (not ARCADY) because the introduction of signals allows for this, as industry standard software to model signalised arrangements.

3.19 FBC officers recommended that permission be granted (OR para 9.1 – CD3.1). Given the previous appeal decision, clearly confining the reason for dismissal to highways impact relating to the operation of the then proposed non-signalised priority shuttle working across Downend Road bridge, and position of ‘no objection’ from Hampshire County Council (HCC) as Highway Authority (HA), officers rightly considered, in their report to committee (CD3.1), that:

- a. There would be urbanisation and a degree of landscape harm but the impact would be lessened by the location of landscape and view corridors in the development (para 8.84).

² Criterion (v) reads “The proposal would not have any unacceptable environmental, amenity or traffic implications”

- b. There would be less than substantial harm, at the lower end of the spectrum, to the setting of heritage assets but the harm would be outweighed by the public benefits of granting permission (para 8.84).
- c. There were no outstanding amenity and environmental issues which cannot otherwise be addressed through planning conditions and obligations (para 8.85).
- d. There would not be any unacceptable impact on highway safety and the residual cumulative impact on the road network would not be severe (para 8.85)..
- e. Policy DSP40 is engaged and the scheme satisfies the five criteria (para 8.88).

3.20 Members agreed with a – c above, and these matters are not reasons for refusal. However, they disagreed with the officer recommendation with respect to d and e. They took the position that they did not believe the LinSig modelling, and doubted advice from HCC, without any evidence to substantiate their position. In fact, all of the evidence, including from their own highways consultants (Mayer Brown, CD8.2) who were considering the highways / access position to support the allocation of the site (allocation HA4) through the emerging Local Plan evidence base (see section 6 below and as set out in the Appellant's SoC), confirmed the proposals to be acceptable, as follows:

“The site promoter has submitted a new application for development on allocation HA4, which is essentially the same as the previous application on all transport proposals, except the proposals for pedestrian access at Downend Road bridge. 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 and will not result in a severe impact on the road network.” (CD 8.2, para 5.5)

3.21 The member position was clearly unjustified and unreasonable, as are the current assertions regarding highway impacts and including safety and environment / amenity.

4. THE PROPOSAL

Scale and Nature of the Proposal

- 4.1. The proposal is for up to 350 homes, including 140 affordable homes, with all necessary infrastructure including an extensive network of green space and a childrens' play area. The scale of development has been assessed with a focus on 2-storey low – medium density family housing, with some three-storey housing along the primary street. The average density across the site is 34 dwellings per hectare.
- 4.2. Vehicular access to the development is proposed as follows:
- 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 Appeal Site when travelling northwards)
- 4.3. 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)
- 4.4. None of these arrangements are matters to which the reason for refusal refers. The reason for refusal is strictly related to 'the works to the bridge' and provision for pedestrians crossing Downend Road.

The Appeal

- 4.5. The appellant is Miller Homes. The statutory provisions under which the appeal is submitted and grounds for appeal are set out in the Appellant's Statement of Case.

The Appeal Site

- 4.6. The appeal site and its context are described in the Design and Access Statement submitted with the application and appeal, summarised in the OR (CD3.1 paras 2.1 & 2.2) in the Appellant's SoC and in the Planning SoCG.
- 4.7. The Appeal Site is 20.39 ha of mainly greenfield land outside the established settlement boundary of Portchester, but contained within the wider settlement pattern of the conurbation of Fareham, Portchester and Corsham, to the south of the M27 and north of the Solent. It is a matter of agreement between the parties that the Appeal Site is well located in terms of the existing urban area, can be well integrated with Portchester, and is in a relatively sustainable location (specifically, there is no dispute with regards to

site/scheme's compliance with LP2 DSP40 ii and acceptance of the previous appeal Inspector's conclusions).

The Application

- 4.8. A number of general planning matters are agreed in the SoCG including:
- a) The description of the site and proposal
 - b) Confirmation that the proposal does not require EIA, for any reason (paras 1.3 & 1.4)
 - c) The content of the application and application plans (paras 1.6 – 1.8)
 - d) The reasons for refusal (rfr) (para 1.10)
- 4.9. The responses from statutory consultees are summarised within the OR, section 7 (CD3.1) and, with respect to drainage matters addressed in the post determination response from the Lead Local Flood Authority (CD6.1). These confirm that, subject to mitigation secured through conditions and legal agreement, there are no technical reasons to refuse the development as proposed. At the time of writing, such conditions and legal agreement are well advanced and will be agreed with the Council, in final form, before the inquiry.
- 4.10. The master planning, technical work and consultation responses, demonstrate that the site is suitable for residential development of the scale and general land use configuration proposed.

