

**Town and County Planning Act 1990
Section 78 (As Amended)**

STATEMENT OF COMMON GROUND

Prepared by:

**Woolf Bond Planning LLP
for Foreman Homes Ltd**

and

Fareham Borough Council



Land South of Romsey Avenue, Fareham

PINS Ref: APP/A1720/W/21/3271412

LPA Ref: P/18/1073/FP

WBP Ref: 7671

8th July 2021

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EXECUTIVE SUMMARY

- 1 This Statement of Common Ground relates to a Town and Country Planning Act 1990 Section 78 Planning Appeal lodged by Woolf Bond Planning LLP on behalf of Foreman Homes Ltd against the Council's decision to refuse outline planning permission for residential development of 225 dwellings, a bird conservation area and public open space, with all matters reserved except for access (LPA Ref: P/18/1073/FP).
- 2 The Statement records the matters upon which the parties have agreed with the intention of leading to the preparation of more focused proofs of evidence thus saving time and resources at the inquiry.
- 3 Following discussions between the Appellant and the Local Planning Authority there is agreement in relation to the following matters:
 - a) The Council cannot currently demonstrate a five year supply of deliverable housing land (see separate Housing Land Supply SoCG).
 - b) Although the parties disagree as to the extent of the shortfall, it is nevertheless agreed, on either position, that the shortfall is significant and the weight to be attached to the delivery of housing from the Appeal Scheme is significant. The separate Five Year Housing Land Supply SoCG records the position.
 - c) The development plan policies for the supply of housing are out of date.
 - d) The Council does not have a freestanding landscape reason for refusal. Although (as with any greenfield housing proposal of this scale) a degree of adverse landscape and visual impact will occur, the parties agree that this has been minimised for the purposes of DSP40 criterion iii. The residual landscape and visual impacts could be successfully minimised by a positive design response and landscaping strategy at the reserved matters stage.
 - e) The lack of a five year supply of deliverable housing land triggers the operation of policy DSP40 which was introduced precisely to operate as an exception to the otherwise restrictive policies of CS14 and DSP6, to permit in appropriate cases development in breach of those policies when the Council could not demonstrate a 5 year housing land supply.
 - f) As such, the most relevant policy for determining the acceptability of residential development on the Appeal Site is Policy DSP40.

- g) The Appeal Scheme satisfies the requirements at criteria (i) to (iv) of Policy DSP40 on account of the following:
- 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 settlement boundary, and can be well integrated with the neighbouring settlement;
 - iii. The proposal can be sensitively designed to reflect the character of the area (with the Council retaining control over the detailed scheme design at the reserved matters stage) and to minimise any adverse impact on the Countryside
 - iv. The proposal is deliverable in the short term (controlled as it is by a housing developer with considerable experience in the local market)
- h) There remains a dispute between the parties in relation to part (v) of the policy in so far as the Council considers the Appeal Development would have unacceptable environmental, amenity and traffic implications.
- i) The Council objects to the Scheme in relation to the purported environmental impacts of the scheme having regard to the failure to mitigate the likely adverse effects on the integrity of European sites, on-site ecological matters and the loss of BMV agricultural land.
- j) It is agreed that the loss of BMV agricultural land alone would not be sufficient to warrant the refusal of planning permission but remains a matter to be weighed as a harm in the overall planning balance. Notwithstanding, it is agreed that the better the quality of agricultural land being lost, the greater the weight to be afforded on the negative side of the planning balance.
- k) The Council considers the development would lead to a displacement of car parking on Beaulieu Avenue and Romsey Avenue which would be inconvenient to users of the highway and harmful to highway safety. The Appellant considers the Appeal Scheme would not unduly inconvenience users of the highway and nor would it be harmful to highway safety. Hampshire County Highways raise no highways safety and/or sustainability objection to the Scheme and an Agreed (signed and dated) Statement of Highway Matters has been prepared between the Appellant and Hampshire County Highways. This was submitted to PINS on 11th June 2021.
- l) There is no objection to the Scheme in relation to its sustainability in location terms having regard to accessing local services and facilities.

