
PLANNING STATEMENT OF CASE

**LAND EAST OF POSBROOK LANE,
TITCHFIELD**

Appeal against the failure of Fareham Borough Council to determine an outline planning application within the statutory period for up to 57 dwellings, associated parking, landscaping and access from Posbrook Lane

Prepared by:

Steven Brown Bsc Hons DipTP MRTPI

On behalf of:

Foreman Homes Ltd



LPA REF: P/19/1193/OA

PINS REF: APP/A1720/W/20/3254389

WBP REF: 7796

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Woolf Bond Planning
Chartered Town Planning Consultants

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DOCUMENTS

- SB1** Appeal Decision for the Previous 150 Dwelling Scheme (PINS Ref: APP/A1720/W/18/3199119) (12 April 2019)
- SB2** Site Location Plan for Previous 150 Dwelling Scheme - Plan No. 16.092.02E
- SB3** Illustrative Site Plan for Previous 150 Dwelling Scheme – Plan No. 16.092.02F
- SB4** Appeal Site Location Plan No. 16.092.01
- SB5** Appeal Scheme Illustrative Site Plan No. 16.092.02F
- SB6** Officer Report to Committee upon the Appeal Scheme (24 June 2020)
- SB7** Officer Update Report to Committee upon the Appeal Scheme (24 June 2020)
- SB8** Minutes from the Planning Committee Held on 24 June 2020
- SB9** Shadow Habitats Regulations Assessment (CSA Environmental) (Aug 2020)
- SB10** Agricultural Land Quality Considerations Report (Kernon Ltd) (June 2020)
- SB11** Cranleigh Road Appeal Decision (14 Aug 2017)
- SB12** The Navigator Appeal Decision (20 Jan 2015)
- SB13** Sawmills Appeal Decision (10 Sept 2018)
- SB14** Downend Road, Portchester, Appeal Decision (5 Nov 2019)
- SB15** Suffolk Coastal Dc V Hopkins Developments Ltd [2017] Uksc 37
- SB16** Crane Judgment (Case No. CO/2468/2014) (23 February 2015)
- SB17** R v Rochdale Metropolitan Borough Council ex parte Milne (31 July 2000)
- SB18** Corbett v Cornwall County Council 2020 EWCA Civ508) Case No. C1/2019/2179) (April 2020)
- SB19** Fareham Borough Council’s Five Year Housing Land Supply Position – Report to Planning Committee – 24 June 2020

- SB20** Fareham Borough Council’s Five Year Housing Land Supply Position – Report to Planning Committee – Update - 24 June 2020
- SB21** Assessment of the Council’s Five Year Housing Land Supply Position for the Period 1st April 2020 to 1st March 2025
- SB22** SoS Consent Order in E Northants: CO/917/2020) (May 2020)
- SB23** SoS Consent Order in Bedford: CO/164/2020 (July 2020)
- SB24** SoS Nantwich Appeal Decision (APP/R0660/A/13/2197532) (APP/R0660/A/13/2197529) (July 2020)
- SB25** Appeal decision for the erection of 49 dwellings on land on east site of Green Road, Woolpit, Suffolk (APP/W3520/W/18/3194926) allowed on 28th September 2018
- SB26** Re-determination appeal decision for redevelopment to provide up to 29 dwellings (net increase of 27 dwellings) at Longdene House, Hedgehog Lane, Haslemere (APP/W/16/3165974) dismissed on 10th January 2019
- SB27** Appeal decision for the erection of 60 dwellings on land to the west of Cody Road, Waterbeach, Cambridge (APP/W0530/A/13/2207961) allowed on 25th June 2014.
- SB28** Appeal decision for 50 and 51 dwellings at Castlethorpe Road, Hanslope, Milton Keynes (26 September 2019)
- SB29** Wheatley SoS Appeal Decision (APP/Q3115/W/19/3230827) (April 2020)
- SB30** Background Paper: Updating the Welborne Plan (Oct 2017)
- SB31** Report to Committee upon the Welborne Outline Planning Application (16 Oct 2019), Officer Update & Member Resolution
- SB32** Welborne Infrastructure Delivery Plan (2019 Update)
- SB33** Welborne Delivery Trajectory (2017)
- SB34** Report to Hampshire County Council’s Executive Member for Transport and Environment: Update on the M27 junction improvement scheme (14 Jan 2020)
- SB35** Start to Finish: How Quickly Do Large-scale Housing Sites Deliver (Nov 2016) (Nathaniel Lichfield & Partners)

QUALIFICATIONS AND EXPERIENCE

Steven Brown will say:

I hold a Bachelor of Science and Post Graduate Diploma in Town and Country Planning and I am a Member of the Royal Town Planning Institute.

I am a Principal of Woolf Bond Planning LLP – Chartered Town Planning Consultants and I have been engaged in town planning with 19 years' experience as a private consultant acting for major house builders, development companies, estates and private individuals. House builder clients include Barratt David Wilson Homes, Barwood, Bellway, Croudace, Dandara, Foreman Homes, Persimmon Homes, Redrow Homes and Taylor Wimpey, TA Fisher, Wates as well as strategic land promoters, including CEG and Fairfax.

I have visited the appeal site and its surroundings and have examined the relevant plans and documents for the purpose of these appeals.

The evidence which I have prepared and provide for these appeals in this proof of evidence, is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

1.0 Introduction

Context

- 1.1. This Appeal is made against the failure of Fareham Borough Council to determine an outline planning application within the statutory period for up to 57 dwellings together with associated parking, landscaping and access from Posbrook Lane (LPA Ref: P/19/1193/OA).
- 1.2. Development of the site for up to 150 dwellings was previously refused by the Council in December 2017 (LPA Ref: P/17/0681/OA) and subsequently dismissed at appeal (PINS Ref: APP/A1720/W/18/3199119) (**SB1**). The plans relating to that scheme are included at **SB2** and **SB3**.
- 1.3. The amended scheme (see plans at **SB4** and **SB5**) proposes a significantly reduced number of dwellings on a smaller site area (than was the case with the previous Appeal Scheme), and, in my opinion, satisfactorily addresses the issues raised in the previous appeal decision having regard to the landscape and heritage impacts that were identified by the Inspector.

Procedure

- 1.4. Appeal particulars, including a Statement of Case, were originally submitted to the Planning Inspectorate in June 2020, with a request for the Appeal to be determined by the inquiry procedure (and an expectation that proofs of evidence would be prepared in due course). There was then an exchange of correspondence between the parties (Appellant, Council and PINS) about the most appropriate procedure. PINS resolved to progress matters by means of a Hearing. Pursuant to which, it was agreed that the Appellant could submit further evidence by 6th October 2020.
- 1.5. In addition to this Statement, the case for the Appellant is also supported by the Landscape Statement of Case prepared by Mr Jeremy Smith (SLR) (Sept 2020) and the Heritage Statement of Case prepared by Mr Ignus Froneman (Cogent Heritage) (Sept 2020).

- 1.6. The particulars referenced in paragraph 1.5 above replace and are to be substituted in place of the previous Statement of Case submissions dated June 2020.

The Council's Case

- 1.7. After the Appeal was lodged against non-determination, the Council took a Report to Planning Committee setting out the reasons on which officers would have recommended a refusal of planning permission had the Council been in a position to determine the application (Documents **SB6**, **SB7** and **SB8** refer).

- 1.8. The deemed reasons for refusal are as follows:

“The development is contrary to Policies CS2, CS4, CS5, CS6, CS14, CS16, CS17 & CS18 of the Adopted Fareham Borough Core Strategy 2011 and Policies DSP5, DSP6, DSP13 & DSP40 of the Adopted Local Plan Part 2: Development Site and Policies Plan,

And paragraphs 170 and 196 of the NPPF and is unacceptable in that:

a) The provision of residential development in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside;

b) The application site lies outside of the defined urban settlement boundary on land which is considered to form part of a valued landscape. As a result the proposed development would result in a range of significant adverse landscape and visual effects, harmful to the landscape character, appearance and function of the countryside and failing to respect or respond positively to the key characteristics of the surrounding area;

c) The proposal would result in less than substantial harm to, and fail to preserve and enhance, the setting of nearby Grade II* Listed Buildings;

d) The proposal would result in the loss of best and most versatile agricultural land;

e) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of European Protected Sites which, in combination with other developments, would arise due to the impacts of recreational disturbance;

f) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of European Protected Sites which would arise as a result of the loss of part of a Primary Support Area for Brent geese and waders;

g) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of European Protected Sites which, in combination with other developments, would arise due to the additional generation of nutrients entering the water environment;

h) In the absence of a legal agreement to secure the provision of public open space and contributions towards the associated management and maintenance of the open space, the recreational needs of residents of the proposed development would not be met;

i) In the absence of a legal agreement to secure such, the proposal fails to make on-site provision of affordable housing at a level in accordance with the requirements of the local plan;

j) In the absence of a legal agreement to secure contributions to education, the needs of residents of the proposed development would not be met;

k) In the absence of a legal agreement to secure a financial contribution towards improvements to the local public rights of way network, the proposal fails to mitigate the harm from the increased usage of public rights of way as a direct result of the development.

1.9. Paragraph 10.1 of the Officer Report (**SB6**), makes it clear that reasons (e) to (k) can be addressed through the completion of a satisfactory legal agreement.

1.10. This leaves reasons (a) to (d) to be addressed in evidence.

Scope of Evidence

- 1.11. My evidence addresses the overall planning balance in the consideration of the Appeal Scheme and whilst it is agreed between the parties that the Council is not able to demonstrate a five year supply of deliverable housing land, which is a material consideration of significant weight in support of the Appeal Scheme, I also assess extent of the deficit in the five year housing land supply position and conclude that the deficit is greater than purported to be the case by the Council.
- 1.12. By operation of Policy DSP40 of the Local Plan Part 2, and the consistency of the Appeal Scheme with the criteria set out in the policy, I am of the view that the Appeal Scheme is in accordance with the development plan when taken as a whole.
- 1.13. In setting out my evidence, I rely upon other evidence prepared on behalf of the Appellant which covers issues arising from the reasons for refusal.
- 1.14. That evidence and the topics covered comprise:
- i. Landscape character and impact on the countryside
 - ii. Heritage; and
 - iii. Agricultural land quality
- 1.15. The acceptability of the scheme in heritage terms is addressed in the accompanying Heritage Statement of Case prepared by Mr Ignus Froneman (Cogent Heritage), with paragraphs 6.20 to 6.31 confirming that the proposed development would preserve and enhance the setting of the listed buildings at Great Posbrook Farm. It is further added that no harm has been identified in relation to any other heritage asset. This conclusion follows the pre-application advice received from Historic England who also confirm the acceptability of the scheme in heritage terms (which position was followed by their statutory consultation response upon the application confirming no objection to the Scheme as now proposed).

- 1.16. However, and as articulated by Mr Froneman, to the extent the Inspector finds some harm, which if demonstrated, would clearly fall within the lowest end of the NPPF paragraph 196 spectrum – which harm would need to be weighed in the overall planning balance. I carry out this balance and conclude that the many benefits of the scheme would clearly and demonstrably outweigh the harm that might be said to be occasioned by the Scheme.
- 1.17. The Landscape and Visual Assessment (“LVA”) accompanying the Appeal Scheme considers the acceptability of the Scheme having regard to landscape matters.
- 1.18. Section 7 of the LVA sets out the Author’s conclusions in relation to the acceptability of the proposal confirming that the inclusion of proposed thick woodland planting to the south and east of the new dwellings enhances the existing settlement edge at Bellfield. It is further concluded that development of the site in the manner proposed would have no material effect on the Meon strategic gap whilst the proposed new woodland planting would also result in a positive change to views of the settlement edge. On the whole the LVA concludes that the Scheme is entirely appropriate in landscape terms. The Appellant’s landscape case is amplified in the Landscape Statement of Case prepared by Mr Jeremy Smith.
- 1.19. The impact of the Appeal Scheme in relation to Best and Most Versatile Agricultural Land (reason (is set out in the Agricultural Land Quality Considerations Report at **SB10**).
- 1.20. My evidence explains by way of the application of paragraph 11 of the Framework, the policies which are most important for determining the application, save for the flexibility afforded by Policy DSP40 are out of date. This includes the content of the housing requirement policies that pre-date compliance with even the 2012 Framework; and the agreed fact that the Council is unable to demonstrate a five year supply of deliverable housing land.
- 1.21. The evidence as a whole confirms that planning permission should be granted such that the appeal should be allowed.

- 1.22. My evidence addresses reason (a) in so far as it relates to the application of policy; whilst that part of reason (a) relating to the landscape impact of the proposal is addressed in the evidence of Mr Smith.
- 1.23. Reason (b) relates to the landscape impact of the Scheme, which matters are addressed in the evidence of Mr Smith.
- 1.24. Reason (c), relating to the Council's heritage concerns with the Scheme, which matters are addressed in the heritage evidence of Mr Froneman.
- 1.25. Reason (d) relates to the loss of agricultural land, which matters are addressed in the Agricultural Land Quality Considerations Report appended to my Statement as document **SB10**.
- 1.26. My evidence concludes in relation to the acceptability of the Appeal Scheme having regard to the overall planning balance, which I have carried out in the context of the presumption in favour of sustainable development at paragraph 11 of the NPPF (including in relation to the demonstrable lack of a five year supply of deliverable housing land (**SB21**) and the Habitats Regulations Assessment undertaken pursuant to paragraph 177 of the NPPF (**SB9**)).

Planning Statement of Common Ground

- 1.27. In order to assist the Inspector and to reduce the issues to be addressed at the Hearing, the Appellant and Fareham Borough Council ("FBC") will seek to agree a position on relevant matters.
- 1.28. A draft Planning Statement of Common Ground ("Planning SoCG") has been issued to the Council and it is anticipated that a signed and dated version will be submitted in the coming weeks.

Areas of Agreement

1.29. Based upon the content of **SB6 to SB8, SB11 to SB14 and SB19 to SB21**, the Executive Summary as drafted confirms agreement between the Council and the Appellant as to the acceptability of the Appeal Scheme in relation to the following matters:

- 1) The development plan policies for the supply of housing are out of date.
- 2) The Council cannot currently demonstrate a five year supply of deliverable housing land.
- 3) As such, Policy DSP40 is the operative policy and the Appeal Scheme meets parts (i), (ii) and (iv).
- 4) There is no highway objection to the scheme subject to satisfactory completion of a legal agreement.
- 5) There is no objection to the scheme in relation to its sustainability in location terms (having regard to accessing local services and facilities).
- 6) The ecological impacts of the scheme can be mitigated through a financial contribution to be secured through the legal agreement, which agreement will also provide for a Bird Conservation Area.
- 7) The Appeal Site constitutes a valued landscape.
- 8) There is no objection to the Appeal Scheme in relation to the integrity or function of the strategic gap.
- 9) On the Council's assessment, the proposals cause less than substantial harm to the grade II* Listed Buildings at the former Great Posbrook farm (the barn and farmhouse), at the bottom end of the 196 scale in the NPPF. However, it is the Appellant's case is there is no harm.
- 10) That the loss of BMV agricultural land alone would not be sufficient to warrant the refusal of planning permission, but remains a matter of limited weight as a harm in the overall planning balance.
- 11) There are no flood and/or drainage objections to the scheme.
- 12) The Appeal Scheme is consistent with the economic and social objectives of the NPPF

1.30. The matters now agreed between the principal parties are substantial and wide ranging.

Areas of Disagreement

1.31. As set out at paragraph 4 of the Executive Summary and section 6 of the Planning SoCG, there continues to be disagreement between the Appellant and the Council in relation to the following matters:

- 1) The impact of the development upon the landscape character of the area
- 2) Whether the less than substantial harm to the significance of the Grade II* Listed Buildings at the former Great Posbrook Farm is outweighed by the public benefits of the scheme.
- 3) The scale of the shortfall in relation to the Council's five year housing land supply position.
- 4) Conformity of the Appeal Scheme with parts (iii) and (v) of Policy DSP40.