Transport

- 4.11. The evidence of Mr Tim Wall addresses transport / highways matters in detail. However, I would highlight here the agreement with Hampshire County Council Highways, who have been intensively involved both in considering the previous scheme and this current scheme, with a particular focus on the off-site highway works proposed both to access the site and to provide access across Downend Road rail bridge. HCC has reviewed the evidence, as provided in the application documentation and associated audits, and are fully conversant with the details of the scheme. HCC has confirmed in the ASoTM that:

“Overall, HCC agrees that the proposed improvement to Downend Road bridge is acceptable, will operate efficiently and will provide benefits in terms of road safety, through reducing speeds on the approach to Portchester and at the bridge and removing overtaking opportunities” (para 2.3.13)

“HCC has carried out a review of the access proposals in line with its Section 278 PADR processes (Appendix B) and is satisfied that the access arrangements would deliver safe and suitable access to the Appeal site for all people. In that respect it is agreed that the development proposal complies with relevant policy, including paragraph 108 of the NPPF.” (para 4.2.2)

“HCC has assessed the Transport Assessment in detail and is satisfied that subject to the agreed mitigation package, the development will not result in a severe residual cumulative transport impact on the local road network, or an unacceptable safety impact, in the context of paragraph 109 of the NPPF” (para 6.9.1)

Deliverability

4.12. In the event the appeal is allowed, the scheme is readily deliverable in the current five-year period. In accordance with NPPF para 76, Miller Homes would be prepared to accept a reduced time period to implement the permission.

4.13. At this stage, based on two active housebuilders on site and including affordable provision, given pent up demand and current market conditions (with a number of permissions still stalled due to nitrogen neutrality issues and the Wellborne new community still without planning permission) the project timeline would support the delivery of 225 homes within the current five-year period from 1 April 2021, and the remainder beyond the five-year period, as follows:

Table 1: Site Delivery Rate

Timescale		Activity	Comment
November 2021		Outline approval	
December 2021 - December 2022	12 months	Submission & approval of reserved matters and discharge of pre-commencement conditions	Miller’s option agreement requires submission of reserved matters within three months of an outline planning permission.
January 2023 - December 2023	12 months	Opening up works to delivery of dwellings: Site preparation, mitigation, up-front infrastructure, commencement and construction to first house.	This is a standard period, informed by industry research ³ . Some elements of site work have been front loaded, for example archaeological investigations will be undertaken now whilst crop clearance allows.
January 2024		First completion	
January 2024 – March 2024	3 months	25 completions	Miller will build out the majority of the site, including first completions.
April 2024 – March 2025	12 months	100 completions	Miller’s option requires 25% to be marketed, supporting the anticipation of 2 housebuilders active on site at this stage.
April 2025 – March 2026	12 months	100 completions	Two active housebuilders.
April 2026 - June 2028	16 months	125 completions	Potentially Miller only

4.14. The OR (CD3.1 para 8.28) confirms that, *“Officers believe it is reasonable to expect all 350 dwellings to be delivered within the five year housing land supply period.”*

³ E.g ‘Start to Finish’ NLP & TRIP November 2016

5. THE DEVELOPMENT PLAN

General Provisions

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. NPPF paras 12 and 47, reiterate this requirement, although para 12 refers to an 'up to date development plan'.
- 5.2 In policy terms, the NPPF para 11 sets out the presumption in favour of sustainable development, requiring the grant of planning permission for development where it is either in accordance with the development plan (NPPF para 11c), or where the most important policies are out of date (NPPF para 11d - subject to criteria i. and ii.). In this case, no footnote 6 policies are engaged to disapply the presumption (Planning SoCG para 4.7).
- 5.3 NPPF footnote 7 confirms that, for the purposes of para 11d (engagement of the tilted planning balance) the most important policies for applications involving the provision of housing will be considered 'out of date' if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 5.4 The 11d provision bites at any point where the supply falls below five-years. Para 11 does not displace the statutory provisions of the development plan and important policies do not become irrelevant. However, the weight of important policies, and therefore any harm arising from non-compliance with them, may be diminished according to the extent to which the development is needed (the benefits of the development) and taking into consideration the extent to which the policies are consistent with the NPPF.
- 5.5 NPPF para 213 clarifies that, existing policies are not out of date simply because of their date. Instead, due weight should be given to them according to their degree of consistency with the Framework (NPPF).
- 5.6 With respect to emerging policies, these can be given weight, subject to provisions relating to the stage of preparation reached, outstanding objections and consistency with the NPPF (NPPF para 48).
- 5.7 In all respects, the NPPF is a material consideration in decision taking (NPPF para 2).

The adopted development plan

- 5.8 The development plan documents containing policies relevant to this appeal are:
- Fareham Plan Part 1: 'Fareham Core Strategy' adopted August 2011 (LP1)
 - Fareham Plan Part 2: 'Development Sites and Policies' adopted June 2015 (LP2)
- 5.9 It is agreed that the most important policies comprise DSP40 and CS5 (see rfr & Planning SoCG, para 3.2). It is further agreed that the conclusions of the previous Inspector

(CD7.1) with regards to the consistency of those policies with the NPPF are accepted (Planning SoCG, para 4.2):

“I consider that the elements of policies CS5 and DSP40 that the development would be in conflict with are consistent with national policy and are the most important development plan policies for the purposes of the determination of this appeal” (para 97). The same elements of the policy are in play in this appeal (Planning SoCG, para 5.1).