- m) Following an exchange of correspondence between the Appellant and Hampshire County Council as the Lead Local Flood Authority (“LLFA”), the Council is now satisfied that drainage matters can be dealt with by means of a condition. A copy of the LLFA’s letter (dated 17 June 2021) which removes their holding objection is attached at **Appendix A**. Fareham Borough Council is no longer pursuing this reason for refusal.
- 4 As such, the forthcoming inquiry should therefore focus on the issues where there continues to be disagreement between the principal parties in relation to the following:
- a) Planning policy compliance
 - b) The impact of the scheme upon European Sites in the Solent
 - c) The impact on protected and priority species on-site
 - d) Highways safety and convenience
- 5 The parties have agreed that the Appellant will provide planning obligations in the form of a unilateral undertaking under Section 106 regarding necessary contributions subject to the satisfactory provision regarding delivery.
- 6 Subject to the satisfactory completion of the Section 106, this will ensure that if the appeal is allowed and planning permission is granted, all of the financial contributions and other compliant obligations required to enable the proposed development to go ahead are in place and/or will be delivered at the appropriate times.

1.0 INTRODUCTION

- 1.1. Preparation of this document follows discussions between Steven Brown of Woolf Bond Planning LLP, acting on behalf of the Appellant and Richard Wright acting on behalf of Fareham Borough Council.
- 1.2. It is agreed that it would be helpful to seek agreement on relevant factual information before preparing proofs of evidence for the Appeal.
- 1.3. It is also agreed that there should be a common list of reference documents and these are to be referenced as Core Documents (“CDs”) to the Inquiry.

2.0. DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

- 2.1. The Appeal Site benefits from a sustainable location, within walking and cycle distance from local services and facilities, including schooling and employment.
- 2.2. The Site is edged red on Site Location Plan No. 16.140.01C and extends to approximately 12.55ha.
- 2.3. The Site is broadly rectangular in shape and is currently accessed from Romsey Avenue to the north via a field gate.
- 2.4. The eastern boundary is formed by recreational open space associated with the development of 120 dwellings by Persimmon Homes off Cranleigh Road (which scheme was allowed at appeal by decision dated August 2017). The Appeal Scheme includes a footpath link to this boundary which enables the open space to be integrated with the proposed development contingent on an arrangement on access with the adjacent landowner.
- 2.5. To the south west of the Appeal Site lies the Wicor Recreation Ground.
- 2.6. The Appeal Site is located adjacent to, but ultimately beyond the settlement boundary for Portchester.
- 2.7. No part of the Appeal Site (or adjoining blue land) forms part of or adjoins a Conservation Area, nor is it identified as having any specific status in relation to its landscape value in planning terms.
- 2.8. Local Plan Policy DSP14 sets out the approach to the consideration of development on supporting sites for Brent geese and waders. Policy DSP14 expressly allows for the classification of sites for Brent Geese or Waders to be 'updated'. It is agreed that the site is identified in the Solent Waders and Brent Goose Strategy 2020 and supporting maps as a Primary Support Area.

3.0 DESCRIPTION OF THE APPEAL SCHEME

Scheme Description

3.1. The Appeal Scheme will be described in evidence.

3.2. The Appeal Scheme description¹ is as follows:

“Outline application for 225 dwellings, bird conservation area and area of public open space, with all matters reserved except for access.”

3.3. Only the principle of developing the site for 225 dwellings and associated provision of a bird conservation area and open space along with the means of access are to be determined as part of this outline application.

3.4. Appearance, landscaping, layout and scale are reserved for subsequent determination.

3.5. The Appeal Scheme is set out on the following plans:

The Scheme

- i. Site Location Plan No. 16.140.01C
- ii. Site Areas Plan No. 16.140.28
- iii. Proposed Access Drawing No. 5611.002D
- iv. Highway Works Plan No. 5611.025C

¹ Originally submitted as a hybrid seeking full planning permission for 58 dwellings and outline planning permission for 167 dwellings but amended during determination to an outline application, with only access to be determined.