The Previous Appeal Decision

1.32. A previous Scheme proposing development of the site for up to 150 dwellings was refused by the Council in December 2017 (LPA Ref: P/17/0681/OA) and subsequently dismissed at appeal in April 2019 (PINS Ref: APP/A1720/W/18/3199119).

1.33. The Inspector's conclusion as set out in the previous appeal decision considered the larger 150 dwelling scheme (as was proposed) did not raise a conflict with the strategic gap function. Consequently, paragraph 12 of the previous appeal decision sets out the three main issues identified by the Inspector in relation to the determination of that appeal; comprising as follows:

1. Landscape
2. Heritage
3. Best and Most Versatile Agricultural Land (BMVAL)

1.34. Taking the points in reverse order, the Inspector concluded in relation point (3) (BMVAL) that the small scale and the overall comparative effect of the loss of

such land should only be given limited weight in the overall planning balance.

- 1.35. The scheme as now proposed, for a significantly reduced number of dwellings, on a significantly reduced part of the site, means more of the land can now be retained in its existing use i.e. grazing.
- 1.36. The Appeal Site extends to approximately 4ha, of which approximately 3.5ha is of Subgrade 3a “good quality” agricultural land. This falls within the category of BMVAL. Of this approximately 2ha is proposed for residential development including landscaping. It is the Appellant’s case that only limited weight should be given to what is a minor adverse effect resulting from this loss.
- 1.37. The outstanding matters in respect of (1) landscape; and (2) heritage have been addressed through the accompanying Statements of Case.
- 1.38. The technical information submitted with this application demonstrates the acceptability of the Scheme having regard to the requirements of the Development Plan. Importantly, it confirms the acceptability of the illustrative design and quantum of development having regard to the landscape and heritage reasons for refusal of the previous up to 150 dwelling scheme.

S.38(6) and Development Plan Compliance

- 1.39. It is the Appellant’s case that the development plan is not based upon a NPPF compliant objectively assessed need for housing and cannot be said to be up to date in respect of its housing requirement. It does therefore provide an appropriate basis for the calculation of a five year supply.
- 1.40. The Core Strategy was adopted in 2011 and pre-dates the NPPF requirement for plans to be based upon an objectively assessed need for housing (the “OAN”). The Core Strategy was prepared to be in general conformity with the now revoked South East Plan (May 2009). Its contents pre-date the publication of the Framework and the NPPG together with the Hunston and Solihull High Court Judgments; which require LPAs to undertake an assessment of the objectively assessed housing need. Accordingly, and even at the point of adoption in 2011, the Core Strategy did not meet the objectively assessed need

for housing during the plan period, which represents a clear conflict with paragraph 47 of the NPPF to boost significantly the supply of housing.

- 1.41. Paragraph 47 of the Framework is of particular importance in determining the merits of the appeal scheme in so far as it requires Councils to (i) boost significantly the supply of housing, (ii) ensure that they meet the full objectively assessed needs for market and affordable housing; and (iii) identify a supply of specific deliverable sites.
- 1.42. In relation to (i), the emphasis has changed in the Framework from that set out in the earlier PPS3 (which policy basis informed preparation of the Core Strategy). This represents an important material consideration.
- 1.43. In relation to (ii) the Council, following the Cranleigh Road appeal decision (APP/A1720/W/16/3156344) (August 2017) (**SB11**) now accepts that the Core Strategy does not meet the objectively assessed need for housing¹. As a result, its housing policies are out of date, such that paragraphs 11 and 213 of the NPPF are engaged.
- 1.44. This represents a significant material consideration in favour of the application. In accordance with paragraph 11 of the NPPF, planning permission should be granted in the absence of any adverse impacts which would significantly and demonstrably outweigh the benefits.
- 1.45. Whilst under the provisions of paragraph 213 of the NPPF the Local Plan would be considered to be given full weight, due to the operation of paragraph 11 of the NPPF the Local Plan is considered "out of date" as the evidence that supports them is not consistent with the requirements of the NPPF.
- 1.46. In addition, and in response to the findings of the Planning Inspector in relation to the Navigator appeal² and the Cranleigh Road appeal noted above, where it was confirmed that the development plan requirement is a pre-NPPF requirement and is not reflective of the objectively assessed need, the Council

¹ This is confirmed in the officer report to committee upon the appeal scheme (Dec, 2017)

² Jan 2015 PINS Ref: 2220031 (**SB12**)

are now acknowledging that their 5 year housing land supply calculations need to be undertaken using their most up to date evidence. Having done so FBC accept they cannot demonstrate a 5 year housing land supply³.

- 1.47. In landscape terms, it is the Appellant's position that the development would only result in localised harm and would provide landscape and visual benefits for the wider valued landscape of the Meon Valley.
- 1.48. In so far as it is the Appellant's case that there is no harm to designated heritage assets, and even were the Inspector to find some, albeit very limited harm (at the bottom end of the 196 scale), such harm should be weighed against the substantial benefits of the proposal.
- 1.49. It is the Appellant's view that when the overall planning balance is carried out, the benefits are such that planning permission should be granted.

Overarching Summary of the Appeal Scheme's Merits

- 1.50. Having regard to the relevant planning policy and material considerations, the acceptability of the Appeal Scheme may be summarised as follows:
 - i. The Council's continued inability to demonstrate a robust five year housing land supply position triggers the operation of policy DSP40 which policy was introduced precisely to operate as an exception to the otherwise restrictive policies of CS14, DSP6 and CS22; which is to permit development in breach of those policies when the Council could not demonstrate a 5 year housing land supply.
 - ii. As the Local Plan is out of date, the presumption in paragraph 11 of the NPPF applies.

³ See also APP/1720/W/19/3230015 (Downend Rd, Portchester) (Para 90) (5 Nov 2019) (**SB14**)

- iii. The Council cannot demonstrate an up-to-date five year supply of deliverable sites for housing. In accordance with paragraphs 11(d)(i) and 73 of the NPPF, the development plan is to be regarded as out of date.
 - iv. The development of the appeal site for a sustainable form of development should now be considered favourably in accordance with the advice at paragraph 11 of the NPPF, having regard to the importance of delivery of housing for meeting the district's market and affordable housing needs and the delivery of economic and sustainable growth noting that there is a significant deficit.
 - v. The scheme represents a sustainable form of development and the Appeal Scheme involves the provision of significant benefits.
 - vi. Not only are there are no adverse impacts which significantly and demonstrably outweigh the benefits, but there are in fact significant benefits which significantly and demonstrably outweigh any perceived harm (landscape harm, harm to the setting of a Grade II* Listed Building and loss of best and most versatile agricultural land).
 - vii. The Appeal Scheme is submitted in accordance with the NPPF and it should be allowed so as to permit a sustainable form of much needed new market and affordable housing in helping to meet the Borough's housing needs and to provide the additional benefits which have been identified.
- 1.51. Overall, it is my opinion that the public benefits of the proposal clearly and demonstrably outweigh any minor harm that may be occasioned to the setting of the Grade II* Listed Buildings, even when great weight is attached to that harm.
- 1.52. I am also of the view that the identified benefits coupled with the dire five year housing land supply position and demonstrable need for affordable housing represent material considerations of significant weight when considered against the conflict with Policy DSP6, CS14 and CS16.

1.53. In addition, policy DSP40 operates deliberately as an exception to these restrictive policies where, as here, the Council cannot demonstrate a five year supply of deliverable housing land.

1.54. The Appeal Scheme accords with the five criteria in policy DSP40. Consequently, it accords with the development plan *taken as a whole*.

Content

1.55. The remainder of my evidence is set out as follows:

- i. Description of the Appeal Site and its Surroundings
- ii. Description of the Appeal Scheme
- iii. Development Plan and Planning Policy Context
- iv. Assessing the Five Year Housing Land Supply Position and Affordable Housing Need and Delivery
- v. Main Issues
- vi. Summary and Conclusion

2.0 DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

- 2.1. The Appeal Site is edged red on Site Location Plan No. 16.092.01 and extends to approximately 4ha.
- 2.2. It is currently used for horse grazing and the western part of the site is crossed by two pedestrian rights of way, footpaths 34 and 39.
- 2.3. The Site is bound by Posbrook Lane to the west, residential properties in Bellfield to the north, open land to the east and south with a cluster of dwellings at Posbrooke House (Grade II*), Great Posbrooke (Grade II*) and Barn Close beyond.
- 2.4. It is located adjacent to but beyond the settlement boundary for Titchfield as defined in the Core Strategy and Local Plan Part 2.
- 2.5. To the south east of the site is the 'blue land' under the control of the applicant which is proposed as a Bird Conservation Area. It extends to approximately 8.4ha and is also used for grazing.
- 2.6. The blue land is at a lower level than the site and occupies land between the site and the Titchfield Canal to the east which is formed by a line of trees along the western bank of the canal. The blue land is to be secured through the legal agreement as a Bird Conservation Area.
- 2.7. No part of the site (or adjoining blue land) is within or adjoining a Conservation Area.
- 2.8. Nor is the Appeal Site designated for any landscape 'value' or quality. However, following the earlier appeal decision (**SB1**), the Appeal Site has been assessed by Jeremy Smith (for the Appellant) on the basis that the Site is considered to form part of a 'valued' landscape for the purpose of paragraph 170(a) of the NPPF. I have also approached my assessment of the Scheme on this basis.

- 2.9. The Appeal Site is identified on the Proposals Map to the Part 2 Local Plan as being within a strategic gap (Policy CS22) and in an area that is uncertain in supporting Brent Geese and Waders (Policy DSP14).
- 2.10. It has been agreed with Hampshire County Wildlife, Fareham Borough Council and Natural England that the appeal site is not of importance for Brent Geese and Waders, whilst the landscape evidence demonstrates that development of the site will not have a significant effect on the function and effectiveness of the strategic gap.
- 2.11. As detailed in the Flood Risk Assessment that accompanied the application, the appeal site is classified as falling within Flood Zone 1. There are no further environmental constraints which would preclude the proposed development.

3.0 APPEAL SCHEME DESCRIPTION

- 3.1. The Appeal Scheme has been developed and informed following a thorough review of the opportunities and constraints afforded by the Site.
- 3.2. Only the principle of developing the site for up to 57 dwellings and the means of access are to be determined as part of this outline application.
- 3.3. Appearance, landscaping, layout and scale are reserved for subsequent determination.
- 3.4. The Appeal Scheme description is as follows:

“Outline application for up to 57 dwellings, associated parking and landscaping and a means of access from Posbrook Lane.”

- 3.5. The proposals are set out on the following plans:

The Scheme

- i. Site Location Plan No. 16.092.01
- ii. Proposed Access Drawing No. 19-241/003B

Supporting Plans

- iii. Illustrative Site Plan No. 16.092.02
- 3.6. Plan (iii) is submitted for illustrative purposes only, with permission sought for the principle of up to 57 dwellings on the Illustrative Site Plan, as well as the details of the access arrangement shown in Plan (ii).

Masterplan Approach

- 3.7. Preparation of the Illustrative Site Plan has been informed by a number of technical studies, prepared pursuant to a review of the earlier dismissed appeal decision relating to the previous proposal to develop the site for 150 dwellings.

- 3.8. The Masterplan vision is to create a high-quality development that has a strong sense of character and identity which links positively with the existing development in the area.
- 3.9. The Masterplan approach, including in relation to design, is underpinned by a thorough contextual appraisal of the site and its surroundings. Full details are set out in the accompanying Design & Access Statement.
- 3.10. The vision is to be achieved through the following design principles included in the masterplan design:
- (i) The creation of a sustainable environment for living with a mix of residential accommodation.
 - (ii) A place with a varied character that responds to the local vernacular and built context to provide a sense of place.
 - (iii) A sustainable development which responds to best practice, with house type designs to be approved at the reserved matters stage that will seek to minimise energy use, sustainably manage water, responsibly source materials and manage waste and ecology.
 - (iv) Enhancing the landscape edge to the boundaries of the site, in particular the eastern boundary⁴.
 - (v) Respecting the form, character and setting of designated heritage assets to the south of the site.
 - (vi) A development which preserves and enhances biodiversity by retaining natural features on the site and reinforcing them by creating opportunities for new habitat areas.
 - (vii) Integrating the site with the existing settlement through the provision of publicly accessible walking routes.
 - (viii) To encourage and enhance the opportunities for sustainable movement, through the provision of pedestrian and cycle linkages to neighbouring facilities and public transport routes.
 - (ix) Creation of a permanently wet balancing pond, which will provide for sustainable urban drainage as well as biodiversity enhancement.

⁴ See comparison images in Mr Smith's Landscape Statement of Case.

3.11. The principal elements of the scheme are summarised as follows:

- (i) The scheme provides for up to 57 dwellings, to include an appropriate mix of house types, within a landscaped setting.
- (ii) Respecting the setting of designated heritage assets to the south of the site.
- (iii) Respecting the character of the valued landscape of the wider Meon Valley.
- (iv) Buildings heights will be in conformity with existing dwellings in the vicinity of the proposal.
- (v) The scheme will include a mix of housing tenures, together with up to 40% affordable housing provision⁵.
- (vi) Vehicle access is provided from Posbrook Lane.
- (vii) New pedestrian and cycle routes as well as improvements to existing ones to provide for sustainable linkages to the surrounding urban area.
- (viii) SuDS.

3.12. The Illustrative Site Plan provides for up to 57 dwellings which equates to a gross density of approximately 17dph.

3.13. This density will ensure the new dwellings integrate with, and complement the local area in terms of scale, massing and layout, whilst sympathetically responding to the site's edge of settlement location.

3.14. Although landscaping is a reserved matter, the accompanying Illustrative Site Plan provides for a landscaped buffer to the southern boundary of the site. This has been developed in consultation with Historic England to ensure an appropriate edge is achieved to the settlement boundary, particularly in respect of the relationship with the setting of the listed buildings at Posbrooke Farm.

⁵ The Appeal Scheme proposes the on-site provision of up to 22 affordable dwellings and an off-site financial contribution equivalent to the provision of 0.8 dwellings, thus achieving a full policy-compliant 40% affordable housing provision.