5.10 It is agreed that there is a housing land supply shortfall (see Planning SoCG para 4.25 & 4.5, the HLS SoCG, and the Council’s published position CD8.1), engaging the tilted planning balance.

5.11 Moreover, officers considered that, *“... on balance, when considered against the development plan as a whole, the scheme should be approved.”* (OR para 8.88). In particular, officers considered that the scheme complies with all five DSP40 policy criteria (CD3.1 para 8.26), relating to:

- i. Scale relative to the housing land supply shortfall
- ii. Sustainable location, relationship with the settlement boundary and integration
- iii. Sensitive design
- iv. Deliverability
- v. Environmental, amenity, and traffic implications

5.12 The planning SoCG (paras 4.23 & 5.1) confirms that FBC concerns relate specifically to policy DSP40 criteria (v) rather than any other sustainability matters for example relating to site location, technical issues, general design or amenity issues.

5.13 With regards to policy CS5, Planning SoCG (paras 4.24 & 5.1) confirms that FBC concerns relate specifically to policy criteria (3.):

“3. The Council will permit development which: contributes towards and/or provides necessary and appropriate transport infrastructure including reduce and manage measures and traffic management measures in a timely way; does not adversely affect the safety and operation of the strategic and local road network, public transport operations or pedestrian and cycle routes; is designed and implemented to prioritise and encourage safe and reliable journey's by walking, cycling and public transport.”

LP1: CS2, CS6, CS14 (adopted August 2001)

5.14 The LP1 covers the period 2006 - 2026. Its policies relating to housing provision and spatial distribution, including those relating to settlement boundaries (saved policies CS2

‘Housing Provision, CS6 ‘The Development Strategy’ and CS14 ‘Development Outside Settlements’) are out of date⁴. This is because:

- a) 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 need⁵
- b) 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 housing need, indicating a need for additional land releases – a revised strategy is required
- c) The policies strictly control general residential development outside the settlement boundaries, but sufficient development cannot be accommodated within those boundaries to meet the current housing need

5.15 These policies, whilst addressed in the OR as relevant policies (before determining which policies are the most important policies), are not considered to be important to the determination of the appeal because of the five-year housing land supply shortfall which engages LP2 DSP40 (CD3.1 para 4.23).

5.16 The Newgate Lane appeal Inspector (CD7.4 para 15) considered that:

“To my mind, it follows that in circumstances where the DSP40 contingency is triggered, the weight attributable to conflicts with those more restrictive Policies [CS14, CS22, DSP6] would be reduced and would be outweighed by compliance with LP2 Policy DSP40.”

5.17 In these circumstances, given the context and purpose of the restrictive policies, and engagement of Policy DSP40, I give them no weight for the purposes of this appeal. The previous appeal Inspector, for the Appeal Site (CD7.1), did not mention these policies in his decision.

LP1: CS5 (adopted August 2001)

5.18 Policy CS5 relates to ‘Transport Strategy and Infrastructure’ (CD4). It is in three parts: the first part is irrelevant, relating to the safeguarding of land for schemes unrelated to this Appeal Site (see FBC SoC para 5.5). Part two requires development that generates significant travel demand to be located in accessible areas, well served by public transport, walking and cycling. Whilst this was a matter before the previous Inspector, it is not a reason for refusal with respect to the current proposal because the previous Inspector concluded that:

⁴ The same applies to LP2 DSP6

⁵ The LP1 housing requirement is 3,279 dwellings (outside Welborne) and 6,500 – 7,500 dwellings within Welborne (with anticipated delivery of 5,350 dwellings within the 20 year plan period). Collectively this provides for the delivery of 431 dpa across the plan period; falling significantly short of the LHN of 541 dpa.

“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 because it would not be situated in an inaccessible location and it would be well related to the existing urban settlement boundary for Portchester.” (Para 80, CD7.1)

5.19 The Inspector added to this position, in identifying benefit as follows:

“I have found that the accessibility to local services and facilities by modes of transportation other than private motor vehicles would not be unreasonable. That is something that weighs for the social benefits of the development.” (para 98)

5.20 There is no material change to the proposal or context that would alter this conclusion, which is accepted by the parties (SoCG para 4.2).

5.21 It is therefore part 3 of CS5 that is important to the determination of this appeal.

5.22 The previous Inspector considered that this, part 3 of policy CS5, was consistent with the NPPF (CD7.1 para 97).

Compliance with CS5

5.23 With respect to part 3 of CS5, the transport evidence presented by Tim Wall of i-Transport and supported by the ASoTM with HCC confirms that the necessary and appropriate transport infrastructure has been identified and is to be provided in a timely way, in association with the development. With the highway infrastructure improvements proposed, including the improvements to Downend Road rail bridge and introduction of signalized shuttle working, the development will not adversely affect the safety and operation of the road network including with respect to public transport, walking and cycling.