4.0 PLANNING POLICY

The Development Plan

4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

4.2. At the local level, the development plan comprises as follows:

- Local Plan Part 1: Core Strategy (2011-2026)
- Local Plan Part 2: Development Sites & Policies (2015)
- Local Plan Part 3: Welborne Plan (2015)

4.3. The parties agree that the relevant policies applicable to the determination of the Appeal are as follows:

Local Plan Part 1: Core Strategy

CS2 - Housing Provision
CS4 - Green Infrastructure, Biodiversity and Geological Conservation
CS5 - Transport Strategy and Infrastructure
CS6 - The Development Strategy
CS14 - Development Outside Settlements
CS15 - Sustainable Development and Climate Change
CS16 - Natural Resources and Renewable Energy
CS17 - High Quality Design
CS18 - Provision of Affordable Housing
CS20 - Infrastructure and Development Contributions
CS21 - Protection and Provision of Open Space

4.4. It is agreed that policies CS2 and CS6 are out of date on account of the lack of a five year supply of deliverable housing land. It is also agreed that the weight attributable to conflicts with policies CS14 and CS22 is reduced to the extent they derive from settlement boundaries that reflect out of date housing requirements.

Development Sites and Policies DPD

DSP2 – Environment Impact

DSP6 - New residential development outside of the defined urban settlement boundaries

DSP13 - Nature Conservation

DSP14 - Supporting Sites for Brent Geese and Waders

DSP15 - Recreational Disturbance on the Solent Special Protection Areas

DSP40 - Housing Allocations

- 4.5. It is agreed that Policy DSP6 is out of date on account of the lack of a five year supply of deliverable housing land.
- 4.6. It is agreed that the Local Plan Part 3 is not applicable to the determination of the Appeal Scheme, save for its relevance to the assessment of deliverable housing supply from Welborne.
- 4.7. Relevant policies are to be addressed in evidence.

Material Considerations

General

- 4.5. The following represent material considerations in the determination of the appeal scheme:
 1. The NPPF and the approach to the presumption in favour of sustainable development
 2. The five year housing land supply position
 3. Appeal decisions
 4. The emerging Fareham Borough Local Plan
 5. Case law
 6. Fareham Borough Council SPDs including (Affordable Housing SPD (2005) and the Planning Obligations SPD (2016)

- 4.6. It is accepted that the Council is currently unable to demonstrate a five year supply of deliverable housing land against the requirements of the SHMA, PUSH Position Statement or the standard methodology set out in the NPPF. This represents a material consideration of significant weight in the determination of the appeal.
- 4.7. As set out in the Executive Summary, it is agreed that the lack of a five year supply of deliverable housing land triggers the operation of policy DSP40 which was introduced precisely to operate as an exception to the otherwise restrictive policies of CS14 and DSP6 to permit in appropriate cases development in breach of those policies when the Council could not demonstrate a 5 year housing land supply.
- 4.9. It is agreed that the Appeal Scheme satisfies the requirements at criteria (i) to (iv) of Policy DSP40; but there remains dispute as to the acceptability of the scheme in relation to the environmental, amenity and traffic implications of criteria (v). The Council objects to the Scheme in relation to the purported environmental impacts of the scheme having regard to the failure to mitigate the likely adverse effects on the integrity of European Sites, on-site ecological matters and the loss of BMV agricultural land.
- 4.10. It is agreed that the loss of BMV agricultural land alone would not be sufficient to warrant the refusal of planning permission but remains a matter to be weighed as a harm in the overall planning balance. Notwithstanding, it is agreed that the better the quality of agricultural land being lost, the greater the weight to be afforded on the negative side of the planning balance.
- 4.11. The Council considers the development would lead to an unacceptable displacement of car parking on Beaulieu Avenue and Romsey Avenue which would be inconvenient to users of the highway and harmful to highway safety. The Appellant considers the Appeal Scheme would not unduly inconvenience users of the highway and nor would it be harmful to highway safety. Hampshire County Highways raise no highways safety and/or sustainability objection to the Scheme and an Agreed (signed and dated) Statement of Highway Matters has

been prepared between the Appellant and Hampshire County Highways. This was submitted to PINS on 11th June 2021.