4.0 THE DEVELOPMENT PLAN AND MATERIAL CONSIDERATIONS

General

- 4.1. This section summarises the planning policy position, against which the acceptability of the scheme falls to be determined.
- 4.2. 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. This represents the s.38(6) ‘balance’.
- 4.3. The first test, and the statutory starting point is whether the application is ‘*in accordance with the plan*’, which is a phrase that has been the subject of debate in the High Court in the context of Section 54A of the Town and Country Planning Act 1990.
- 4.4. In his judgment of 31 July 2000 (*R v Rochdale Metropolitan Borough Council ex parte Milne*) (**SB17**), Mr Justice Sullivan concluded as follows:
- “...I regard as untenable the proposition that if there is a breach of any one Policy in a development plan a proposed development cannot be said to be “in accordance with the plan”...’**
- ‘For the purposes of Section 54A, it is enough that the proposal accords with the development plan considered as a whole. It does not have to accord with each and every policy therein.’**
- 4.5. The *Rochdale* judgment is applicable to the interpretation of Section 38(6) of the 2004 Act such that the decision maker must reach a decision as to whether the proposal is in accordance with the development plan when it is considered as a whole, which position is set out below.
- 4.6. Such matters (the tensions between development plan policies) have more recently been considered in *Corbett v Cornwall County Council 2020 EWCA Civ508* (Case No. C1/2019/2179) (April 2020) (**SB18**). This judgment reaffirms

the position that it is enough that the proposal accords with the development plan considered as a whole, such that a proposal does not have to accord with each and every policy therein in order to be development plan compliant.

- 4.7. For the reasons set out below, it is submitted, by operation and conformity with Policy DSP40 (see below), that the Appeal Scheme accords with the development plan when taken as a whole, such that the presumption in s. 38(6) of the Planning and Compulsory Purchase Act 2004 is in favour of the development.
- 4.8. This view is reinforced in the Officer's Report upon the Appeal Scheme (**SB6**), where paragraph 8.13 states as follows:

“In the absence of a five year supply of deliverable housing sites, officers consider that Policy DSP40 is the principal development plan policy that guides whether schemes will be considered acceptable.” (My emphasis)

- 4.9. In the event the Inspector were to find some conflict between the Scheme and the development plan, the material considerations would tilt the balance in support of the grant of planning permission, including the Council's acceptance that they cannot demonstrate a five year supply of deliverable housing land, the significant need for housing, the grant of planning permission by the Council and at appeal for housing on land beyond the settlement boundaries as defined in the Core Strategy and Local Plan Part 2, the proposed review of the settlement boundaries as per of the emerging Local Plan Review; and the content of the NPPF (February 2019).
- 4.10. Section 39 of the Act identifies the requirement for decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development. These requirements must be considered in light of the NPPF, including the 3 roles of sustainability set out at paragraph 8 (economic, social and environmental). However, and as set out at paragraph 9 of the NPPF, the three roles are not a checklist and their values are considered in light of that context.

The Development Plan

- 4.11. The Development Plan comprises the following:
- Local Plan Part 1: Core Strategy (“CS”) (August 2011)
 - Local Plan Part 2: Development Sites & Policies (“DSP”) (June 2015)
 - Local Plan Part 3: Welborne Plan (“WP”) (June 2015)
- 4.12. Prior to 8th June 2015, Fareham Borough Council used the ‘saved’ policies from the Fareham Borough Local Plan Review (2000), together with those contained within the Fareham Borough Core Strategy to determine applications.
- 4.13. The settlement boundaries as set out within the Proposals Map for the Fareham Borough Council Local Plan Review (2000) were the spatial boundaries at that time. These two documents also formed the Development Plan for the Borough.
- 4.14. The Proposals Map was then amended following the Government Direction of 2007 and the adoption of the Core Strategy (Local Plan Part 1) in 2011.
- 4.15. The key changes to the Proposals Map were at Coldeast Hospital and Daedalus Airfield, identifying new strategic allocations and designations at these two locations. The full review of the settlement boundaries, as set out in the Core Strategy took place as part of the preparation (and examination) of Local Plan Part 2: Development Sites and Policies. However, no changes were made to the settlement boundaries as part of this plan. The Proposals Map from the Fareham Borough Local Plan Review has essentially been retained but broken down into a series of 12 Inset Maps within the Fareham Borough Local Plan Part 2: Development Sites and Policies. This Plan now forms part of the Development Plan and follows on from the adopted Fareham Borough Core Strategy (Local Plan Part 1).

- 4.16. The Fareham Borough Core Strategy (Local Plan Part 1) was adopted on 4 August 2011 and as such pre-dates the publication of the National Planning Policy Framework (2012) and the more recent 2018 version.
- 4.17. The Council's planning policies which relate to the supply of housing are now out of date.
- 4.18. The Council undertook an Issues and Options consultation on a New Local Plan in summer 2019, a document which once adopted will replace Local Plan Parts 1 and 2 and plan for development to 2036. At this early stage, it is not considered to carry any material weight in the decision making process.

Local Plan Part 1: Core Strategy

- 4.19. The Core Strategy was adopted in August 2011 and pre-dates the March 2012 version of the Framework. It was prepared to be in general conformity with the now revoked South East Plan (May 2009) and sets out a housing requirement for the period 2006 to 2026. It defers site allocations to subsequent DPDs.
- 4.20. The Council agreed during the course of the previous appeal that the settlement policy boundaries for the supply of housing are out of date.
- 4.21. I am of the view that the proposed development accords with all of the relevant Core Strategy policies so far as they can be considered at this outline stage:

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

CS22 - Development in Strategic Gaps

- 4.22. The policies in **bold** represent those that the Appellant's evidence contends the Scheme accords with. This leaves three policies where there is a prima facie conflict (Policies VS2, CS14 and CS16).
- 4.23. I go on to consider the provisions of these policies below.
- 4.24. In *Suffolk Coastal DC v Hopkins Developments Ltd* [2017] UKSC 37 (**SB15**) Lord Carnwath's judgement confirms at paragraph 63 that the weight to be attached to restrictive policies, such as countryside and landscape policies, can be reduced where they are derived from settlement boundaries that in turn reflect out of date housing requirements. In the Suffolk Coastal case the Inspector's findings were consequential upon their being no five-year housing land supply and on the basis that the Council could not deliver the housing to meet current needs. There are obvious parallels with Fareham.
- 4.25. In the case of Fareham Borough, the Council have been granting planning permissions for housing development outside of settlement areas that are in breach of countryside and landscape policies in order to meet market and affordable housing needs and maintain a rolling five-year land supply. Schemes have equally been allowed at appeal.
- 4.26. Consequently, the countryside and landscape policies are not meeting current housing needs on the basis of the definition of built up areas as defined in the development plan, despite the approach set out at policy DSP40 of Local Plan Part 2 (see below) which allows for development beyond the defined settlement boundaries where it meets the stated criteria.
- 4.27. On this basis, reduced weight applies to any conflict with policies CS2, CS14 and CS16.
- 4.28. The position I arrive at follows the conclusion of the previous Appeal Inspector, (**SB1**), with paragraph 67 of the Appeal Decision stating as follows:

“The Authority cannot demonstrate a 5 year supply of housing land and policies which restrict housing development through such matters as settlement

boundaries and gaps are out of date. They do not provide for the necessary housing to make provision for adequate housing in the area. However, those policies, which include CS14, CS22 and DSP6 do seek to protect the countryside and fulfil a purpose that is consistent with the Framework.....Given the above I do not afford these particular policies the full weight of the development plan but I still accept that they have significant weight and the conflict with those policies that I have identified above still attracts significant weight in my planning balance.”

- 4.29. My position in relation to the applicable policies from the Core Strategy may be summarised as follows:
1. The spatial policies for the supply of housing do not meet current housing needs.
 2. The settlement boundaries defined under CS14 are not sufficient to meet current housing need and the weight to be given to the conflict with this policy is reduced in accordance with the operation of Policy DSP40.
 3. Although the application site is within a strategic gap, the larger scheme (dismissed at appeal), was judged not to have an effect on the function of the gap. The reduced size application scheme will have no material effect on the function and effectiveness of the strategic gap.
 4. The scheme provides a safe means of access.
 5. The site is in a sustainable location.
 6. The reduced size of the application scheme will not result in adverse impacts to the Grade II* listed buildings to the south of the site, and will improve their setting by virtue of the proposed landscape buffer, as confirmed by Historic England in their consultation response.
 7. The loss of a small area of subgrade 3a and 3b should be afforded no more than limited weight.
 8. The requisite mitigation measures are secured by condition and/or through the planning obligation such that the impacts of the scheme can be adequately mitigated.
- 4.30. It is therefore concluded that the proposal is consistent with the aims of the development plan and that development would be in accordance with policy DSP40 of the Local Plan Part 2 (see below).

- 4.31. Policies CS2, CS14 and CS16 are not consistent with the requirement in the Framework to boost significantly the supply of housing land. As such, I do not afford these policies full weight, reflecting the position at paragraph 63 of the Suffolk Coastal judgment (Hopkins Homes). It is therefore considered that in all other respects the proposed Scheme is in accordance with the development plan when considered as a whole.

Local Plan Part 2: Development Sites & Policies (“DSP”) (June 2015)

- 4.32. The DSP was adopted in June 2015 and allocates sites and land for housing. It includes Policy DSP40 which allows for additional housing sites outside the defined settlement boundaries where the Council does not have a five year supply of deliverable housing land and where the scheme satisfies the five criteria set out in the policy.
- 4.33. The Policy wording, which provides for flexibility in the event of a shortfall in the five year housing land supply position, was included as a result in the examination of the policy through the hearing sessions which addressed concerns about the lack of flexibility in relation to the supply of housing land.
- 4.34. Paragraph 47 of the Local Plan Inspector’s Report (May 2015) states as follows (our emphasis underlined):

“Paragraph 14 of the NPPF refers to the need for local plans to incorporate sufficient flexibility to adapt to rapid change. Currently LP2, for example policy DSP40 on Housing Allocations and its supporting text, does not provide any indication of how the Council would respond in circumstances where the predicted level of housing delivery is not being achieved. Consequently it is proposed by the Council to strengthen this element of LP2 by explaining that in principle additional housing sites may come forward if it can be satisfactorily demonstrated that the Council does not have a five year land supply when assessed against the CS housing targets. New explanatory text is proposed and the policy would be modified to include the criteria against which any such proposal would be assessed. This is a pragmatic and positive way forward and will contribute to ensuring that LP2 is justified, effective and consistent with national policy. MM21 is therefore recommended.”

- 4.35. It is clear that the amendments to the wording of Policy DSP40 (as set out in the adopted Local Plan Part 2) were explicitly required in order to ensure the Development Plan was effective and consistent with national policy.
- 4.36. The Council acknowledges that it is unable to demonstrate a five year supply of housing land against the requirements of the SHMA, PUSH Position Statement and/or the standard methodology set out in the NPPF.
- 4.37. The proposal is consistent with the approach to allowing for additional sites beyond the settlement boundaries as set out in Policy DSP40.
- 4.38. The following Local Plan Part 2 policies are considered relevant to this application:

DSP5 - Protecting and enhancing the historic environment

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

- 4.39. The policies in bold represent those that the Appellant's evidence contends the Appeal Scheme accords with. This leaves a single policy from the Local Plan Part 2 where there is accepted to be a *prima facie* conflict (DSP6).
- 4.40. However, Policy DSP6 is not consistent with the requirement in the Framework to boost significantly the supply of housing land. As such, the weight given to this policy in the overall planning balance is significantly reduced, reflecting the position at paragraph 63 of the Suffolk Coastal judgment (Hopkins Homes).
- 4.41. Policy DSP40 states in full as follows:

“Where it can be demonstrated that the Council does not have a five year supply of land for housing against the requirements of the Core Strategy (excluding Welborne) additional housing sites, outside the urban area boundary,

may be permitted where they meet all of the following criteria:

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.”

4.42. The Appeal Scheme satisfies the requirements at parts (i) to (v) of the policy and is entirely acceptable when assessed against the context of Policy DSP40; which matters are considered in section 5 below.

4.43. The Council accepts the Scheme accords with parts (i), (ii) and (iv). They also accept there are no traffic or amenity objections in relation to (v), whilst nature conservation can be addressed by the imposition of conditions. Accordingly, the Council’s only objection to the Appeal Scheme under part (v) of DSP40 is in relation to the impact of the proposals in relation to the historic environment.

4.44. The Council’s objection in relation to (iii) relates to the purported landscape harm that is said to be occasioned by the Scheme.

Local Plan Part 3: Welborne Plan (“WP”) (June 2015)

4.45. The Welborne Plan was adopted in June 2015 and sets out how the broad type, location, amount and character of the development at Welborne. This is not directly relevant in relation to the approach to development management.

Summary

- 4.46. The conclusions drawn from the above, and accepted in other appeal decisions are as follows:
- The Core Strategy is out of date in relation to the housing requirement set out in Policy CS2 (and the associated settlement boundaries).
 - The Local Plan Part 2 (which revises the Core Strategy housing requirement from 2011 in order to reflect the requirement figure set out in the South Hampshire Strategy) does not seek to identify the full objectively assessed needs for market and affordable housing for the purpose of the NPPF.
 - The Council accepts that the Development Plan does not provide for local housing needs.
- 4.47. In so far as the scheme satisfies the five criteria set out at Policy DSP40, given the lack of a deliverable five year supply of housing land, it is considered that the scheme accords with the development plan when taken as a whole.
- 4.48. However, and if there is considered to be a breach with the development plan (when taken as a whole), given I have identified a *prima facie* conflict with policies of the development plan (CS2, CS14, CS16 and DSP6), the relevant issue to be considered is whether the policies are up to date. I conclude they are not, including for the reasons set out above (informed by the content of the appeal decisions at **SB1**, **SB11**, **SB12**, **SB13** and **SB14**), as well as the fact that FBC have approved planning applications for the development of sites for housing beyond the settlement boundaries as defined in the Core Strategy and Local Plan Part 2 as well as proposing amendments to the same through the emerging Local Plan (where numerous changes to the settlement boundaries are proposed in order to provide for new housing allocations), the weight I give to the policy is significantly reduced, reflecting the position at paragraph 63 of the Suffolk Coastal judgment (Hopkins Homes).

Material Considerations

National Planning Policy Framework

- 4.49. The National Planning Policy Framework (NPPF) was most recently updated in February 2019. It is a material consideration of particular standing in the determination of planning applications.
- 4.50. The content of the NPPF as it relates to the proposed development of the application site is addressed in the order set below:
- The presumption in favour of sustainable development
 - Decision making
 - Delivering a sufficient supply of homes
 - Promoting sustainable transport
 - Conserving and enhancing the natural environment
 - Conserving and enhancing the historic environment
- 4.51. Paragraph 8 of the NPPF identifies that there are three dimensions to sustainable development, comprising (i) economic, (ii) social; and (iii) environmental.
- 4.52. My detailed assessment of the Appeal Scheme in relation the three dimensions is set out in section 6 below, where I carry out the planning balance.

Economic Role

- 4.53. The economic role requires the planning system to, inter alia, ensure that sufficient land of the right type is available in the right places and at the right time to support growth. This is achieved with the application scheme on the basis that it is located within a sustainable location, within walking and cycle distance to local services and facilities. The scheme also provides for housing development of the type and mix required to meet identified needs.

- 4.54. The scheme further addresses the economic role in terms of increased LPA Revenues, Construction impacts (increased GVA, jobs etc.) and increased expenditure in local area.