5.24 Further, with the three points of pedestrian/cycle access secured, as referenced above, it is demonstrated that the scheme has been designed to prioritise and encourage safe and reliable journeys responding positively to the context of the Appeal Site’s location.

5.25 The previous Inspector considered that improvements to the bridge would safeguard pedestrian safety and would encourage pedestrian access across the bridge (see decision para 23) and that accessibility to local services by modes of transport other than the private car would not be unreasonable (decision para 98). Nothing has changed in these respects in the current proposal.

5.26 The issue of concern previously was significantly narrowed down, to the delay caused by the introduction of unsignalized shuttle working across the bridge. This has been addressed in the current scheme.

5.27 The detailed modelling work has demonstrated that the proposal will not lead to severe impacts upon the operation or safety of Downend Road. The road safety audits confirm

the safety of the proposal, in combination (i.e. the operation of the signalized shuttle working, refuge provision for pedestrian crossing of Downend Road and ghost island arrangement for access into the site).

5.28 There is no further highway infrastructure improvement that is necessary to address the transport impacts of the development.

5.29 The policy threshold in terms of highway capacity and safety is met, noting the officer position and position of HCC in the ASoTM, as reconfirmed by Mr T Wall in his Transport evidence, which confirms that:

- The improvements to the bridge crossing are both safe for pedestrians and other highway users and acceptable in terms of the modest queue lengths and delays anticipated – the uncertainty of the previous modelling has been overcome
- The proposed access is considered acceptable in highway safety terms

LP2 (adopted in June 2015)

5.30 The role of LP2 is confirmed in its supporting text:

“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.” (LP2 para 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.” (LP2 para 1.12)

LP2: the engagement of DSP40

5.31 Policy DSP40 ‘Housing Allocations’ introduces some flexibility into LP2 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 should the additional allocated housing sites be insufficient to maintain the supply, or not deliver at the point envisaged, according to the housing trajectory. Specifically, the policy allows for additional sites to come forward, outside the urban area boundary (settlement boundary), subject to five criteria.

5.32 As outlined above, the Core Strategy housing requirement does not reflect the up to date assessment of local housing need, nor does ‘the additional requirement set out in the South Hampshire Strategy’ (October 2012⁶) as referenced in LP2. I further note that the

⁶ The “targets” are “Based on the PUSH Economic Development Strategy Preferred Growth Scenario forecasts of housing requirements” (para 2.16) and the “number of new homes which each authority should aim to provide for through local plan allocations and planning permissions. The figures are aspirational and will be tested during the preparation of local plans taking account of other considerations...” (para 6.3)

South Hampshire Strategy does not include an objective assessment of housing need, has no formal policy status and is not part of the development plan. In so far as Policy DSP40 refers to meeting the requirements of the Core Strategy, it is out of date and inconsistent with the NPPFs requirements, particularly those at para 11, 60, 65 and 67, all of which require the plan requirements and provisions, as a minimum, to meet local housing need (calculated by the standard methodology) within the terms of sustainable development as outlined in the NPPF.

- 5.33 In this context, the settlement boundaries, which are tightly drawn around the urban area (LP2 para 3.6) and not revised in the LP2 (para 3.9), provide insufficient capacity for additional housing development to meet the current level of local housing need (notwithstanding the residential site allocations made in LP2). The housing requirement and settlement boundaries need to be revised to meet the LHN.
- 5.34 FBC accepts that in assessing the five-year housing land supply position it must use the standard methodology local housing need (LHN) as the housing requirement (CD 8.1 para 3.8). This is the correct approach with reference to NPPF para 73 and footnote 37, because the adopted housing requirement is more than five years old and has not been reviewed and found not to require updating.
- 5.35 FBC has updated the HLS position and, in accordance with NPPF para 73, uses the standard methodology LHN as the housing requirement, against which it cannot demonstrate a 5-year supply of deliverable housing land as it is required to do (CD8.1 para 1.2). In response, FBC rightly engages the flexible approach in DSP40, clearly referenced in the OR, FBC SoC & Planning SoCG.

Compliance with DSP40

- 5.36 The OR paras 8.28 – 8.68 (CD3.1) carefully and robustly sets out compliance with all five criteria of DSP40. I agree with the approach and conclusions reached with respect to each. I only address additional points below, noting that the dispute lies only with respect to criterion v) (CD3.1 para 8.26).