- 4.12 It is also agreed that there is a significant need for affordable housing, which is a material consideration.
- 4.13 The Council and Appellant attach limited weight to the emerging Local Plan.
- 4.14. Whilst it is common ground that there is a material land supply shortfall in the five year housing land supply position, the extent of that housing land supply shortfall is not currently agreed. This matter is addressed in a separate Housing Land Supply SoCG.

5.0 CONSIDERATION OF THE APPEAL APPLICATION BY FAREHAM BOROUGH COUNCIL

- 5.1. The appeal is lodged against the Council's decision to refuse planning permission.
- 5.2. The position in relation to the responses received upon the application may be summarised as follows:

No Objection (subject to conditions/S106/details at reserved matters stage)	Objection
<ul style="list-style-type: none">1. Environmental Health2. Contaminated Land3. Trees4. HCC Countryside Access5. HCC Highways6. HCC Archaeology7. HCC Childrens Services	<ul style="list-style-type: none">1. Local Residents2. Natural England3. Council ecologist4. HCC Flood & Water Management team (LLFA)

- 5.3. As set out at Appendix A, the LLFA has since removed its holding objection and Fareham Bourgh Council is no longer pursuing Reason for Refusal (e).

6.0 MATTERS IN DISPUTE

6.1. The areas of disagreement comprise as follows:

- (i) Planning policy compliance
- (ii) The extent of the shortfall in the five year housing land supply position
- (iii) The impact of the scheme upon European Sites in the Solent
- (iv) The impact on protected and priority species on-site
- (v) Highways safety and convenience

7.0 HEADS OF TERMS FOR LEGAL AGREEMENT

- 7.1. It is agreed between the parties that the Appellant will provide planning obligations, in the form of an undertaking under Section 106 of the Town and Country Planning Act (1990) in favour of Fareham Borough Council and Hampshire County Council.
- 7.2. The undertaking will be intended to ensure the financial contributions and other compliant obligations to enable the proposed development to go ahead are provided in accordance Regulation 122(2) of the Community Infrastructure Levy Regulations 2020 and the content at paragraphs 54 and 55 of the NPPF.
- 7.3. The undertaking will be completed and submitted to the inquiry.

8.0 CONDITIONS

- 8.1 It is agreed that there should be a schedule of conditions agreed between the parties, for discussion with the Inspector before or during the Inquiry.
- 8.2 The schedule will be compiled and submitted to the Inspector during the Inquiry.

9.0 CORE DOCUMENT LIST

- 9.1 It is agreed that there should be a common list of reference documents and these are to be referenced as Core Documents to the Inquiry. The list will be compiled and a full set of the documents will be provided for the Inspector.

10.0 AGREEMENT: SCHEDULE OF COMMON GROUND

- 10.1. This document is accepted as the agreed Statement of Common Ground for the appeal being considered under PINS Ref: APP/A1720/W/21/3271412.
- 10.2. It has been duly signed by representatives of the Appellant (Foreman Homes Ltd.) and Fareham Borough Council.

Signed: *Steven Brown* (for Woolf Bond Planning LLP) on behalf of Foreman Homes Ltd.

Steven Brown BSc Hons DipTP MRTPI 8th July 2021
NAME DATE



Signed..... on behalf of Fareham Borough Council

RICHARD WRIGHT MRTPI 8/7/2021
.....
NAME DATE

APPENDIX A



*Economy, Transport and Environment Department
Elizabeth II Court West, The Castle
Winchester, Hampshire SO23 8UD*

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<i>Enquiries to</i>	Sarah Reghif	<i>My reference</i>	SWM/2018/0806
<i>Direct Line</i>	0370 779 7497	<i>Your reference</i>	P/18/1073/FP
<i>Date</i>	17 June 2021	<i>Email</i>	SWM.consultee@hants.gov.uk

Dear Sir/Madam,

Outline planning application for residential development of 225 dwellings, bird conservation area and area of public open space with all matters reserved except for access at Land To The South Of Romsey Avenue Fareham

Hampshire County Council as Lead Local Flood Authority has provided comments in relation to the above application in our role as statutory consultee on surface water drainage for major developments.