Social Role

- 4.55. The social role requires the planning system to provide the supply of housing required, creating a high quality built environment, accessible to local services and reflecting the community's needs. All of these requirements can be achieved with the application scheme.

Environmental Role

- 4.56. The environmental role requires the planning system to protect and enhance the natural, built and historic environment. This can be achieved with the proposal in a location that will not result in any significant adverse effects upon the character of the surrounding area, including in landscape terms.

Decision Taking

- 4.57. In setting out the presumption in favour of sustainable development, paragraph 11 of the NPPF adds, in relation to decision-making at 11(c), that this means approving development proposals that accord with the development plan (as is the case here, with the Appeal Scheme submitted in accordance with the provisions at policy DSP40).
- 4.58. It adds at paragraph 11(d) that where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless (i) policies in the NPPF provide a clear reason for refusing the development; or (ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits.
- 4.59. It has been discussed earlier in this Statement, why it is considered that the policies for the supply of housing (both in terms of the housing requirement and the associated settlement boundaries) are materially out of date.

- 4.60. Section 4 of the NPPF sets out the approach to decision-taking. Paragraph 38 makes it clear that decision-makers at every level should seek to approve applications for sustainable development where possible.
- 4.61. The site is located in a sustainable location and will improve the economic and social conditions of the area. It will also help to provide an enhanced landscaped edge to the settlement and new biodiversity habitats.
- 4.62. Paragraph 48 refs to the weight to be given to relevant policies in emerging plans according to the stage of preparation and the extent to which there are unresolved objections. In the Fareham Borough context, the emerging Local Plan is only at the Regulation 18 stage and carries very limited (if any) weight.

Delivering a Sufficient Supply of Homes

- 4.63. Paragraph 59 sets out the Government's objective of significantly boosting the supply of homes.
- 4.64. Paragraph 60 sets out the approach to determining the minimum number of homes needed, which should be informed by a local housing need assessment conducted using the standard method in national planning guidance – unless an alternative approach is justified. It is also added that any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.
- 4.65. Paragraph 67 sets out the need to provide a five year supply of deliverable sites for housing. It also requires sites for years 6-10 and beyond.
- 4.66. Paragraph 73 requires LPAs to demonstrate a five year supply of deliverable housing land. Pursuant to footnote 7, the lack of a five year supply riggers the presumption at paragraph 11(d).
- 4.67. This application for up to 57 dwellings would make a notable contribution towards the shortfall in supply.

Promoting Sustainable Transport

4.68. Section 9 sets out the approach to providing for sustainable growth.

4.69. Paragraph 103 states as follows:

‘The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making’.

4.70. The site is located adjoining an identified settlement, within walking distance to local services and facilities. The supporting Transport Assessment demonstrates the acceptability of the scheme in sustainability terms. Accordingly, the scheme is consistent with paragraph 103.

Natural Environment

4.71. Section 15 sets out the approach to conserving and enhancing the natural environment.

4.72. It was previously agreed with FBC that there was no ecological ground to refuse the larger scheme, subject to the imposition of appropriately worded conditions and securing the provision of the Bird Conservation Area (blue land) and a financial contribution for its ongoing maintenance and in relation to the mitigation of disturbance upon the SPA. This smaller scheme is therefore considered to be acceptable on the above basis.

4.73. As to landscape considerations, the site is not located within any statutory landscape designations. However, and pursuant to the conclusion of the previous Appeal Inspector (**SB1**), the Appeal Site is considered to fall within a valued landscape – which matters are addressed in the evidence of Mr Smith.

- 4.74. The Appeal Site is also located close to two listed buildings at Great Posbrooke Farm, and is within the Meon strategic gap.
- 4.75. The Appeal Scheme maintains the proposed thick woodland planting to the south and east of the new homes, and also to the east of the existing settlement edge at Bellfield. As a result, there is potential to not only screen the proposed houses, but also to enhance the existing settlement edge at Bellfield.

Historic Environment

- 4.76. The proposed landscape approach has been developed in consultation with Historic England as part of the pre-application process. This culminated in the content of their statutory consultation response confirming a minor degree of harm to the setting of the listed buildings to the south of the site. This culminated in a “no objection” response from Historic England.
- 4.77. The Heritage Statement accompanying the planning application concludes there would be **no harm** to the Grade II* listed buildings at Great Posbrooke Farm and the landscaping would enhance the wider setting of identified heritage assets.
- 4.78. However, and as set out in the Heritage Case submitted on behalf of the Appellant, whilst it remains the Appellant’s Case that there would, overall, be no harm to the listed buildings, there is very little disagreement between the Appellant, Historic England, and Fareham Borough Council’s heritage advisor.
- 4.79. Even if the Inspector were to conclude that there would be some harm to the setting/significance of the listed buildings, there is broad agreement that this would be of no more than a very low magnitude. If that is the conclusion, the minor harm should be weighed against the public benefits of the proposal and given appropriate weight in accordance with approach in *Barnwell Manor*.

- 4.80. As such, and even if it were to be concluded that there was some minor incursion into paragraph 196 of the NPPF, the many public benefits (economic, social and environmental), demonstrably outweigh that harm.
- 4.81. Overall, in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the witnesses for the Appellant have paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

National Planning Practice Guidance (March 2014) (as amended)

- 4.82. The Planning Practice Guidance (“PPG”) supplements the content of the NPPF, including in relation to technical considerations.
- 4.83. The Appeal Scheme is submitted in accordance with the applicable PPG considerations, including in relation to inter alia, air quality, design, highways, noise, planning obligations and meeting local housing need.

DCLG Announcements

- 4.84. The NPPF should also be read in the context of a number of DCLG and Ministerial Statements which have emphasised the importance on the timely delivery of housing development. These announcements include: ‘Laying the Foundations: A Housing Strategy for England’ (Nov 2011); the Ministerial Statement ‘Planning for Growth’ (March 2011); and the Ministerial Statement ‘Housing and Growth’ (6 September 2012) with the latter confirming that the need for new homes is ‘acute’, that supply remains constrained and that a proactive approach was required to support growth.
- 4.85. Government announcements have repeatedly confirmed the need to increase the supply of housing.

4.86. In 2013 the Government referred to the existence of a nationally identified housing crisis⁶. This further supports the need to significantly increase the supply of housing.

4.87. The message relating to the need to boost the supply of housing and the associated economic benefits that arise have been carried forward in the more recent Statement produced in July 2015 by HM Treasury “Fixing the Foundations: Creating a More Prosperous Nation.”

4.88. Paragraph 9.1 states in relation to house building as follows:

“The UK has been incapable of building enough homes to keep up with growing demand. This harms productivity and restricts labour market flexibility, and it frustrates the ambitions of thousands of people who would like to own their own home.”

4.89. Paragraph 9.7 adds in relation to the planning system and the need for increased house building:

“There remains more to do. As the London School of Economics (LSE) Growth Commission found, ‘under-supply of housing, especially in high-growth areas of the country has pushed up house prices. The UK has been incapable of building enough homes to keep up with growing demand⁷.’”

4.90. The announcements explain the importance of the need to *boost significantly* the supply of housing land which matter is a material consideration in relation to the assessment of housing supply.

4.91. Thereafter, the House of Commons Committee of Public Accounts (19th June 2019) (paragraph 1 of summary) concluded

⁶ In the House of Commons Debate on 24 October 2013, the Planning Minister, Nick Boles, reaffirmed that there is a national housing crisis.

⁷ Investing for Prosperity, London School of Economics Growth Commission, September 2013

“The Department has a highly ambitious target to deliver 300,000 new homes per year by the mid-2020s but does not have detailed projections or plans on how it will achieve this. Meeting the target of 300,000 new homes a year will need a **significant step-up in the level of house building**. Current levels are not promising: the number of new homes has increased every year since 2012–13, with 222,000 new homes in 2017–18, but the average number in the period 2005–06 to 2017–18 was still only 177,000 a year. The Department accepts that it will need to transform the housing market to get more new homes built and says that achieving the target would be “very challenging”. Despite having introduced some projects to help, including encouraging small builders through the small builders guarantee scheme and reforming the planning system, the Department simply does not have the mechanisms in place to achieve the 300,000 target. This is compounded by lack of detailed rationale as to why this target was chosen in the first place. It also lacks year-on-year projections on how it will ramp up house building, only illustrative projections which are not in the public domain. **To make this even more concerning, the target does not align with the Department’s new method for calculating the need for new homes which shows that just 265,000 new homes a year are needed.**”

4.92. The Committee of Public Accounts also noted with respect of affordable housing (paragraph 5), that:

“The Department acknowledges that it will need to sustain and increase the numbers of affordable housing built to help it achieve the target of 300,000 new homes but cannot say how many and what types of affordable homes are needed. The Department has not detailed its expectations for numbers of these types of homes to be built as part of its 300,000 target for new homes. It is encouraging greater numbers of affordable homes to be built through the Affordable Homes Programme; and its reforms to the planning system aim to deliver more homes in areas of high unaffordability, such as London and the South East. At local level, local authorities detail the numbers of types of affordable housing needed in their local plans including social housing, affordable rent, built to rent, and that provided by Housing Associations. However, these planned numbers can be undermined as developers renegotiate section 106 agreements to provide less affordable housing than originally agreed with local authorities. The Department believes that its reforms to section 106 agreements would help the provision of affordable homes.”

- 4.93. The announcements explain the importance of the need to support the *Government's objective of significantly boosting the supply of homes* (NPPF paragraph 59) which matter is a material consideration in relation to the assessment of housing supply. Within this boosting of the supply of housing is a clear recognition of the importance of providing affordable homes (NPPF paragraph 61) as this will help meet the needs of specific groups (paragraph 59).

Housing White Paper (February 2017)

- 4.94. The content of the White Paper is a further material consideration relevant to the assessment and determination of the appeal proposal.
- 4.95. It expands upon certain of the above publications, highlighting the fact that the country does not have enough homes and that the housing market is broken. The introduction identifies the cause as being very simple: the lack of supply. Accordingly, the proposals set out how the Government intends to boost housing supply.
- 4.96. These recent publications and announcements highlight the importance and therefore weight to be given to increasing the supply of housing land.

Changes to the Current Planning System and the White Paper: Planning for the Future (Aug 2020)

- 4.97. The **White Paper: Planning for the Future (Aug 2020)** makes it clear that the rate of house building in England is substantially below the government's ambition to achieve 300,000 new homes annually. Paragraph 1.3 of the White Paper states as follows:

“The result of long-term and persisting under-supply is that housing is becoming increasingly expensive..... We need to address the inequalities this has entrenched.”

4.98. Paragraph 1.9 adds:

“The simple truth is that decades of complexity and political argument have resulted in a system which is providing neither sufficient homes nor good enough new places.”

4.99. Paragraph 1.12 includes the following ambition:

“Increase the supply of land available for new homes where it is needed to address affordability pressures, support economic growth and the renewal of our towns and cities, and foster a more competitive housing market.”

4.100. It remains to be seen when or if changes to the NPPF are to be implemented.

Appeal Decisions in Fareham Borough

4.101. There have been a number of appeals relating to proposals for housing within Fareham Borough that have assessed the policy position and the justification for housing beyond the settlement boundaries defined in the Core Strategy (2011) and subsequent Local Plan Part 2 (2015). These include the five examples attached at Documents **SB1, SB11, SB12, SB13 and SB14**.

The Navigator (Jan 2015) (SB12)

4.102. This appeal relates to a scheme for 37 dwellings on land beyond the urban settlement boundary for Swanwick. The appeal was allowed by decision dated 20 Jan 2015.

4.103. In that appeal the Council claimed a 13 year supply of deliverable land, whilst I appeared for the Appellant and claimed a supply of a little over 3 years (para 25 of the decision refers).

4.104. Paragraph 62 of the decision sets out the Inspector’s conclusion that the supply is in the order of 3.4 years.

- 4.105. Paragraph 64 adds that the resulting in-principle conflict between the location of the site with Core Strategy Policy CS14 carries relatively little weight.
- 4.106. Paragraph 65 adds that the lack of a 5-year supply also means that added weight should be given to the benefits of providing housing to meet local needs.
- 4.107. The conclusions of the Swanwick Inspector remain relevant in determining the current appeal proposal.

Cranleigh Road (14 August 2017) (SB11)

- 4.108. An appeal for 120 dwellings on land beyond the settlement boundary for Portchester was allowed on the basis that the Council was not able to demonstrate a five year supply of deliverable land for housing. An award of costs was also made against the Council in relation to its approach to housing land supply.
- 4.109. In that appeal the Council, despite benefiting from the conclusions in the aforementioned Navigator appeal decision, based its five year housing land supply calculation on the requirements of the Core Strategy, in particular Policy CS2. The Council claimed a circa 5.2 year supply of deliverable housing land. I gave housing land supply evidence at that inquiry and concluded upon a circa 2 year supply based upon the 420dpa requirement derived from the SHMA.
- 4.110. Paragraph 27 of the appeal decision gives the Inspector's assessment that the housing land supply position would be marginally in excess of 2 years.
- 4.111. For the purpose of that appeal it was agreed that the Sedgfield methodology should be applied with the shortfall accrued from the base date to be met in the relevant five year period for that appeal.
- 4.112. The inspector found that the appeal scheme would have a highly localised substantial and adverse impact on landscape character and visual impact which would conflict with Core Strategy Policies CS14 and CS17.

4.113. The proposal also resulted in the loss of M&MV agricultural land in conflict with Core Strategy Policy CS16. However, pursuant to the operation of paragraph 15 of the 2012 NPPF and on account of the lack of a five year supply of deliverable housing land the contribution the appeal site could make to meeting the District's housing needs was found to attract very substantial weight in the planning balance (paragraphs 59 to 67 refer).

Sawmills (10 Sept 2018) (SB13)

4.114. An appeal for 72 residential dwellings forming part of the Welbourne allocation was dismissed on design grounds.

4.115. Paragraphs 6, 7, 8 and 58 refer to the people over Wind judgment and confirm that due to the operation of paragraph 177 of the NPPF the presumption at paragraph 11 does not apply.

4.116. Paragraph 47 refers to the agreed position with the Council that there is only provision for between 3.5 and 4 years supply of housing land. It is also added that the Council has a significant need for affordable housing.

4.117. Paragraph 5 concludes that the Council cannot demonstrate a five year supply of housing land.

Previous Appeal | Decision at the Appeal Site for 150 Dwellings (12 April 2019) (SB1)

4.118. As set out above this decision relates to a previous scheme for 150 dwellings.

4.119. The Inspector's conclusions are addressed throughout my evidence, although it is important to note here that paragraphs 17, 67 and 68 are of particular relevance. Again, I address these matters in my evidence as appropriate.

Downend Road, Portchester (SB14)

4.120. Again, I refer to this decision elsewhere, and the approach to the application of DSP40 is again highlighted.

Emerging Local Plan

4.121. The Local plan Review has been subject to significant delays. A Regulation 18 draft Local Plan was first consulted upon in October 2017.

4.122. A revised Local Development Scheme (“LDS”) as adopted at a meeting of the Council’s Executive on 7th September. It is expected that the revised draft Local Plan will be reported to the Executive meeting on 12th October, followed by Full Council on 22nd October. It is then envisaged that a six week public consultation period will take place during the Autumn.