Criteria (i)

- 5.37 The Council's assessment of the HLS of 3.57 years represents a substantial and material shortfall. It is considered that at least 225 homes could reasonably be delivered on the Appeal Site within the current five-year period.
- 5.38 The Appeal Site provides a proportionate and important immediate response to the published level of shortfall, providing an important and relative contribution to the current five year supply and some flexibility with regards to the 6 – 11 year period.
- 5.39 In any event, in the context of the NPPF policy to boost the supply of homes, there should be no cap on the supply and the Appeal Site will contribute to the supply of both deliverable (five-year) and developable (six-ten year) sites (NPPF para 67), supporting the rolling HLS.

Criteria (ii)

- 5.40 The Appeal Site lies on the edge of the existing main settlement of Portchester and is well contained by local topography and the road network. As discussed above, and including with pedestrian and cycle links secured across Cams Bridge, all opportunities to integrate with the urban area have been taken. The previous appeal Inspector considered the accessibility of the site and considered it to be 'not unreasonable' in these terms.
- 5.41 There is insufficient capacity within the existing urban area (settlement boundaries) to accommodate the level of housing required and to secure a sufficient five year HLS. There are no alternative, potentially better located deliverable sites according to the evidence base of the emerging plan (see section 6 below).

Criteria (iii)

- 5.42 Because there is insufficient capacity to accommodate development within the urban area, development on greenfield sites is necessary if local housing needs are to be provided for in accordance with policy DSP40 and the NPPF.
- 5.43 Impact on the countryside is inevitable but the development is mitigated to minimize adverse impacts, such mitigation being secured through conditions including those relating to the landscape parameter plan.
- 5.44 There are no alternative, preferable deliverable sites according to the evidence base of the emerging plan (see section 6 below).

Criteria (iv)

- 5.45 With respect to the deliverability of the Appeal Site, see Table 1 in section 4 above confirming that the housing proposed is deliverable in the short term.

Criteria (v)

- 5.46 There is agreement that the proposal would not generally have unacceptable environmental or amenity impacts, as supported by consultation responses from the relevant statutory consultees and the SoCG with respect to habitats. There is no evidence of material planning harm to the amenity of existing residential properties on Cams Bridge due to the increased pedestrian and cycle use of the bridge.
- 5.47 It is understood that FBC will claim unacceptable environmental and amenity conditions for pedestrians in associations with the crossing of Downend Road, although this was not a matter of previous concern (Appendix JM2, JM3, JM4 & JM5). To date FBC has presented no evidence to substantiate its position, including to the extent that any claimed harm, in terms of nature and scale, is significant and demonstrable. The position is not accepted by the Appellant or HCC.
- 5.48 Highway matters are addressed in the evidence of Mr Tim Wall and in the ASoTM, demonstrating compliance with v. With reference to NPPF policy, and as confirmed by

Mayer Brown in the emerging evidence base (CD8.2), the ASoTM and by Mr Wall in evidence:

- a) The residual impacts are not severe (NPPF para 109)
- b) Public transport has been provided for, so far as possible (NPPF para 110)

Development Plan Conclusion

5.49 The development plan is out of date and/or inconsistent with the NPPF with respect to the following:

- Housing requirements
- Settlement boundaries

5.50 The policies most important to the determination of the application, CS5 and DSP40, are out of date as a consequence of the five-year housing land supply shortfall. However, with regards to the previous scheme, it is relevant to acknowledge that the previous Inspector concluded that:

"... 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." (para 97)

5.51 The development as proposed is in accordance with the development plan overall, particularly when read in the context of consistency of the important policies with NPPF para 109. The statutory test is passed.

5.52 In policy terms, the tilted planning balance is engaged. The development, as proposed, meets the NPPF policy requirements.

5.53 The following section further considers material considerations (benefits) in support of the grant of planning permission.

6. MATERIAL CONSIDERATIONS

6.1 In this section I address three important matters:

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

I also briefly address third party representations. Specific benefits of the scheme, also material considerations, are addressed under the following section ‘planning assessment’.

NPPF

6.2 The rfr specifically reference NPPF paras 109 and 110 (c), creating a very narrow focus of claimed conflict with national policy. No other conflict with the NPPF is cited, and the application documentation confirms compliance with matters such as delivering a sufficient supply of housing, making effective use of land, achieving well-designed places, meeting the challenge of climate change and conserving the natural and historic environment.

6.3 In terms of NPPF para 109, the NPPF sets a high bar or threshold. Development should only be 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. The evidence, and agreed position with HCC, confirms that this is not the case.

6.4 In terms of NPPF 110 c), again the evidence and agreed position with HCC confirms that the highway proposals are safe and do minimize the scope for conflicts, responding to local character and design standards.