In order to assist applicants in providing the correct information to their Local Planning Authority for planning permission, Hampshire County Council has set out the information it requires to provide a substantive response at <https://www.hants.gov.uk/landplanningandenvironment/environment/flooding/planning>

The County Council has reviewed the following documents relating to the above application:

- Updated Surface Water Drainage Technical Note dated 26/05/21

The drainage design has been updated with infiltration rates used that reflect the depth of the infiltration feature. There are now additional SuDS features provided to manage surface water flows rather than reliance on the basins and additional information has been provided in terms of levels.

Given this is an outline application, we would consider the source control calculations and outline drainage proposals to be of an acceptable standard.

Director of Economy, Transport and Environment
Stuart Jarvis BSc DipTP FCIHT MRTPI

As such, given the additional information referenced above, we are now able to recommend conditions and request that the following information is submitted for any reserved matters application.

1. No development shall begin until a detailed surface water drainage scheme for the site, based on the principles set out within the technical note dated 26.05/21, has been submitted and approved in writing by the Local Planning Authority. The submitted details should include:
 - a. A technical summary highlighting any changes to the design from that within the approved documentation.
 - b. Infiltration test results undertaken in accordance with BRE365 and providing a representative assessment of those locations where infiltration features are proposed once further plot specific details are submitted.
 - c. Detailed drainage plans to include type, layout and dimensions of drainage features including references to link to the drainage calculations.
 - d. Detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1:100 + climate change.
 - e. Evidence that urban creep has been included within the calculations.
 - f. Confirmation that sufficient water quality measures have been included to satisfy the methodology in the Ciria SuDS Manual C753.
 - g. Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria.
2. Details for the long term maintenance arrangements for the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the dwellings. The submitted details shall include maintenance schedules for each drainage feature type and ownership.

As a statutory consultee, the County Council has a duty to respond to consultations within **21 days**. The 21 day period will not begin until we have received sufficient information to enable us to provide a meaningful response.

Please ensure all data is sent to us via the relevant Local Planning Authority.

This response has been provided using the best knowledge and information submitted as part of the planning application at the time of responding and is reliant on the accuracy of that information.

Yours faithfully,



Flood and Water Management Team

Economy, Transport & Environment Department,
Hampshire County Council, 1st Floor, EII Court West,
The Castle, Winchester, Hampshire SO23 8UD

Web:

<https://www.hants.gov.uk/landplanningandenvironment/environment/flooding>

General guidance for the application

It is important to ensure that the long-term maintenance and responsibility for Sustainable Drainage Systems is agreed between the Local Planning Authority and the applicant before planning permission is granted. This should involve discussions with those adopting and/or maintaining the proposed systems, which could include the Highway Authority, Planning Authority, Parish Councils, Water Companies and private management companies.

For SuDS systems to be adopted by Hampshire Highways it is recommended that you visit the website at:

<https://www.hants.gov.uk/transport/developers/constructionstandards> for guidance on which drainage features would be suitable for adoption.

Where the proposals are connecting to an existing drainage system it is likely that the authorities responsible for maintaining those systems will have their own design requirements. These requirements will need to be reviewed and agreed as part of any surface water drainage scheme.

Works in relation to ordinary watercourses

*PLEASE NOTE: If the proposals include works to an ordinary watercourse, under the Land Drainage Act 1991, as amended by the Flood and Water Management Act 2010, prior consent from the Lead Local Flood Authority is required. **This consent is required as a separate permission to planning.***

Information on ordinary watercourse consenting can be found at the following link

<https://www.hants.gov.uk/landplanningandenvironment/environment/flooding/c/hangewatercourse>

It is strongly recommended that this information is reviewed before Land Drainage consent application is made.

*For guidance on providing the correct information, we recommend you use our **Ordinary Watercourse Consents Pre-application service** and help avoid delays occurring at the formal application stage. A Pre-application service for Ordinary Watercourse Consents is available, allowing consents to go through in a smoother, often more timely manner. For full information please visit:*

[https://www.hants.gov.uk/landplanningandenvironment/environment/flooding/c
hangewatercourse](https://www.hants.gov.uk/landplanningandenvironment/environment/flooding/c
hangewatercourse)