4.123. The LDS then envisages the Plan will be submitted at the end of the year, with an Examination in summer 2021 and adoption end 2021. It remains to be seen whether these milestones are achieved.

4.124. However, and pursuant to the approach set out at paragraph 48 of the NPPF, the emerging Local Plan carries only very limited weight.

5. ASSESSING THE FIVE YEAR HOUSING LAND SUPPLY POSITION AND AFFORDABLE HOUSING NEED AND DELIVERY

General

- 5.1. This section of my evidence considers the five year housing land supply position as well as the need for the delivery of affordable housing.

Five Year Housing Land Supply

- 5.2. The Council has accepted a land supply deficit, such that the release of the site for housing is considered to be acceptable in the context of the provisions and approach set out in Policy DSP40.
- 5.3. In this regard, paragraph 90 of a recent appeal decision relating to land east of Downend Road, Porchester (PINS Ref: APP/A1720/W/19/3230015) (5 Nov 2019), stated in relation to five year housing land supply matters as follows:

“The 5yrHLS evidence put before me shows that there are a significant number of dwellings subject to applications with resolutions to grant planning permission that are subject to unresolved matters, including the execution of agreements or unilateral undertakings under Section 106 of the Act. In many instances those resolutions to grant planning permission are 18 or more months old and I consider they cannot be considered as coming within the scope of the Framework’s deliverability definition. I therefore consider that the Council’s claimed 4.66 years HLS position is too optimistic and that the appellant’s figure of 2.4 years better represents the current situation.”

- 5.4. The Council subsequently published an update report its assessment of five year supply in a report to Planning Committee dated 24 June 2020 (**SB19**). This sets out the position for the five year period 1 April 2020 to 31 March 2025 and identifies a shortfall of 1,231 dwellings equivalent to a supply of only 2.72 years.

- 5.5. Officers subsequently took an Update Report to the same Committee (**SB20**) which referenced the legal case involving East Northamptonshire Council the SoS and Lourett Developments Ltd which considered the definition of ‘deliverable’ within the Glossary of the NPPF.
- 5.6. As set out in the Update Report, the Council amended their position to include dwellings on sites with a resolution to grant. This has the effect of reducing the shortfall to 522 dwellings, equivalent to a 4.03 year supply.
- 5.7. Regardless of the position adopted by the Council, the shortfall remains significant.
- 5.8. However, together with Mr Graham Ritchie, I have undertaken a review of the five year housing land supply position, which findings are included at Document **SB21**. For the reasons set out therein, it is my case that the shortfall is much greater than purported to be the case on the basis of the Council’s analysis.
- 5.9. Table 1 below provides a comparison between the housing land supply position adopted by the Council and that which I have derived. They reflect the five year period 1st April 2020 to 31st March 2025⁸.

Table 1 – The Respective Five Year Housing Land Supply Positions

	Council	WBP
Requirement 2020 to 2025	2,699	2,699
Assessed deliverable supply	2,177	614
Extent of shortfall/surplus	-522	-2,085
No. of years supply	4.03yrs	1.14yrs

⁸ The Government is considering reviewing the approach to the derivation of the housing required under potential changes to the Standard Method. However, and at the time of writing my evidence, the position as set out in Table 1 reflects the current position. Should the Government implement changes to the Standard method and were this to impact the housing requirement to be met in Fareham, I will update my evidence to reflect the latest position as necessary.

- 5.10. As set out in Table 1, I identify a total deficit of 2,085 dwellings which represents a supply of 1.14 years.
- 5.11. The shortfall I have identified is much greater than that said to be the case by the Council.
- 5.12. Regardless of the position to be adopted by the Appeal Inspector, the shortfall on either analysis is significant and substantial weight should be given to the delivery of housing from the Appeal Site.
- 5.13. In addition, and regardless of the position adopted, the presumption in favour of sustainable development is engaged.

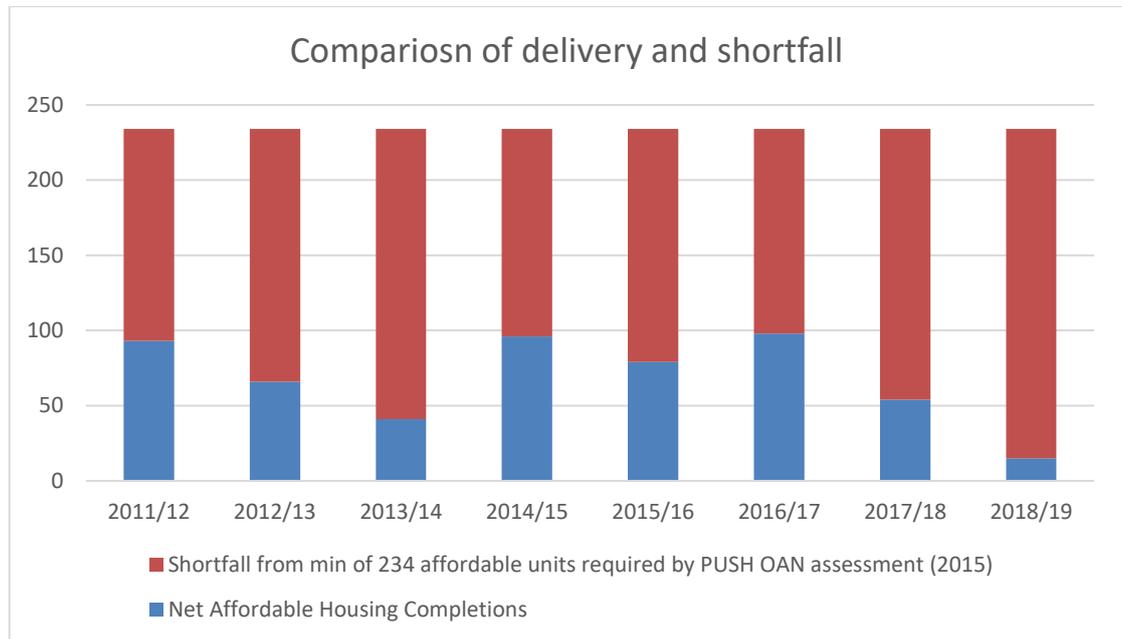
Affordable Housing

- 5.14. The Appeal Scheme proposes the on-site provision of up to 22 affordable dwellings and an off-site financial contribution equivalent to the provision of 0.8 dwellings, thus achieving a policy-compliant 40% affordable housing provision.
- 5.15. As agreed with the Council during the consideration of the Application, the proposed mix reflects identified local needs and allows for a 65:35 tenure split.
- 5.16. Paragraphs 20 and 61 of the NPPF sets a strong emphasis on the delivery of sustainable development including affordable homes, whilst paragraph 59 clearly sets out the Government's aim to "boost significantly the supply of homes".
- 5.17. The need for affordable housing and their importance in achieving sustainable development is emphasised in many government publications, including House of Commons Committee of Public Accounts – Planning and the Broken Housing Market (19th June 2019).

- 5.18. The PUSH Spatial Strategy OAN Update of August 2015 indicates the depending upon the affordability threshold (as outlined in Table 49), between 234 and 312 affordable dwellings are required annually in Fareham Borough from 2011 to 2036 (Table 59).
- 5.19. The Council’s Affordable Housing strategy (2019-36) indicates that there was a current need for around 3,000 affordable homes in the Borough (page 11) with around 1,000 households on the waiting list. Page 14 of the Housing strategy indicates that the total estimate for new affordable homes from 2019 until 2036 is for 3,500 properties, most of which will be delivered within market developers i.e. as envisaged in the appeal scheme.
- 5.20. As indicated below (sourced from the Authority’s Monitoring Report 2018-19), the Council have delivered 542 affordable homes in the period April 2011 to March 2019. This is equivalent to an average rate of 67.75 affordable dwellings per annum since 2011.

Year	Annual Req. based upon PUSH OAN Assessment (2015)	Net Affordable Housing Completions per annum	Annual Surplus/Shortfall
2011/12	234	93	-141
2012/13	234	66	-168
2013/14	234	41	-193
2014/15	234	96	-138
2015/16	234	79	-155
2016/17	234	98	-136
2017/18	234	54	-180
2018/19	234	15	-219
Total	1,872	542	-1,330

- 5.21. As the table above indicates, the delivery of 542 affordable dwellings since April 2011 should be viewed in the context that this represents an under provision of 1,330 affordable dwellings as assessed by the PUSH OAN Appraisal to achieve the annual requirement of 234 affordable units.
- 5.22. The information in the table above is illustrated in the chart below.



5.23. On the basis of the available evidence, it is clear that there is a significant need for additional affordable homes and the delivery of affordable housing against the identified need has been woeful.

5.24. The PUSH assessment provides the most recent objectively assessed affordable housing requirements and identifies a need for 234 net affordable dwellings per annum.

5.25. As the table above indicates, between April 2011 and March 2019, there has been a cumulative under-delivery of 1,330 affordable dwellings (when assessed against identified needs). This represents a 71% shortfall against assessed affordable housing needs during this period, an acute gap in provision which affects Fareham Borough and how it functions in an economic, social and environmentally sustainable way.

5.26. The future delivery of affordable housing in Fareham Borough is highly uncertain. In addition to the very significant shortfall, there is also the question of whether future needs will be met. This is especially important given the over reliance on the new community at Welborne to address both future market and affordable housing supply in the borough. With its continued delays in delivery,

this has the potential to make the situation even more severe not just for Fareham Borough's vulnerable position on affordable housing land supply, but for the significant number of households currently on the Council's Housing Register⁹. The Government's figures indicate that in 2019 there were 1,045 households on the Council's Register (reflecting the analysis in the Council's Housing Strategy 2019-36).

- 5.27. Paragraph 59 of the NPPF requires that needs of groups with specific housing requirements to be addressed. Paragraph 61 confirms that one of the specific groups relates to those requiring affordable housing.
- 5.28. Although the Council publishes details of its planning commitments for housing, there is no information on the extent that those sites forming parts of its supply will deliver affordable housing to either address the current deficit of 1,330 dwellings or ensure that this does not increase in the future.
- 5.29. The failure to meet the identified needs of affordable housing is a dire situation indicating that the Authority is not fulfilling the objectives in paragraph 59 of the NPPF.
- 5.30. A step change in the delivery of affordable housing is therefore required if the Council is to get anywhere near the identified need in the SHMA and begin to address the dysfunctions of the local housing market. Such a step change would be consistent with the thrust of paragraph 59 of the NPPF, to boost significantly the supply of housing.
- 5.31. The acute affordable housing need reinforces the merits of the Appeal Scheme with the on-site provision of up to 22 affordable dwellings.

⁹ <https://www.gov.uk/government/statistical-data-sets/local-authority-housing-statistics-data-returns-for-2018-to-2019>.

Summary

- 5.32. It is my evidence for this Appeal that substantial weight should be attributable to the benefits associated with the provision of affordable housing. I also attach substantial weight to benefits of housing delivery generally.

6. ASSESSING THE ACCEPTABILITY OF THE APPEAL SCHEME

- 6.1. This section of my evidence assesses the acceptability of the Appeal Scheme in the context of 38(6) as well as relevant material considerations.
- 6.2. I have carried out my assessment using a series of main issues. I then draw my findings together in order to undertake the planning balance.
- 6.3. My assessment is understandably informed by the expert evidence of Mr Smith (Landscape) and Mr Froneman (Heritage).
- 6.4. My assessment is set out in the form of the following main issues:

Main Issue 1: *Addressing the Findings of the Previous s78 Appeal Inspector's Decision*

Main Issue 2: *Housing and affordable housing need*

Main Issue 3: *Assessment of the Appeal Scheme in the context of development plan policies and the provision of the proposed housing on land beyond the defined urban settlement boundary: the application of Policy DSP40.*

Main Issue 4: *The effect of the proposed development upon the character and appearance of the landscape and the alleged harm to a 'valued landscape'.*

Main Issue 5: *Heritage harm by virtue of developing in the setting of the nearby Grade II* Listed buildings.*

Main Issue 6: *The loss of BMV agricultural land*

Main Issue 7: *Securing the necessary contributions towards local infrastructure.*

Main Issue 8: *Benefits of the scheme, development plan compliance and overall planning balance*

- 6.5. I address each matter in turn below.

Main Issue 1: Addressing the Findings of the Previous s78 Appeal Decision

6.6. In this section of my evidence I assesses how the Appeal Scheme (for up to 57 dwellings) addresses the matters left outstanding in respect of the previous appeal decision; and how the Scheme as now proposed addresses the previous Inspector's concerns with the larger 150 dwelling scheme. Importantly, the appeal decision concluded the larger scheme would have no impact upon the function of the strategic gap.

6.7. The Inspector's decision highlighted three main issues as follows:

1. Character and landscape
2. Heritage
3. Agricultural land quality

6.8. These matters are addressed in turn below.

Character and Landscape

6.9. The Appeal Inspector for the larger scheme concluded at paragraph. 31 in respect of character, appearance and landscape the following;

“Overall, for the reasons given above, I conclude that the proposed development would result in material harm to the character and appearance of the area. There would however be no significant effect on the Strategic Meon Gap. Consequently, the proposed development would conflict with Policies CS14 and DSP6 which seek to protect the character and appearance of the area of land outside the defined urban settlement but would not conflict with policy CS22.”

6.10. The 57 dwelling scheme proposes a reduced site size and quantum of development, such that there will be no material harm to the character and appearance of the area and, as was the case with the previous appeal scheme, there will be no material harm to the functioning of the strategic gap.

- 6.11. Overall, the appeal site area has been significantly reduced, from approximately 6.6ha to circa 4ha.
- 6.12. The area of land on which built form is to be located comprises land closest to the existing settlement, adjacent to residential development to the north, and Posbrook Lane to the west. This represents the least sensitive part of the site in landscape terms. The combination of reduced site area and focussing the proposed development solely on land adjacent to the settlement immediately reduces the potential for landscape harm to occur.
- 6.13. Furthermore, the scheme proposes to include a significant tree buffer, which will act as a green edge to the development, effectively screening it from wider views. This will also act as a permanent edge to development in this location. The tree buffer will bring additional benefits in terms of biodiversity and provide opportunities for new habitat creation.
- 6.14. The consultation response from Historic England is considered to be a particularly positive response to the issues which were outstanding following the issuing of the appeal decision on the larger scheme, and confirms that an appropriate landscaping strategy, combined with a reduced quantum of development, can be achieved on this site without causing landscape or heritage harm.
- 6.15. The landscape assessment concluded that the proposed development would result in moderate landscape effects on the development site itself and its immediate context, but these effects would be localised and limited to an area which is already characterised by urban fringe influence. Further from the proposed development site, and for the wider Lower Meon Valley as a whole, the effects would be minor, and the nature of effect would usually change from negative to positive once proposed new planting has established. The visual effects of the proposed development would be localised, with walkers on footpaths crossing the application site, and residents on the existing settlement edge, experiencing major, major/moderate or moderate effects. There would be no effects of 'moderate' or greater significance further from the application site.

- 6.16. The landscape case for the Appellant is set out in the Landscape Statement of Case prepared by Mr Smith, with only localised harm identified; alongside landscape and visual benefits for the wider valued landscape of the Meon Valley.
- 6.17. It is therefore concluded that the proposal addresses the issues raised in the appeal decision in respect of landscape impact, and there is no longer a conflict with Policies CS14, CS22 and DSP6.

