

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: REBUTTAL FOR THE APPELLANT

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Managing Director, Terence O'Rourke Ltd

On behalf of Miller Homes

Submitted 20 July 2021
Inquiry 3 – 9 August 2021

Introduction

- 1.1 This short statement is submitted in rebuttal to Stephen Jupp’s proof of evidence, submitted on behalf of FBC.

Housing Land Supply

- 1.2 Both parties have agreed that it is not necessary for the Inspector to conclude on the precise extent of the HLS shortfall, having agreed that a shortfall in the range of 1.75 years - 3.57 years is material (HLS SCG para 2.3). It is further agreed that there has been a sizeable under-delivery of affordable housing in the Borough since 2011 and there is a substantial need for such housing (HLS SCG para 2.14 & 2.15).
- 1.3 In this context, I do not consider that it is necessary to examine the matter further in detail but would make the following comments.

Affordable housing provision

- 1.4 It is unclear as to why Mr Jupp considers there to be a dispute with regards to the extent of the affordable need within the Borough from 2019 to 2036, which is agreed as being 3,500 homes. Past delivery between 2011 and 2019, as referenced by Mr Jupp at paras 7.43, must have been taken into account by FBC in reaching the figure of 3,500 homes. It is unclear why Mr Jupp disputes FBC’s own conclusions regarding the extent of need. The dispute is with his client, not the Appellant – who sees no evidence to doubt the level of need as being 3,500 homes for the period 2019 – 2036.
- 1.5 Mr Jupp’s evidence confirms that only 61 new affordable homes have been completed from 2019 or are due for progression during 2021/22. If these are expected to be completed at the end of 2022 (para 7.51), this highlights a significant shortfall in delivery already over the first three years of FBC’s Affordable Housing Strategy. The reliance on the release of emerging allocations is evident. Further, the suggestion that Welborne could deliver more than 10% affordable (paras 7.57 & 7.58) is at odds with the reality of the position as earlier explained (at para 7.25), which confirms that the % of affordable delivery could equally fall below 10%.
- 1.6 It is significant that Mr Jupp (paras 7.37 – 7.40) highlights the importance of releasing sites under DSP40, as a cumulative position. He explicitly comments with regards to permissions granted “...in light of positive recommendations from Officers to the Planning Committee after careful consideration of policy DSP40” (para 7.40). Given that officers did give careful consideration to DSP40 and did make a positive recommendation to committee, on the basis of all of the technical work and consultation undertaken, the release of the appeal site under DSP40 to

address HLS shortfall must be considered (alongside other sites to be released) as more than a 'modest contribution' as asserted by Mr Jupp (para 9.7).

- 1.7 The point is, whilst Mr Jupp seeks to underplay the provision of affordable housing, in the circumstances the provision must be seen as significant and given substantial weight. The same can be concluded with regards to the market housing provision, further noting that without which the affordable would not come forward.

Nitrate Mitigation

- 1.8 Mr Jupp (paras 7.19 – 7.23) explains the nitrate mitigation schemes available to Fareham Borough Council, as set out in my evidence. However, he fails to confirm the number of homes each scheme will provide credits for, or if these are solely for the use of Fareham Borough schemes. It is my understanding that such credits are available to purchase by any developer with a site ultimately discharging into the Solent, for example schemes in New Forest District and Portsmouth. Hence capacity is key, and some developments may still stall until credits match the capacity required.
- 1.9 Further, and as explained in my evidence, both nitrate mitigation schemes at Coleman's Lane and Warnford Park are with private landowners. The agreements with Fareham Borough Council and these landowners have not been made available and Fareham Borough Council has confirmed it will not be involved in the financial transactions needed to purchase these credits. The cost, and associated viability of securing credits for current schemes is therefore an unknown factor.
- 1.10 Until such time as on-site schemes are confirmed, or credits secured and permission granted, there remains an absence of site-specific evidence to support the deliverability of sites.
- 1.11 For the time being, on-site provision, such as that which is being made in respect to the appeal site, is the only reliable and certain mitigation to confirm deliverability of sites. Cases necessarily reliant on off-site mitigation, are not deliverable until mitigation is secured through agreement enabling a planning permission to be released.

Welborne

- 1.12 Mr Jupp's PoE seeks to outline the progress made with the Welborne scheme, with respect to which I would make the following comments.
- 1.13 Revisions to the application are not yet scheduled to be considered at planning committee and the Affordable Housing Officer has raised concerns with the level of affordable housing provision now proposed (appendix JM6). There is no

certainty that, when the revisions are reported to Committee, the Council will accept the position.

1.14 Further, on the 13 July 2021, HCC agreed to take on the role as delivery body for the M27 J10 works, however this is conditional on a number of rigorous requirements being met (see appendix JM7 for the full report):

- Confirmation of the full funding package of:
 - £41.25 million Housing Infrastructure Grant;
 - £40 million section 106 developer contribution;
 - an additional £10 million section 106 contingency funding; and
 - £750,000 Capacity Funding from Homes England.
- Completion of a satisfactory Memorandum of Understanding with Highways England in relation to any design alterations and programme interruptions or prolongation arising from decisions of actions by Highways England.
- Section 6 Agreement to formalise Highways England’s commitment to the progression of the scheme through the approval and delivery process.
- Integrated Transport Block Grant funding to be earmarked against any cost overrun.

1.15 Thus, whilst HCC has agreed, in principle, to take back the role of delivery body, there remain significant hurdles to overcome before that position is confirmed. There is no time frame for the above agreements to be reached, and matters to be addressed, and no guarantee whether any will be resolved satisfactorily.

1.16 In conclusion, there remains significant doubt as to when Welborne will be delivered.