

FAREHAM BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL

APPEAL by **Persimmon Homes South Coast** against the decision of **Fareham Borough Council** to refuse to grant planning permission for *'Development Comprising 206 Dwellings, Access Road from Peak Lane Maintaining Link to Oakcroft Lane, Stopping Up of a Section of Oakcroft Lane (From Old Peak Lane to Access Road), With Car Parking, Landscaping, Sub-Station, Public Open Space and Associated Works'*
on **Land East of Crofton Cemetery and West of Peak Lane, Stubbington, Fareham, Hampshire**

Planning Inspectorate Reference: APP/A1720/W/21/3275237

Local Authority's Reference: P/20/0522/FP

**SUMMARY PROOF OF EVIDENCE OF
STEPHEN JUPP MRTPI
ON BEHALF OF
FAREHAM BOROUGH COUNCIL**

SUMMARY AND CONCLUSIONS

- 1 The description of the appeal development is set out in section 2. The planning application was subject to an officer recommendation to approve and the February 2021 Planning Committee resolved to refuse planning permission for the reasons set out in the decision notice.

Planning Policy

- 2 My evidence identifies those policies relevant to the appeal in Local Plan Part 1: Fareham Borough Core Strategy (Adopted August 2011) and Local Plan Part 2 Development Sites.
- 3 I have set out my assessment of the extent to which relevant development plan policies accord with the *Framework* and concluded on the weight that can be afforded to them in the planning balance.
- 4 I accept in evidence that the Council does not currently have a five year housing land supply. LPP2 Policy DSP40 provides a framework for decision making in such circumstances, having regard to the Development Plan as a whole.
- 5 My evidence also considers other material considerations, including the Framework, the draft Local Plan and the weight afforded to each.
- 6 By virtue of Sections 70(2) and 79(4) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, this appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point in determining this appeal is, therefore, the extent to which the Appeal Development accords with or conflicts with the adopted development plan policies. The decision maker must then turn to other material considerations, which in the case of the Appeal Development include the NPPF.

- 7 I accept that the Council does not currently have a five year housing land supply and On the assumption that (i) no heritage harm (or outweighed by public benefits) and (ii) habitats issue can be overcome the tilted balance in favour of sustainable development applies. This does not mean that weight cannot still be afforded to the development plan policies in light of the *Suffolk Coastal* Supreme Court judgement and the Hallam Land Appeal Court judgement. My evidence deals with the factors determining the weight to be applied and concludes on the appropriate weight that can be afforded as a result.
- 8 I refer to heritage issues and the considerable weight that must be given to any harm. I set out that whilst the Council do not consider that there would be any harm to the setting of a nationally designated heritage asset in the area, Historic England and third parties consider there would be some harm. Even if one were to agree with the views of Historic England then that harm would be less than substantial and at the lower end of that spectrum. On this basis I consider that harm would be outweighed by the social and economic benefits arising from the development, as set out below.
- 9 I have set out the current position in respect of Habitats, and that although not part of the Council's case, PINS is the competent authority and as a matter of law will need to be satisfied, notwithstanding NE's position, either that they will not be likely significant effects (such that an appropriate assessment is not necessary), or will need to undertake an appropriate assessment to determine whether adverse impacts on the integrity of the New Forest SAC can be ruled out. If it cannot be concluded that there will not be any adverse impact on the integrity of the SPA/SAC the result would be:
- (1) The appeal must be refused under the Habitats Regulations unless there were imperative reasons of overriding public importance; and,
 - (2) The 'tilted balance' would not be engaged as set out in footnote 7 to paragraph 11 and paragraph 182 of the Framework.

- 10 The Council has demonstrated, through the detailed evidence of Mr Russell-Vick that the scheme proposals have, by the virtue of the design, failed to minimise the visual harm and have not been as sympathetic to the local surroundings of Stubbington and the countryside setting. as they should or could be. They do not function well in terms of the use of the GI within the layout and have failed to integrate successfully with the local GI and consequently socially with the local community, despite the clear opportunities to do so. The scheme proposals have also failed to establish a strong sense of place, through the scheme layout and/or the provision of attractive open space and successful GI.
- 11 Therefore, to summarise the conflict with planning policy, I consider those adverse effects of the development give rise to conflict with Policies CS14 and CS16 of the Core Strategy and Policies DSP6 and DSP40 of the LP2 and therefore with the Development Plan as a whole. There would also be conflict with paragraphs 126, 130 and 174(b) of the Framework and the development does not accord with the requirements of the NDG.
- 12 I consider that the elements of Policies CS14 and CS17 and DSP40 that the development would be in conflict with are consistent with the national policy and are the most important development plan policies for the purposes of the determination of this appeal. I therefore consider that the greatest weight should be attached to the conflict with the development plan that I have identified. This follows the approach adopted by Inspectors in the various appeals that I have referred to.
- 13 I have identified a number of benefits that would arise from the scheme, some of which I give substantial weight.
- 14 However, in undertaking the planning balance, I conclude that the factors in favour of allowing the development, in my judgement, would fall well short of the weight attributable to the harm that has been identified by Mr Russell-Vick. Furthermore, it is likely that the benefits of the proposal could be achieved without the harms (or at least the degree of harm) that this proposal would cause, were the proposal to be redesigned and the number of units reduced.

- 15 Having regard to the findings of the Inspectors in the recent Newgate Lane (North and South) and the Newgate Lane (East) appeal decisions, it is clear in my view that even though Policy DSP40 may be deemed to out of date by virtue of paragraph 11 and footnote 7 of the NPPF, since criterion (ii) seeks to ensure that new housing can be well integrated with the neighbouring settlement; and (iii) requires a sensitive design to reflect the character of the neighbouring settlement; it is consistent with the Framework, especially with the new emphasis towards high quality design. Accordingly, on the basis of the main issues in this case, any breach of policy DSP40 should be afforded considerable weight and a breach of CS17 afforded full weight.
- 16 I consider that the identified unacceptable harm could not be addressed through the imposition of reasonable planning conditions since this is a full application and not an outline application.
- 17 As made clear above, I have assessed all of the other material considerations in this case, including those benefits identified by the Appellant, but in the overall planning balance I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
- 18 I accept that there is an emerging allocation for the site and it is likely to be possible to achieve many, if not all, of the benefits of this scheme without the harms (or at least the degree of harm) that this proposal would cause, were the proposal to be redesigned and reduced in numbers. There is no reason why the emerging allocation cannot be a framework for achieving this, and Mr Russell-Vick's concept plan provides one potential realisation of this.
- 19 I therefore conclude that the appeal should be dismissed.