Heritage

- 6.18. As set out in the pre-application response received from Historic England ('HE'), the reduced scale scheme, together with the proposed woodland buffer is considered to mitigate the previously highlighted impact on the Great Posbrook Farm.
- 6.19. An extract from the Historic England response states;

“Reducing the proposed woodland between the development and Great Posbrook Farm to retain more of the existing open rural landscape surrounding the farmstead would in our view help achieve this. This would allow the farmstead to continue to be read from this approach as a distinct and separate feature, as well as maintaining a greater degree of its agricultural and rural context. This is a key aspect of the setting of the listed buildings, which at present can still be appreciated.”

- 6.20. It should be noted that in the consultation drawing sent to HE, the proposed woodland buffer was shown continuing up to the boundary of Great Posbrook Farm. In their response, HE highlight that this is not necessary, and that a reduced woodland would serve to ensure that this historic landscape pattern and views are preserved. These matters are addressed in the accompanying Heritage Statement of Case.
- 6.21. HE also noted that;

“The additional tree screening to the boundary of the proposed housing development would improve the appearance of the harsh urban edge currently created by the Bellfield estate, which is a detracting feature. Such boundary treatment would be an enhancement on the wider setting of the heritage assets.”

- 6.22. The consideration of the proposed woodland buffer by HE as an enhancement to the wider setting of the heritage assets, demonstrates the evolution of the reduced scale scheme and how the design team has responded positively with a solution to the landscape and heritage issue which were outstanding following the appeal.
- 6.23. The positive endorsement of the proposed scheme by HE also engages paragraph 200 of the NPPF which requires proposals that make a positive contribution to be treated favourably by the LPA.
- 6.24. HE’s pre-application comments were followed by a formal consultation response upon the application. This conformed no objection to the scheme (despite HE identifying some incursion into the paragraph 196 less than substantial scale).
- 6.25. The landscape proposals are considered to represent a benefit to the area, in heritage terms, which should weigh in favour of the application being permitted.
- 6.26. On the basis of the foregoing, and as set out in the supporting material to the appeal scheme, it is the case for the Appellant’s that the Scheme is submitted in accordance with Local Plan Part 2 Policy DSP5.

Agricultural Land Quality

- 6.27. It was agreed with the Council during the course of the previous Appeal 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.

- 6.28. The Appeal Scheme proposes development on a smaller site, and so it must follow that the potential harm / scale of loss of agricultural land is also reduced. The small scale of the site (when compared to an overall farming unit), and considered against the other BMVAL around Fareham, means that the loss will not be significant, and should only be afforded limited weight at most in the planning balance.
- 6.29. The loss of BMW agricultural land is addressed in **SB10**.
- 6.30. The scheme as now proposed, for a significantly reduced number of dwellings, on a significantly reduced part of the site, means more of the land can now be retained in its existing use i.e. grazing. The Appeal Site extends to 4.0 ha. Of this 3.5 ha is of Subgrade 3a “good quality” agricultural land. This falls within the category of BMVAL. Of this approximately 2 ha is proposed for residential development including landscaping. It is the Appellant’s case that only limited weight should be given to what is a minor adverse effect resulting from this loss.

Main Issue 2: Housing and affordable housing need

- 6.31. My analysis in section 5 confirms the demonstrable need for new homes both in terms of the lack of a five year supply of deliverable housing land and in terms of the acute need for affordable homes.
- 6.32. Including for the reasons set out in **SB1** and Main Issue 8 below, I place substantial weight upon the provision of housing; and, separately, I also place substantial weight upon the provision of affordable homes from the Appeal Scheme.
- 6.33. It is common ground that the Council is unable to demonstrate a five year supply of deliverable housing land (**SB6**, **SB19** and **SB20** refer). Even on the Council’s most optimistic analysis (**SB20**), on the basis of their figures, there is a shortfall of 522 dwellings, which shortfall is significant and results in a supply of only 4.03 years.

- 6.34. Given the lack of a five year supply of deliverable housing land, the presumption in favour of sustainable development at paragraph 11(d) of the NPPF is engaged. This lack of supply also engages the assessment criteria at Policy DSP40 of the Local Plan Part 2 which allows for development beyond the settlement boundaries subject to the scheme(s) satisfying the criteria set out in the Policy.
- 6.35. Although the Council acknowledges that it cannot demonstrate a five year supply of deliverable housing land for the period 1st April 2020 to 31st March 2025 with supplies of either 2.72 years (**SB19**) or 4.03 years (**SB20**), it is my position that the extent of the deficit is significantly greater with a supply of only **1.20 years**. This amounts to a **deficit of 2,051 dwellings**.
- 6.36. My assessment of the five year housing land supply position differs from the Council's, primarily due to the application of the definition of what constitutes a deliverable site from the 2019 NPPF, taking account the clarification provided by numerous appeal decisions.
- 6.37. The Council's case on housing land includes a reliance upon sites which were neither allocated nor had a planning permission at the base date for the assessment (31st March 2020) or are unsupported as a result of optimistic assumptions on delivery rates which are not supported by the necessary clear evidence (which also had to be available at 31st March 2020).
- 6.38. Having assessed the housing land supply based upon the requirements set out in the NPPF, PPG and the approach adopted in numerous appeal decisions, although we concur that the Council is not able to demonstrate a five year supply of deliverable housing land, thus engaging the presumption in favour of sustainable development at paragraph 11(d) of the NPPF, I have reached the conclusion that the extent of the shortfall is significantly greater than that acknowledged by the Authority. Consequently, and as acknowledged by the Council, the presumption in favour of sustainable development is engaged as a result of the significant shortfall in supply.

- 6.39. This is on account of the Local Plan policies being 'out of date'; which matters are addressed the overarching Planning Statement of Case.

Main Issue 3: Assessment of the Appeal Scheme in the context of development plan policies and the provision of the proposed housing on land beyond the defined urban settlement boundary: the application of Policy DSP40.

General

- 6.40. As confirmed in the appeal decisions attached at **SB1, SB11, SB12, SB13 and SB14**), the development policies for the supply of housing are materially out of date. This includes in relation to the settlement boundaries, whilst the Council is unable to demonstrate a five year supply of deliverable housing land.
- 6.41. As a result the 'tilted balance' at paragraph 11(d) of the NPPF is engaged (subject to the operation of paragraphs 196 and 177 of the NPPF).
- 6.42. The out of date nature of the policies for the supply of housing and the lack of a 5 year supply are actors that weigh heavily in support of the Appeal Scheme.
- 6.43. Applying the first limb of section 38(6) of the Planning and Compulsory Purchase Act 2004, the proposal is in *prima facie* conflict with Core Strategy policies CS2, CS14, and CS16 as well as Policy DSP6 from the Local Plan Part 2. However, Policy Local Plan Part 2 Policy DSP40 provides an exception to the restriction of additional housing sites beyond the defined settlement boundaries subject to certain criteria which I set out below. Moreover, the weight to be attached to any conflict with the spatial strategy and associated settlement boundaries in policies CS2, CS14 and DSP6 is significantly reduced given that the settlement boundaries as so defined fail to meet the present and future need for housing.
- 6.44. FBC accepts that greenfield sites and extensions to settlement boundaries defined in the 2011 Core Strategy and 2015 Local Plan Part 2 are required to accommodate current and future housing needs. This means that relevant development plan policies are out of date for the purposes of meeting current

up to date housing needs. As such, the weight to be attached to definitions of existing settlement areas and extent of countryside areas and policies seeking to protect countryside are significantly reduced.

- 6.45. On the basis of the foregoing, the alleged “unjustified” need for the Appeal Scheme beyond the defined urban boundary in the first reason for refusal is unfounded as there is in fact a need for additional market and affordable housing which is a clear material consideration that has a significant influence on the appeal scheme. Moreover, there is an agreed shortfall in the five year housing land supply position, which triggers the application of Policy DSP40.
- 6.46. In addition to the above and for the reasons set out in Main issue 6 below, I am of the view that the proposal meets the three roles of sustainability in the NPPF, and that these considerations weigh in favour of the development and are to be weighed against the conflict with the spatial policies of the development plan.
- 6.47. Whilst I accept there is also conflict with CS16 in relation to the loss of BMV agricultural land, this is a matter to be weighed in the overall planning balance and which conflict for the reasons set out, namely the pressing need for market and affordable homes as well as the public benefits arising from the scheme, I give limited weight.

Local Plan Policy DSP40

- 6.48. The provisions set out at Policy DSP40 of the Part 2 Local Plan are of particular relevance to assessing the merits of the appeal scheme in so far as they set out criteria against which schemes beyond the defined urban boundaries can be assessed to see if they might be acceptable in the event it can be demonstrated that the Council does not have a five year supply of land for housing.
- 6.49. The first test, the lack of a five year supply, has been triggered. This then allows for schemes to be considered against the five criteria set out in the policy.
- 6.50. Once Policy DSP40 is triggered (in the absence of a five year supply of deliverable housing sites), it comprises the principal development plan policy that guides whether schemes will be considered acceptable. Accordingly, by

operation of and conformity with Policy DSP40, the Appeal Scheme accords with the development plan when taken as a whole, such that the presumption in s. 38(6) of the Planning and Compulsory Purchase Act 2004 is in favour of the development.

- 6.51. In the circumstances, the Council’s continued inability to demonstrate a robust five year housing land supply position, triggers the operation of policy DSP40 which, was introduced precisely to operate as an exception to the otherwise restrictive policies of CS14, DSP6 and CS22, to permit development in breach of those policies when the Council could not demonstrate a 5 year housing land supply.
- 6.52. As accepted by the Council in evidence for the previous appeal and as numerous committee reports (assessing applications on land outside the urban area) demonstrate, compliance with the five criteria in DSP40 mean that the development in question can be concluded to be in accordance with the development plan *taken as a whole* notwithstanding a location outside the settlement boundaries or within the gap designation.
- 6.53. Policy DSP40 states as follows:

“Where it can be demonstrated that the Council does not have a five year supply of land for housing against the requirements of the Core Strategy (excluding Welborne) additional housing sites, outside the urban area boundary, may be permitted where they meet all of the following criteria:

- 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.”

6.54. The following assessment refers to each of the key themes arising from each of the five sub-points to Policy DSP40.

(i)

Is the appeal scheme relative in scale to the housing land supply shortfall?

6.55. Paragraph 8.32 of the Officer Report to Committee confirms the Appeal Scheme is relative in scale to the shortfall in the supply of deliverable housing land and that bullet (i) of Policy DSP40 is satisfied.

(ii)

Is the site sustainably located adjacent to, and well related to, the existing urban settlement boundaries, and can be well integrated with neighbouring settlement?

6.56. The acceptability of the Appeal Scheme in this regard is considered at paragraphs 8.33 to 8.35 of the Officer Report upon the Appeal Application.

6.57. Paragraph 8.33 states as follows:

“The northern site boundary immediately abuts the rear gardens of dwellings within the existing adjacent urban area as well as the public open space and play area on the south side of the Bellfield estate. The overall extent of the housing development would be confined to an area all within a close distance of the urban boundary. With this in mind Officers consider that the development would be well related to and well integrated with the neighbouring settlement.”

(My emphasis)

6.58. Paragraph 8.34 adds:

“The site would also be comparatively well located to the services and facilities located within Titchfield village centre as well as the nearest bus stops on Coach Hill being a relatively short distance away.”

- 6.59. The locational merits of the Appeal Site, in the context of access to local services and facilities, are set out in the Transport Assessment that accompanied the Appeal Application. The TA confirms that the Appeal Site is within 1km walking distance to a range of local services and facilities, including the High Street as well as bus stops/services.
- 6.60. The walking distances to local services and facilities are well within the 2km maximum walking distance to key destinations recommended in the Chartered Institute for Highways & Transportation (CIHT) Guidance.
- 6.61. In addition to the above there are no objections to the Scheme from County Highways.
- 6.62. Paragraph 8.35 of the Officer Report concludes that the Appeal Site satisfies the assessment criteria at part (ii) of the Policy. Accordingly, there is agreement between the Appellant and the Council that the Appeal Site is sustainably located adjacent to, and well related to the existing urban settlement boundaries and can be well integrated with the neighbouring settlement.

(iii)

Is the proposal sensitively designed to reflect the character of the neighbouring settlement and would it minimise any adverse impact on the countryside and, if relevant, the Strategic Gap?

- 6.63. The accompanying evidence of Mr Jeremy Smith details the precise landscape effects of the proposal, which analysis has been undertaken against the context of the previous appeal decision where the Appeal Inspector established that the Appeal Site formed part of a valued landscape of the Lower Meon Valley, thus engaging paragraph 170 of the NPPF.
- 6.64. Paragraph 8.40 of the Officer Report states in relation to the purported impact(s) of the Appeal Scheme upon the receiving landscape as follows:

“This application proposal is smaller in area to the previous application and appeal proposal for 150 houses which was refused. The current application would not cause as much harm as the appeal proposed would have in landscape and visual impact terms, mainly because it covers a smaller area

and would not extend as far into the valley. However, it would still change part of the pastoral field which is an integral part of the valued landscape of the Lower Meon Valley from undeveloped land to housing development causing permanent harm. It would cause adverse effects on views from the Lower Meon Valley for many years, accepting in the long term, if proposed planting establishes and matures successfully, the proposed housing may well be softened. Planting along the eastern edge of Titchfield (north-east of the proposed housing area) would result in positive changes to views of this urban edge in the long term. The proposed development would make it harder to understand that Great Posbrook was originally a separate farmstead as the built form of Titchfield extends towards it as a consequence of the development.”

(My emphasis)

- 6.65. Whilst it is accepted that the proposed planting along the eastern boundary of that part of the Site proposed to be developed for housing would result in positive changes to view of the urban edge in the long term, the overall conclusion at paragraph 8.41 is that the Appeal Scheme would nevertheless cause adverse landscape and visual impacts within the Lower Meon Valley.
- 6.66. In terms of the strategic gap, it is agreed, including pursuant to the findings of the previous Appeal Inspector, that development (in the manner now proposed) would not have a significant or material adverse effect upon the integrity of the strategic gap.
- 6.67. Paragraph 8.44 concludes in relation to their assessment of the Appeal Scheme in the context of Part (iii) of Policy DSP40 as follows:

“In summary, the proposal fails to satisfy point three of Policy DSP40. Whilst the effect on the strategic gap would not be significant there would be adverse landscape and visual impacts on the countryside and this valued landscape which would not be minimised to an acceptable degree resulting in both short term and permanent harm to the landscape character.”

- 6.68. Mr Smith’s Landscape Statement of Case addresses the acceptability of the Appeal Scheme in landscape terms, which matters I set out in Main Issue 3 below.

6.69. However, and to be clear, paragraph 12 of Mr Smith’s evidence confirms in relation to his assessment of the Appeal Scheme in relation to DSP40(iii) as follows:

“In summary the proposed development not only minimises the harm upon the landscape of the Appeal site itself, but would also minimise harm on the wider Lower Meon Valley in the short term, and provide positive landscape and visual effects in the medium to long term. In this way the proposed development complies with point iii of DSP40.”