Emerging Plan and Evidence Base

6.5 FBC is in the process of reviewing its development plan to cover the period to 2037 and is consulting on the Regulation 19 Local Plan, for submission to the SoS, currently (18 June – 30 July 2021). The Plan allocates the Appeal Site for housing, identifying an indicative yield of 350 homes and including an indicative masterplan which broadly reflects the appeal proposals (CD5.1). Policy HA4 confirms, among 13 criteria in all, that:

Proposals should meet the following site-specific requirements:

1. *Primary highway access shall be focused on Downend Road; and*
2. *The provision of pedestrian and cycle connectivity from the site to Downend Road, The Thicket and Upper Cornaway Lane; and*
3. *Highway improvements to facilitate the development including:*

1. *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*
2. *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*
3. *Improvements to the Downend Road, A27 and Shearwater Avenue junction.*

6.6 The appeal proposals meet all of these, and the other, criteria.

6.7 It is highly relevant that the allocation has been considered by FBC's own transport consultant, Mayer Brown, who acted for FBC with regards to the previous appeal (CD7.1) and is acting for them with regards to the local plan evidence base (CD8.2).

6.8 The Mayer Brown report entitled 'Technical Support for Local Plan – HA4 Downend Road East – Highway Review' (CD8.2), confirms that (paras 4.2 – 4.8 & 4.19 – 4.21 & 5.1 - 5.14):

- The previous application (P/18/0005/OA) was refused. The subsequent appeal was dismissed; *"The appeal Inspector dismissed the appeal on the basis of insufficient provision for pedestrian access over the railway bridge but regarded the site to be acceptable on all other matters, including access, sustainability and off-site impacts."* (para 4.2)
- Miller Homes has submitted a new application (P/20/0912/OA). The proposed Downend Road bridge improvement scheme, shown on i-Transport's drawing ITB12212-GA-051D (submitted with P/20/0912/OA) comprises 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, proposing a signalised shuttle arrangement at the Downend Road bridge, addresses the single reason for dismissal of the appeal and would not result in a severe impact on the road network.
- The Local Plan evidence base and the information produced by the site promoter demonstrates that safe and suitable access can be provided to the Appeal Site
- 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.
- The Appeal Site is in a sustainable location, where opportunities for sustainable travel can be taken up.
- 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.

- 6.9 Mr Wall addresses the report further in his evidence, but in summary Mayer Brown, who have extensive knowledge of the site and access proposals, raised no issues with the acceptability, capacity, form or safety of the shuttle working or pedestrian refuge crossing proposed.
- 6.10 Whilst the Plan remains at an early stage of preparation the following are particularly relevant in reconfirming the sustainability of the site to meet LHN:
- Strategic Housing and Employment Land Availability Assessment (April 2021) (SHELAA)
 - Sustainability Appraisal and Strategic Environmental Assessment for the Regulation 19 Plan (May 2021) (SEA)
- 6.11 To date, all alternative available sites have been assessed through the SHELAA and in assessing suitability, FBC has taken into consideration the emerging development strategy.
- 6.12 The Appeal Site is referenced '3030' and considered to be suitable, available and achievable for residential development. Significantly, the SHELAA 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."*
- 6.13 A further part of the evidence base is the SEA. This includes a rationale for site selection and rejection and confirms that the Appeal Site is an *"accessible edge of urban area site with low landscape sensitivity."* The detailed matrix contained in the SEA (CD5.8) provides an assessment of the Appeal Site against the SEA objectives. With regards to encouraging travel by sustainable means, it confirms that that the Appeal Site as a whole falls partly within 11 of the 12 key accessibility distances mapped by the Council and that areas further from the urban fringes have fewer facilities within a reasonable walking distance. Under 'supporting comments/mitigation' it states:
- "Sustainable transport measures should be maximised (e.g. onsite cycle facilities, strengthened links to public transport). A Travel Plan would help to increase use of sustainable modes and could focus on enhancing bus/cycle access to Portchester station."*
- 6.14 Ultimately, FBC does 'prefer' the Appeal Site for allocation and has maintained it as an allocation throughout the emerging local plan process to date and in its Reg 19 plan. This supports the early release of the site to help redress the land supply shortfall, particularly given that FBC agrees that the shortfall is likely to continue until the emerging local plan is adopted (HLS SoCG para 2.10). The emerging allocation, particularly in these circumstances, is a material consideration in the determination of the appeal.

Housing Land Supply (HLS)

