

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

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

OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT
THE MEANS OF ACCESS) FOR RESIDENTIAL DEVELOPMENT, DEMOLITION OF
EXISTING AGRICULTURAL BUILDINGS AND THE CONSTRUCTION OF NEW
BUILDINGS PROVIDING UP TO 350 DWELLINGS; THE CREATION OF NEW
VEHICULAR ACCESS WITH FOOTWAYS AND CYCLEWAYS; PROVISION OF
LANDSCAPED COMMUNAL AMENITY SPACE, INCLUDING CHILDREN'S PLAY
SPACE; CREATION OF PUBLIC OPEN SPACE; TOGETHER WITH ASSOCIATED
HIGHWAYS, LANDSCAPING, DRAINAGE AND UTILITIES.

LPA REFERENCE: P/20/0912/OA

STATEMENT OF COMMON GROUND: ADDENDUM

LPA: FAREHAM BOROUGH COUNCIL
APPELLANT: MILLER HOMES

Signed on behalf of the Appellant:



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

Date: 13 September 2021

Signed on behalf of the LPA:



Date: 13 September 2021

1.1 This Addendum to the Statement of Common Ground (SoCG) has been prepared by Terence O'Rourke Limited on behalf of Miller Homes ("the Appellant") and is agreed with Fareham Borough Council ("FBC", "the Council") with regards to the appeal against the decision of FBC to refuse planning permission for the residential development of land to the east of Downend Road, Portchester.

1.2 FBC refused the application on 25 November 2020. The decision notice states:

"The development would be contrary to Policies CS5 of the adopted Fareham Borough Core Strategy 2011 and Policy DSP40 of the adopted Local Plan Part 2: Development Sites and Policies Plan, and Paragraphs 109 and 110 (c) of the National Planning Policy Framework, and is unacceptable in that:

- *The proposal would result in a material increase in vehicular and pedestrian movements along Down End Road across the road bridge over the railway line. The works to the bridge as shown on drawing no. ITB12212-GA-051D (titled "Downend Road Bridge – Proposed Signal Arrangement With Footway General Arrangement") would unacceptably affect the operation of the highway because of the vehicle queuing and driver delay that would arise and would result in unacceptable harm to the safety and convenience of users of the highway. Furthermore the application does not make acceptable pedestrian crossing provision on Down End Road for future residents of the development."*

1.3 Prior to the opening of the inquiry, on 30 July 2021, FBC emailed PINS to clarify its position as follows:

"As you will be aware, the evidence presented by Alan Lewis on behalf of the Council relates to three points as given in the reason for refusal:

1. *The works to the bridge would unacceptably affect the operation of the highway because of the queuing and driver delay that would arise.*
2. *The proposals would result in unacceptable harm to the safety and convenience of users of the highway.*
3. *The proposals do not make acceptable crossing provision on Downend Road for future residents.*

Having now received and considered all of the rebuttal evidence produced by the Appellant, I can confirm that the Council will not be pursuing the first of these points in relation to the effect on the operation of the highway and resultant delay (the so called 'capacity' argument). The Council's professional witness Mr Lewis will not be providing evidence in chief on that matter at the Inquiry and the Council's advocate David Lintott does not intend to cross examine the Appellant's witnesses on this either.

For the avoidance of doubt, Mr Lewis' evidence will be confined to those points at 2 & 3 above (the so called 'safety' argument and need for a controlled pedestrian crossing)."