6.70. As such, Mr Smith’s evidence considers that the Appeal Scheme accords with DSP40(iii).

(iv)

Is the scheme deliverable in the short term?

6.71. The fourth test of Policy DSP40 is whether or not the scheme is deliverable in the short term. Paragraph 8.45 of the Officer Report confirms that delivery could be achieved in the short term, thus satisfying this part of the Policy.

6.72. To amplify the position, the Appellant is Foreman Homes, a local house builder with a proven track record of housing delivery.

6.73. They have an option on the land which they will exercise on the grant of outline planning permission and there are no ownership, legal or other limitations to development of the site in a timely manner.

6.74. As such, up to 57 dwellings can reasonably be expected to be delivered within the existing five year period.

(v)

Would the proposal have any unacceptable environmental, amenity or traffic implications?

6.75. The fifth criteria is used to assess whether or not the proposal would have any unacceptable environmental, amenity or traffic implications.

- 6.76. In setting out their assessment of the Appeal Scheme (**SB6** and **SB7**), the Council raise no amenity objections to the scheme. Nor do they raise any traffic/highway objections; and I have already addressed landscape impacts under (iii). This leaves the issue of heritage, which is dealt with in main issue 5 below and in the evidence of Mr Froneman.
- 6.77. As regards the natural environment, the Council's Ecologist has raised no objection to the Appeal Scheme, which stance is reflected in the consultation response received from Natural England.
- 6.78. The Officer Report to Committee confirms that the Council are satisfied that the Appeal Scheme could be delivered without any amenity impact on existing residents (paragraph 8.51 refers); that there is no objection from the County Council with regards to highway related impacts (8.53) subject to certain planning conditions being imposed. Paragraph 8.50 further adds that the loss of BMVAL would not in itself justify refusing the Scheme.
- 6.79. However, and as set out at paragraph 8.72 of the Report to Committee, Officers have identified likely significant effects from the Appeal Scheme upon the Solent and Southampton Water Special Protection Area, a Ramsar site, Solent Maritime Special Area of Conservation and that the site is a component of the Solent Wader and Brent Goose network. Accordingly, and in order to establish whether these likely significant effects can be sufficiently mitigated it is necessary for an appropriate assessment to be carried out.
- 6.80. Paragraph 8.72 adds that as Officers judged that the Appeal Scheme proposals were contrary to adopted local plan policies and the policies of the NPPF, and so decided not to undertake an Appropriate Assessment ("AA"). Accordingly, and on their approach, Officers then used paragraph 177 of the NPPF to 'disapply' the presumption in favour of sustainable development set out at Paragraph 11 of the NPPF.
- 6.81. I consider this approach to be in error. Paragraph 177 only disapplies the presumption in 11(d) if *upon undertaking an AA* the decision maker cannot conclude favourably in respect of the proposal. In such circumstances, the

Habitat Regulations would require a refusal of permission in any event and so the operation of the presumption in 11(d) would, in practice, not arise.

- 6.82. Given the Council did not undertake an AA, it is not in a position to state that paragraph 177 operates against the Scheme.
- 6.83. The Appeal Inspector is now the Competent Authority who must consider the need for an AA and undertake it. The evidence for this exercise has been provided by CSA Environmental in a Habitat Regulations Assessment included in **SB9**.
- 6.84. Further analysis by the Council of the impact of the Appeal Scheme upon European Protected Species is set out at paragraphs 8.18 to 8.29 of **SB6**.
- 6.85. Article 6(3) of the Habitats Directive states that any plan or project likely to have a significant effect on a European site, either individually or in combination with other plans or projects, shall be subject to an AA of its implications for the site in view of the site's conservation objectives.
- 6.86. As I have explained, a draft (or “shadow”) AA has been undertaken by CSA Environmental Ltd and is attached at **SB9**. This concludes that the recreation disturbance on the Solent & Southampton Water Special Protection Area and the Titchfield Haven National Nature Reserve from the increased population arising from the scheme can be mitigated through the Solent Recreational Mitigation Strategy (SRMS) such that there is no bar to development on this basis. Moreover, the ECOSA bird surveys concluded that the appeal site is not used significantly by birds. The scheme also provides for the creation of a new bird habitat on approximately 9.5ha of land to the east of the appeal site which is to be transferred to Hampshire County Council and secured through the s106 agreement along with a financial contribution for its set up and on-going maintenance. This represents an opportunity to enhance the biodiversity of the site which is an environmental benefit of the Scheme.
- 6.87. On the basis of the foregoing, and pursuant to the approach set out at paragraph 177 of the NPPF, in so far as the AA concludes the Appeal Scheme will not adversely affect the integrity of identified habitat sites, the presumption therefore is not disengaged by that paragraph.

- 6.88. The remaining environmental issues relate to the loss of the best and most versatile agricultural land and heritage impacts.
- 6.89. I deal with landscape matters under Main Issue 4, heritage matters under Main Issue 5 and BMV under Main Issue 6.
- 6.90. Informed by the evidence of the other witnesses for the Appellant, I conclude that there would be no unacceptable impact in environmental, amenity and traffic terms. I therefore conclude that criteria 5 is met such that the appeal scheme accords with the requirements set out in Policy DPS40. As such, including based upon the *Rochdale* approach set out in section 3 of my evidence, the Appeal Scheme is in accordance with the development plan when it is considered as a whole.

Summary

- 6.91. On the basis of the foregoing, it is my opinion that the Appeal Scheme satisfies the requirements at criteria (i) to (v) 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 sensitively designed to reflect the character of Titchfield (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); and
 - v. The proposal would not have any unacceptable environmental, amenity or traffic implications.
- 6.92. It is for these reasons, and those set out in the supporting particulars, that I say the Appeal Scheme is development plan compliant.

6.93. However, and even were the considered to be a minor conflict with an element of Policy DSP40, it is evident that the many economic, social and environmental factors weigh heavily in support of the scheme in a situation where the policies for the supply of housing are out of date thus triggering the presumption in favour of sustainable development at paragraph 11 of the NPPF.

Main Issue 4: The effect of the proposed development upon the character and appearance of the landscape and the alleged harm to a ‘valued landscape’.

6.94. The landscape and visual effects of the Appeal Scheme are addressed at section 6 of the Statement of Case prepared by Mr Smith, which responds to deemed reason for refusal (b).

6.95. I summarise Mr Smith’s assessment of the landscape impact of the Appeal Scheme as follows:

1. *The wording of Policy DSP40 acknowledges that some harm will be occasioned by development beyond defined settlement boundaries, as the Policy **does not require no harm, but that the development must minimise any adverse impact on the Countryside.***
2. *In this context Mr Smith notes that the fundamental difference between this proposal for up to 57 homes and the previous Appeal for up to 150 homes is that this proposal would occupy only 1.65 hectares of open field in the area, which is around 25% of the previous development area. Equally importantly, the Appeal Site is now focused on the area which is already most strongly influenced by views of the settlement edge. It is for this reason that the SLR LVIA 2019 concludes that the landscape effects of the proposed development upon the character of the Appeal site and its immediate context would be moderate and negative, since this development would introduce further housing into an area which is already characterised by clear views of the settlement edge.*
3. *In arriving at this assessment the SLR LVIA 2019 has accepted the Inspector’s conclusion that the Appeal site forms part of the valued landscape of the Lower Meon Valley. The value of the landscape of both the site and its context has thus been increased in the assessment, (compared to the previous assessment for the first Appeal), but the susceptibility of the site has been lowered to account for the settlement edge influence. As a result, the sensitivity of the Appeal Site to the type of development which is proposed is medium, compared with high to medium further from the settlement edge.*

4. *This variation in sensitivity is wholly in keeping with the advice in GLVIA3's box 5.1, which provides guidance on how to value undesignated landscapes, and it also factors in GLVIA3's advice on susceptibility (paragraph 5.40, page 88): it is clearly correct that an area which is already heavily influenced by existing housing is less sensitive to the addition of further, small scale housing development.*
5. *This approach is also consistent with precedents for even our most valued landscapes – AONBs and National Parks – where there are pockets of less attractive or previously developed sites (on settlement edges, mineral and waste sites, airfields and employment areas for example) which have a lower sensitivity to development. I myself have been involved in Appeals for some of these developments (see for example Aston Down airfield, in the Cotswolds AONB, which was permitted for large employment uses in an area which was already influenced by hangars and the adjacent airfield).*
6. *In the same way the sensitivity of the Lower Meon Valley is not consistent: and the Appeal Site is one example of an area which is "undeniably" influenced by the settlement edge and which therefore has a marginally lower value. By focusing the development on a less sensitive part of the Lower Meon Valley the proposed development is therefore seeking to minimise negative landscape and visual effects.*
7. *Despite the much smaller area of the proposed development, the development proposals still include native woodland around the edges of the new homes as well as along the existing settlement edge. This woodland would gradually reduce the visual effects of the development on the wider Lower Meon Valley, and would also ensure that the negative effects of development would become more localised: this is illustrated by the ZTV in this evidence (see drawing PL-2) which shows that even at just eight metres high the proposed planting would almost largely contain views of the proposed development. The proposed planting would also progressively filter and screen views towards the settlement edge, creating a softer, more attractive edge rather than the current "harsh" edge.*
8. *These clear visual benefits also have a direct effect on landscape character. The less visible the settlement edge is, the less it influences the character of the adjacent land. As a result the urban fringe character at the settlement edge becomes more localised, and countryside outside of the proposed planting, in the wider Meon Valley, becomes more remote and rural in character. It is for this reason that the SLR LVIA 2019 concludes that there would be minor positive landscape effects for character areas outside of the proposed new planting once this has established.*
9. *In summary the proposed development not only minimises the harm upon the landscape of the Appeal site itself, but would also minimise harm on the wider Lower Meon Valley in the short term, and provide positive landscape and visual effects in the medium to long*

term. In this way the proposed development complies with point iii of DSP40.

Main Issue 5: The harm to the setting of the nearby Grade II* Listed buildings.

- 6.96. It is the case for the Council that the Appeal Scheme will result in less than substantial harm (at the lower end of the paragraph 196 spectrum) to, and fail to preserve and enhance, the setting of nearby Grade II* Listed Buildings (deemed reason for refusal (c)).
- 6.97. I have already sought to distinguish the differences between the current Appeal Scheme for up to 57 dwellings and the previous scheme for up to 150 dwellings (see Main Issue 1 above), which analysis relies upon the assessment undertaken by Mr Froneman. His Heritage Statement of Case addresses this deemed reason for refusal in full.
- 6.98. Section 6 of that Statement of Case sets out Mr Froneman's summary and conclusions, in which he considers the key heritage issues to be:
- i. whether the appeal scheme would cause any harm to the significance of the listed buildings;
 - ii. whether the appeal scheme would enhance the significance of the listed buildings; and
 - iii. if any harm would be caused, the degree of harm.
- 6.99. It is Mr Froneman's evidence that there would be no harm arising from the Appeal Scheme, aside from an interim effect while the proposed landscaping matures.
- 6.100. I summarise Mr Froneman's assessment of the heritage impacts of the Appeal Scheme as follows:
1. *The setting of the former farmstead at Great Posbrook would change as a result of the Appeal Scheme, albeit, a clear and substantive gap would be maintained between Great Posbrook and Titchfield.*

2. *Unlike the previous Appeal Scheme, there would not be new housing on the land immediately adjacent to/bordering the former farmstead and farmhouse. The Appeal Scheme would not bring the settlement of Titchfield up to the historic farmstead, or subsume it into Titchfield. A separation would be maintained, and the former farmstead would remain distinct from the settlement.*
 3. *When viewed from the south, along Posbrook Lane and the public footpaths, travelling towards the farmstead and Titchfield, the views of the farmhouse and barn, recognisable as a distinct farmstead with adjoining open land, would remain appreciable. The harsh urban edge of Titchfield, which is also visible in some of these views, would be softened by the proposed landscaping along the south of the appeal site. This would improve the appreciation of the former farmstead as set in a rural context.*
 4. *The farmstead would not be enclosed or subsumed by built form or landscaping. The farmstead and listed buildings would not become detached from their rural hinterland. The historic functional connection with the adjoining open land would be maintained. The ‘dislocation’ of the historic farmstead from the existing built up area, which the Inspector at the previous appeal described as ‘an important and fundamental component of the listed buildings’ setting’ would not be lost as a result of the development.*
 5. *The significance of Great Posbrook, or the ability to understand it as a historic former farmstead, separate from Titchfield, would not be materially affected. Whilst the southern edge of Titchfield would be closer, it would also be a softer edge, which would better relate to the adjoining rural land than the harsh existing urban edge.*
 6. *As explained, Mr Froneman does not find, on balance, that the significance of the listed buildings would be materially affected, aside from an interim effect while the landscaping matures.*
 7. *The heritage comments on behalf of Fareham Borough Council found less than substantial harm to the listed farmhouse and barn, again at the lower end of the spectrum (that is also reflected at paragraph 8.56 of the Committee Report). Again, this does not take into account any enhancement. The assessment in that case was, however, based on incorrect measurements that assumed the proposed gap would be only half as wide as it is actually proposed to be.*
- 6.101. Whilst it remains the Appellant’s Case that there would, overall, be no harm to the significance of the listed buildings, it seems to me that even if there was some harm, there is now very little disagreement between the Appellant, Historic England, and Fareham Borough Council as to the low level of such harm.

6.102. Even if the Inspector were to conclude that there would be some harm to the setting/significance of the listed buildings, there is broad agreement that this would be of no more than a very low degree.

6.103. If it is concluded that there would be some harm, this harm clearly falls within the lowest end of the NPPF paragraph 196 spectrum, and would need to be given appropriate weight¹⁰ in the overall planning balance, against all other relevant considerations, which balance I undertake in addressing Main Issue 7 below.

Main Issue 6: The loss of BMV agricultural land

6.104. As set out in **SB6** and **SB7**, deemed reason for refusal (d) reads as follows:

“The proposal would result in the loss of best and most versatile agricultural land.”

6.105. However, and as set out in **SB6** (paragraphs 8.49 and 8.50 refer), it is agreed that the loss of some Grade 3a land should be afforded only limited weight and would not in itself justify the refusal of planning permission. This position is also recorded in the SoCG.

6.106. An Agricultural Land Classification Report is included at SB10, the content of which has informed my overall planning balance.

Main Issue 7: Securing the necessary contributions towards local infrastructure.

6.107. Matters of detail, including in relation to the likely financial contributions will be secured in the formal of a planning obligation(s).

6.108. Subject to meeting the necessary tests at paragraph 56 of the NPPF, it is considered that the following may be provided for in a legal agreement:

¹⁰ In the context of *Banrwell Manor*

- i. Affordable Housing (40%)
- ii. Community infrastructure contribution for the provision and/or improvement of community infrastructure facilities within the locality of the site
- iii. Bird Conservation Area
- iv. Footpath works contribution
- v. Primary education
- vi. Public open space provision
- vii. Secondary education
- viii. Solent Disturbance Mitigation
- ix. Sustainable Transport

6.109. As set out in **SB6** (see also section 1 above), the completion of a legal agreement to secure CIL compliant objections would satisfy the Council's deemed reasons at (e) to (k).