- 6.15 The evidence in respect to HLS, is attached to this main planning evidence at appendix 1. It is given with specific reference to NPPF paras 11 (with footnote 7⁷), 73 and annex 2 Glossary definition of ‘deliverable’. Reference is also made to the National Planning Practice Guidance (PPG) section on ‘Housing supply and delivery’.
- 6.16 In the context of the government’s priority to boost significantly housing delivery (NPPF para 59), a shortfall against the policy requirement, to demonstrate a supply of deliverable sites sufficient to provide a minimum of five-years worth of housing (NPPF para 73), is a significant and serious concern.
- 6.17 The NPPF makes it clear that the appropriate response to a housing land supply (HLS) shortfall is a presumption to grant additional planning permissions, adding to the HLS, in circumstances where the adverse impacts of doing so would not significantly and demonstrably outweigh the benefits (particularly when there are few, if any, site specific constraints). This is the effect of the tilted planning balance, as engaged when the plan is out of date (NPPF para 11(dii)).
- 6.18 The HLS position in its own right engages the presumption and adds to the weight to be given to the benefit of delivering additional housing in Fareham Borough. It is notable that the Newgate Lane Inspector (CD7.4) gave the contribution of around 123 – 190 homes during the five-year period ‘substantial weight’ (para 93), having concluded that the HLS in the borough was likely to be closer to the Appellants position of 0.97 years, than FBC’s position of 3.4 years, and having taken into account a number of other recent appeal decisions. In the context of this appeal, specifically the continuing significant HLS shortfall (see HLS SoCG) and the expected delivery of 225 dwellings from the appeal site within the five-year period, there is no reason to conclude anything other than substantial weight to be given to the social benefit derived from housing provision.
- 6.19 Within the national policy context, the HLS evidence:
- identifies the five-year housing requirement relevant to the assessment of five-year HLS in respect of this appeal;
 - assesses the deliverability of FBC’s stated housing land supply; and
 - considers this supply against the requirements to derive a calculation of the five-year HLS.
- 6.20 FBC’s latest position, covering the period 1 January 2021 to 31 December 2025, is that it can demonstrate a deliverable supply of 2,310 dwellings, against a requirement of 3,234 dwellings. This equates to a HLS of 3.57 years and provides a land supply shortfall of 924 dwellings.

⁷ This confirms that with respect to applications involving housing provision, policies most important to the determination of the application will be out of date

6.21 For reasons set out in appendix 1, this must be considered as an ‘at best’ position; the reality is that the HLS is in greater deficit. Based on the Appellant’s assessment of the requirement and the deliverable supply, the HLS is 1.75 years, representing a substantial shortfall of 2,107 dwellings.

6.22 In demonstrating this position, only a high-level assessment of the supply has been undertaken, it does not represent a full audit of sites and concentrates solely on those larger sites which clearly do not meet the NPPF definition of deliverable.

Affordable Provision

6.23 The ONS⁸ has recently published updated data on affordability ratios across the country, identifying that in England in 2020, full-time employees could typically expect to spend around 7.8 times their workplace-based annual earnings on purchasing a home.

6.24 Fareham has seen an increase in its ratio almost every year, since records began in 1997. Over the last five years the ratio has increased from 9.29 to 10.44, significantly higher than the national average and clearly a worsening position.

6.25 Fareham’s ‘Affordable Housing Strategy’ (CD 5.7) confirms that, in the borough:

- Of 50,000 homes only 4,200 fall under the definition of affordable
- The average cost of a two-bed property is £230,000
- Approximately 3,000 households are currently in need of affordable housing
- The need for affordable homes between 2021 and 2036 is set at a level of 3,500 (233 dpa).
- Only 400 affordable homes have been provided over the last five years (80 dpa)
- Meeting the need is reliant on the planning process and release of sites

6.26 Clearly the need, by far, exceeds supply and the position is worsening in the Borough, representing an acute need for affordable provision.

Heritage Matters

6.27 The site is within the extended settings of Portchester Castle, a Grade I listed building and scheduled monument, Fort Nelson, a Grade II* listed building and scheduled monument, and the Nelson Monument, a Grade II* listed building. The castle lies some way to the south and Fort Nelson to the north.

8

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/bulletins/housingaffordabilityinenglandandwales/2020>

6.28 FBC's conservation officer has assessed the proposal (OR paras 7.18 – 7.24) and confirms that:

“Whilst there will be some harm to the setting of the identified heritage assets, the level of harm is low and therefore considered less than substantial with the public benefit associated with the development.

Having regard to the above, and applying the statutory tests required under Sections 66 and 72 of The Planning (Listed Building and Conservation Area) Act, 1990, it is considered that the outline application, would result in no harm to the identified heritage assets or their setting.”

6.29 The previous Inspector confirmed that the effect would be less than substantial, because the development would be read within the context of Portchester's extensive established built up area, and that the harm would be outweighed by the public benefit of the scheme (see CD7.1 paras 92, 93 & 99).

6.30 I concur with these views.

7. INTERESTED PARTY COMMENTS

8.1 Third parties raise no additional material considerations that would suggest the application be refused. Specifically, matters raised focus on the following, which are addressed in the extensive application/appeal documentation, as referenced below:

- Traffic & transport matters, including infrastructure design and access to facilities and services:
 - Covered in evidence by i-Transport & ASoTM
 - Previous appeal decision
 - OR paras 8.30 – 8.32 (CD3.1)
 - OR paras 8.51 – 8.68 (CD3.1)
- Air quality – references:
 - Application documentation ‘Air Quality Assessment’ (REC October 2017)
 - OR paras 8.28 (CD3.1)
 - Planning SoCG para 4.18
- Agricultural land – references:
 - Application documentation ‘Agricultural Land Assessment’ (Geo-Environmental October 2017)
 - OR para 8.41-8.43 (CD3.1)
 - Planning SoCG para 4.19
- Ecology / nitrates – references:
 - Application documentation ‘Ecological Assessment’ (ECOSA October 2017) & Supplementary Technical Note (ECOSA 1 February 2018) & ‘Information to support a Habitat Regulation Assessment’ (TOR August 2018), letter dated 22 March 2019 (TOR)
 - OR paras 7.11, 7.15 & 8.16 – 8.25 (CD3.1)
 - Planning SoCG para 4.20
 - HRA SoCG
- Archaeology – references:
 - Application documentation ‘Heritage Statement’ (CgMS October 2017)

- OR para 7.2 (CD3.1)
- Planning SoCG para 4.14
- Landscape including settlement pattern/gap – references:
 - Application documentation ‘Landscape Appraisal’ (TOR November 2017)
 - Landscape Parameter Plan
 - OR paras 8.33-8.36 (CD3.1)
- Location relative to facilities - references
 - covered in evidence by i-Transport
 - previous appeal decision
- Service capacity (specifically, GP surgeries, hospitals and schools) - references
 - OR para 7.5 in relation to education services (CD3.1), contributions secured in s106 agreement
 - OR para 8.75 in relation to health services (CD3.1) – noting that the NHS South Eastern Hampshire CCG has made no site-specific request with respect to the current application/appeal
 - OR paras 8.73 – 8.75 (CD3.1)
 - s106 agreement (CIL compliance statement)
- Insufficient parking
 - The scheme is in outline.
 - OR para 8.36 CD3.1
- Impact on railway structure (including weight of vehicle across the Downend Road rail bridge)
 - Application documentation technical note addressing ‘Network Rail Consultation Response (Odyssey July 2018)
 - OR para 8.54 (CD3.1)
 - OR Para 6.1 (CD3.1)
- Status of the site in the development plan (including the reliance on DSP40)

- application documentation 'Planning Supporting Statement (TOR January 2020)
- Planning SoCG section 4.23
- Covered in this planning evidence above
- Rat running in Thicket and along Causeway
 - OR para 6.1 CD3.1
- Plans for Cams bridge and exponential increase in use of Cams Bridge
 - OR para 8.49 CD3.1

8.2 As demonstrated, all matters are addressed by the application documentation to the satisfaction of the relevant statutory consultees and, excluding matters referenced in the rfr, to the satisfaction of the planning authority.

8. PLANNING ASSESSMENT

- 8.1 There is compliance with the most important policies for the determination of this appeal, understood in the context of compliance of those policies with the NPPF, and compliance with the development plan as a whole.
- 8.2 This compliance includes with site specific policy criteria, under DSP40, guiding the approach to development on the edge of the settlement in the absence of a five-year housing land supply. 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.
- 8.3 Further, NPPF 11d is engaged as a consequence of the out of date housing requirement, settlement boundaries and housing land supply shortfall. In these circumstances, the planning balance is as follows.

Harm

- 8.4 There is an inevitable landscape impact, but this would be the case with the release of any greenfield site, the need for which is necessary given the HLS and LHN position. The loss of a green field site cannot therefore be considered harmful per se. The Appeal 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.
- 8.5 There would be less than substantial harm to the setting of heritage assets but this would be outweighed by the public benefits of the scheme.
- 8.6 There is no evidence of significant and demonstrable harm with respect to accessibility and highway matters in the context of the NPPF policy requirements.
- 8.7 There is no evidence of any other significant and demonstrable other harm.

Benefits

Social Benefits

- 8.8 Delivery of much needed homes. Given national policy, and in the context of a 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.
- 8.9 The Appeal Site lies in a sustainable location and overall supports an appropriate spatial strategy for the Borough, as demonstrated by the evidence base to the emerging Local Plan. This carries substantial weight in supporting sustainable patterns of development.
- 8.10 Highway benefits go beyond simply addressing the transport demands arising from the proposal, as outlined by Mr Wall (Transport Evidence and previous SoCG at appendix JM5). These wider benefits relate to improvements to walking and cycling infrastructure in

the locality, including improved safety for pedestrians currently using Downend bridge to access the local countryside footpath network, together with 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.

Environmental Benefits

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

Economic Benefits

- 8.12 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.
- 8.13 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.
- 8.14 New Homes Bonus, is a benefit of moderate weight, particularly given that housing delivery within the Borough is currently stalled.

Conclusion

- 8.15 The proposal complies 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.
- 8.16 Further, the tilted planning balance is clearly in favour of a grant of planning permission. The benefits are substantial whilst there is no evidence of 'significant and demonstrable harm' that would outweigh these benefits when assessed against the NPPF taken as a whole.
- 8.17 In accordance with the statutory provision and material considerations, including policy considerations, planning permission should be granted without delay.