- 1.4 The inquiry commenced on 3 August but was adjourned on 5th August, whilst FBCs transport witness was giving evidence. The inquiry resumes on 14 September.
- 1.5 Following the adjournment, on 20th August 2021 the Appellant submitted to FBC a potential amendment to the scheme to introduce a pedestrian phase on the proposed signal controlled junction for shuttle working across Downend Road rail bridge. This would have the following implications for the scheme:
- The removal of the proposed pedestrian refuge crossing
 - An extension of the proposed footway located on the southern side of Downend Road, to take the footway to the signals
 - A pedestrian signal pole on the northern side of Downend Road, within the existing footpath
- 1.6 These revisions are shown on the plans referenced ITB12212-GA-071 Rev B and ITB12212-GA-081 (included at Appendix 1 and 2 respectively to this SOCG). The plans were accompanied by associated revised junction modelling assessments (included in the second addendum ASoTM with HCC).
- 1.7 These amendments would require a change in the application plans, including those referenced ITB12212-GA-014 (see appendix 3) and ITB12212-GA-051 (the latter is replaced with 071B).
- 1.8 These plans, together with associated revised modelling assessment of the junction, were also submitted to and the Highway Authority HCC on 20 August 2021.
- 1.9 Miller indicated that it would willing to make these amendments, if FBC consider them necessary to withdraw their reasons for refusal and could confirm this with a member decision (irrespective of Miller's own position on the matter).
- 1.10 FBC Planning Committee members did consider the matter on 10 September 2021, supported by an officer report (Appendix 4 to this SOCG). Members of the committee endorsed the recommendation:
- “Subject to the Appellant Miller Homes Ltd submitting amended proposals to the Planning Inspector showing the inclusion of controlled pedestrian crossings as indicated in drawing no. ITB12212-GA-071B (or substantially similar to that drawing):*
- i) Those elements of the reason for refusal relating to unacceptable harm to the safety of users of the highway and the lack of acceptable pedestrian crossing provision for future residents be withdrawn;*
- ii) For the avoidance of any doubt, the reasons for refusal previously given are withdrawn in totality.”*
- 1.11 Miller has already submitted these plans to PINS, for consideration at the inquiry, albeit on a without prejudice basis (email dated 8 September 2021).

- 1.12 Following the above decision/endorsement by FBC Planning Committee, and confirmation that FBC can withdraw in its entirety all of its reasons for refusal and case against the scheme / application on the basis of the amended scheme (i.e. FBC no longer contests points 2. & 3. in para 1.3 above – having already withdrawn point 1.), and having confirmed that position to PINS in emailed correspondence also dated 10 September 2021, Miller Homes does adopt the changes to the scheme.
- 1.13 Both parties agree that:
- The plans are acceptable in land use planning terms
 - HCC raises no objection to the amendments, having robustly considered the physical, technical, safety and capacity implications, as confirmed in the second addendum ASoTM
 - The alternative improvement scheme to Downend Road Bridge (demonstrated on Drawing ITB12212-GA-071 Rev B) which, to reconfirm, would introduce pedestrian crossing facilities within the traffic signal junction is acceptable, and would:
 - deliver safe and suitable access for all users of Downend Road
 - Operate acceptably and within capacity and would not create any unacceptable queueing and/or delay on the local highway network
 - The amendments are minor and do not contravene Wheatcroft principles, they can be considered without prejudice to third parties and without further consultation
- 1.14 Both parties agree that the Inspector should determine the application on the basis of the amended plans.
- 1.15 To clarify, the application drawings to be considered at the appeal would now be:
- Site Location Plan (drawing number: 2495-01/PP-002)
 - Landscape parameter plan (ref. 2495-01/RS-PP-001)
 - Site access arrangement – Ghost Island (ref. ITB12212-GA-014 Rev F)
 - Downend Road Bridge Proposed Signal Arrangement with Footway and Controlled Crossings (ref. ITB12212-GA-071 Rev B)
 - Downend Road Bridge Proposed Signal Arrangement with Signal Crossing Tracking (ref. ITB12212-GA-081)
- 1.16 Subject to the Inspector making a ruling that these plans can be accepted for determination through this inquiry process, under Wheatcroft principles, and that these plans are those to be determined, the parties agree that the development as proposed complies with adopted policies CS5 and DSP40 and NPPF paragraphs 111 and 112.