6.110. Accordingly, if a satisfactory legal agreement is completed securing the necessary contributions for on and off site provision of facilities and infrastructure, this would address the requirements at policies CS4, CS5, CS16, CS18, CS20, DSP3 and DSP15.

Main Issue 8: Benefits of the scheme, development plan compliance and overall planning balance

General

6.111. My evidence and the conclusions in the appeal decisions at The Navigator (**SB12**), Cranleigh Road (**SB11**), Sawmills (**SB13**), the dismissed appeal for 150 dwellings at the Appeal Site (**SB1**) and Downend Road (**SB14**) demonstrate that the spatial policies for the supply of housing in the Core Strategy and Local Plan Part 2 are out of date. This includes in relation to the housing requirement and settlement boundaries.

- 6.112. It is also agreed that the Council is unable to demonstrate a five year supply of deliverable housing land for the current five year period 1 April 2020 to 31 March 2025 (Documents **SB19**, **SB20** and **SB21** refer).
- 6.113. The Council has approved numerous planning applications on land beyond the settlement boundaries as defined in the development plan in order to meet identified housing needs. This remains the case in terms of seeking to meet housing needs as part of the preparation of the emerging Local Plan, where the Regulation 18 Local Plan proposes the allocation of sites for housing beyond the settlement boundaries defined in the 2011 Core Strategy and 2015 Local Plan Part 2. In the meantime, Local Plan Part 2 Policy DSP40 provides the framework for judging planning applications for unallocated sites beyond the settlement policy boundaries where, as here, the LPA cannot demonstrate a five year supply of deliverable housing land.
- 6.114. On the basis of the foregoing, I am of the view that the weight to be attached to the conflict between the appeal site and its location adjoining but ultimately beyond the settlement policy boundary for Titchfield is significantly reduced.
- 6.115. On the basis of the evidence prepared by the witnesses for the Appellant, the only *prima facie* policy breaches are (i) conflict with an out of date settlement boundary, (ii) loss of a limited amount of Subgrade 3a BMV; and (iii) some limited harm to landscape (by virtue of the change from a grazing land to residential development). In all other respects the Appeal Scheme accords with the policies of the development Plan, including DSP40.
- 6.116. The remaining purported conflicts raised by the Council in the reasons for refusal are not made out by the evidence.
- 6.117. Either of (i) the lack of consistency between the housing requirement and settlement boundaries with the NPPF; or (ii) the lack of a deliverable five year supply of deliverable housing land triggers the presumption in favour of sustainable development at paragraph 11(d) of the NPPF.

6.118. On the basis of the foregoing, whilst under the application of 38(6), there is a *prima facie* conflict with development plan policies CS2, CS14, CS16 and DSP6, in so far as the proposal accords with the provisions at Policy DSP40, it is my evidence that the Appeal Scheme accords with the development plan when taken as a whole.

Development Plan Compliance

6.119. In support of my approach, Table 1 below summarises my assessment of the Appeal Scheme in the context of the Development Plan policies contained in the deemed reasons for refusal (section 1 refers).

6.120. A green box means the Appeal Scheme accords with the policy whilst a red box means there is a *prima facie* conflict.

6.121. As evidenced in the Table 1, there is significant policy support for the Scheme. As such, I conclude that the appeal scheme accords with the development plan when taken as a whole. This is due to the operation of Policy DSP40 and the lack of a five year supply of deliverable housing land.

6.122. As I set out, the weight to be attached to the conflicts is reduced given that the policies for the supply of housing are materially out of date.

Table 1: Conformity of the Appeal Scheme with the Development Plan

Development Plan Policy	Topic	Assessment of the Appeal Scheme's Conformity to Policy	Weight I give to the Policy
Core Strategy			
CS2	Housing Provision	NO	Limited
CS4	Green Infrastructure and Biodiversity	YES	Full
CS5	Transport Strategy and Infrastructure	YES	Full
CS6	The Development Strategy	YES	Limited
CS14	Development Outside Settlements	NO	Limited
CS16	Natural Resources	NO	Limited
CS17	High Quality Design	YES	Limited
CS18	Provision of Affordable Housing	YES	Full
CS20	Infrastructure and Development	YES	Full
CS21	Protection and Provision of POS	YES	Full
CS22	Development in Strategic Gaps	YES	Limited
Local Plan Part 2			
DSP5	Historic Environment	YES	Full
DSP6	Defined Urban Settlement Boundaries	NO	Limited
DSP13	Nature Conservation	YES	Full
DSP14	Supporting Sites for Brent Geese	YES	Full
DSP15	Solent SPA	YES	Full
DSP40	Housing Allocations	YES	Full

6.123. The commentary below assesses both the merits and potential impacts of the Appeal Scheme in relation to the three sustainability tests set out at paragraph 8 of the NPPF.

6.124. This clearly shows that whilst there is considered to be slight impact in terms of the loss of countryside these considerations are incapable of outweighing, let alone significantly and demonstrably outweighing, the many benefits of the Appeal Scheme in the context of the straight planning balance, in particular, in respect of meeting important open market and affordable housing needs.

6.125. A combined analysis in relation to the sustainability role is set out below.

The Planning Balance: Assessing Sustainability

6.126. This section assesses the significant merits of the scheme in relation to the three sustainability tests set out at paragraph 8 of the NPPF and clearly shows that whilst there are considered to be some slight adverse impacts, these considerations are plainly incapable of outweighing, let alone significantly and demonstrably outweighing, the many benefits of the scheme.

6.127. Paragraph 9 of the NPPF states (amongst other things) the assessment of the sustainability roles should not be undertaken in isolation, because they are mutually dependent.

6.128. A planning balance exercise has been carried out in accordance with the guidance at paragraph 9 of the NPPF and sets out a combined analysis in relation to the sustainability roles (economic, social and environmental).

Economic

6.129. The Appeal Scheme satisfies the economic role of sustainability including through the provision of housing to support growth and the associated provision of infrastructure, to be secured through preparation of the S106 agreement and by on-site provision of affordable housing.

6.130. The Scheme generates a series of local and Borough-wide economic benefits including through (i) construction of the scheme and the range of employment generated as a result; and (ii) the on-going expenditure from the households purchasing and occupying the new homes.

6.131. The principal economic benefits arising from the scheme are summarised below:

- (i) Increased house building in an area where there is a demand for new housing that in turn drives economic growth further and faster than any industry. In this regard the proposals will contribute to building a strong,

responsive and competitive economy, by ensuring that sufficient land of the right type is being made available in the right place and at the right time to support growth.

- (ii) The provision of up to 57 new homes in the Borough where there is an established need housing given the demonstrable shortfall in the five year housing land supply position.
- (iii) The application scheme will deliver much needed affordable homes that will meet the acute need for affordable housing within the Borough (section 5 above and Document **SB21** refer).
- (iv) Meeting general housing needs is a significant benefit, consistent with the Government's objective of significantly boosting the supply of housing.
- (v) In order for the economy to function, sufficient housing is required in the right locations and at the right time. This site represents a location where there would be no significant impact upon the landscape nor on the amenity of neighbouring properties.
- (vi) Based upon a multiplier of 2.3 jobs per new home, the up to 57 dwelling Application Scheme is estimated to create approximately 213 new jobs.
- (vii) Increased expenditure in the local area will support local FTE jobs.
- (viii) Helping to deliver a significant boost to the local economy through 'first occupation' expenditure of £285,000.
- (ix) In terms of household expenditure, data from the ONS Family Expenditure Survey 2019¹¹ shows that the 'average UK household spend' is £585.60 per week (or £30,451.20 per year). Based on the scheme of 57 dwellings, the total maximum gross expenditure could be around £1.7m per year to the wider economy. A proportion of this household expenditure is anticipated to be spent in local shops and services and will help sustain the existing services in Titchfield and nearby towns and villages.

6.132. By providing land of the right type, in the right place, and at the right time to support economic growth, the development of up to 57 no. dwellings on the site satisfies the objectives at paragraph 8 of the NPPF and assists in the aims of the NPPF in helping to build a strong and competitive economy.

6.133. This is further emphasised in the Government's November 2011 Paper 'Laying the Foundations: A Housing Strategy for England' where paragraph 11 states

11

<https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/expenditure/bulletins/familyspendingintheuk/april2018tomarch2019>

“getting house building moving again is crucial for economic growth – housing has a direct impact on economic output, averaging 3 per cent of GDP in the last decade. For every new home built up to two new jobs are created for a year”.

6.134. The economic benefits are to be accorded substantial weight in the planning balance.

Social

6.135. The Application Scheme satisfies the social role, in helping to support strong, vibrant and healthy communities, including through providing the supply of housing required to meet identified needs in open market and affordable sectors. This is a significant benefit. In addition;

- 1) Future residents will be in an easy walking and cycling distance to a wide range of other uses including the shops and services in Titchfield.
- 2) The Application Scheme will provide a range of housing types and size.
- 3) The scheme secures high quality residential environment consistent with development plan policy.
- 4) The appeal scheme would deliver a policy compliant 40% affordable housing contribution.

6.136. The details of the layout and house type design are to be agreed through the determination of a subsequent reserved matters application, with the detailed scheme to reflect the particular need for housing at that time.

6.137. Overall, the social benefits of the scheme can be afforded substantial weight in the overall planning balance.

Environmental

6.138. In terms of the environmental role, the Appeal Site is not located on land designated for its landscape value. The accompanying reports demonstrate that the scheme will not have any impact on existing ecology, and will in fact enhance the biodiversity characteristics of the site, including the provision of a Bird Conservation Area and balancing pond.

- 6.139. The retention of existing boundary trees and hedges around the site and the sensitive set back of the development preserves the immediate outlook from neighbouring residential properties.
- 6.140. The improvement of the built environment in heritage terms, and the enhancement of the settlement edge through the introduction of a substantial woodland buffer is viewed as a substantial benefit of the proposal. This includes on the basis of Historic England confirming no objection to the scheme.
- 6.141. The proposals would deliver sustainable homes allowing the fulfilment of this important objective whilst at the same time moving to a low carbon economy and securing an environmentally sustainable form of new residential development.
- 6.142. On the basis of the above, there are environmental benefits which would arise from the proposals, to which, on balance, moderate positive weight should be attached to in the overall planning balance.

7. SUMMARY AND CONCLUSION

Development Plan Compliance

- 7.1. The Appeal Scheme proposes up to 57 dwellings on land east of Posbrook Lane, Titchfield.
- 7.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement for planning applications to be determined in accordance with the development plan unless other material considerations indicate otherwise.
- 7.3. In this instance, and by operation of Policy DSP40 of the Local Plan Part 2, the Appeal Scheme is in accordance with the development plan when it is considered as a whole. As such, and pursuant to s.38(6) planning permission should be granted.
- 7.4. However, either of (i) the lack of consistency between the housing requirement and settlement boundaries with the NPPF; or (ii) the lack of a deliverable five year supply of deliverable housing land triggers the presumption in favour of sustainable development at paragraph 11(d) of the NPPF.
- 7.5. On the basis of the foregoing, whilst under the application of 38(6), there is a *prima facie* conflict with development plan policies CS2, CS14, CS16 and DSP6, in so far as the proposal accords with the provisions at Policy DSP40, it is the case for the Appellant that the Appeal Scheme accords with the development plan when taken as a whole.
- 7.6. As confirmed in the Navigator, Cranleigh Road and Sawmills appeal decisions, the spatial policies for the supply of housing in the Core Strategy and Local Plan Part 2 are out of date (on account of their lack of consistency with the NPPF). This included in relation to the housing requirement and settlement boundaries.

- 7.7. The Council has approved numerous planning applications on land beyond the settlement boundaries as defined in the development plan in order to meet identified housing needs. This remains the case in terms of seeking to meet housing needs as part of the preparation of the emerging Local Plan, where the Regulation 18 Local Plan proposes the allocation of sites for housing beyond the settlement boundaries defined in the 2011 Core Strategy and 2015 Local Plan Part 2. In the meantime, Local Plan Part 2 Policy DSP40 provides the framework for judging planning applications for unallocated sites beyond the settlement policy boundaries where, as here, the LPA cannot demonstrate a five year supply of deliverable housing land.
- 7.8. On the basis of the foregoing, the weight to be attached to the conflict between the Appeal Site and its location adjoining but ultimately beyond the settlement policy boundary for Titchfield is significantly reduced.
- 7.9. The site is outside of the settlement boundary. However, 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, DSP6 and CS22, to permit development in breach of those policies when the Council could not demonstrate a 5 year housing land supply.
- 7.10. In addition, the settlement boundaries and gap upon which policies CS14 DSP6 and CS22 operate are out of date by virtue of having been drawn to accommodate non-NPPF compliant development needs, quite apart from issues of 5 year land supply. All this goes to reduce the weight of any breach identified.
- 7.11. Although there will always be a breach of CS14 and DSP6, there is not in this case a breach of CS22; however, even if there were, compliance with DSP40 would be given more weight and permission should be granted and the proposal accords with the development plan taken as a whole.

7.12. Although there is the potential for the Appeal Scheme to result in than substantial harm to the significance of two listed buildings (and the very bottom of the paragraph 196 scale), this is outweighed by the public benefits of the scheme, in accordance with para. 196 of the NPPF. By extension, then DSP5 is satisfied and s. 66(1).

7.13. BMV is a factor to take into account. A small area of Grade 3a is to be lost, but again, this is not a factor which justifies refusal.

Summary

7.14. The benefits are many and manifest, not least the provision of housing and affordable housing when the country and the Borough faces a housing crisis, which government policy is seeking to address. The site is sustainably located and its residents will bring a combined £1.7m per annum spend to the wider economy.

7.15. It has been demonstrated in this Statement that whilst the application site is outside the settlement policy boundary for Titchfield as defined in the Core Strategy and Local Plan Part 2, it nevertheless accords with the criteria-based approach to assessing additional sites beyond the settlement boundaries as set out in Local Plan Part 2 Policy DSP40. Consequently, it is considered that the Appeal Scheme accords with the development plan when it is considered as whole.

7.16. The Appeal Scheme proposes a reduced site area, and consequently reduced development area compared to that larger scheme for 150 dwellings previously dismissed at appeal.

7.17. The Appeal Scheme is of a scale that is in keeping with the settlement, well-related to the existing built form, and addresses, by virtue of its increased separation distance and proposed woodland buffer, previous issues regarding landscape impact and heritage.

- 7.18. In the planning balance it is considered that the material considerations in favour of the scheme (provision of market and affordable housing, economic benefits, biodiversity benefits, landscape enhancement, heritage enhancement) outweigh the conflict with an out of date settlement boundary, and loss of Subgrade 3a BMV agricultural land.
- 7.19. The Scheme provides a sustainable location for housing, within walking distance to local serves and facilities.
- 7.20. It represents a sustainable location for housing development to meet identified needs and development of the site in the manner proposed would result in an acceptable residential environment.
- 7.21. It provides for a mix housing types and tenures, including 40% affordable housing, helping to meet the identified need for new homes in Fareham Borough.
- 7.22. The Scheme satisfies the economic, social and environmental roles of the NPPF and has been advanced following pre-application consultation with Historic England, and has been amended to respond to the advice received.
- 7.23. For the reasons set out above, the Appeal should be allowed.
