

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

STATEMENT OF COMMON GROUND

Prepared by:

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

and

Fareham Borough Council



Land at East of Posbrook Lane, Titchfield

PINS Ref: APP/A1720/W20/3254389

LPA Ref: P/19/1193/OA

WBP Ref: 7796

21st October 2021

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EXECUTIVE SUMMARY

- 1 This Statement of Common Ground relates to a Town and Country Planning Act 1990 Section 78 Planning Appeal lodged by Woolf Bond Planning LLP on behalf of Foreman Homes Ltd following 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).
- 2 The Statement records the matters upon which the parties have agreed with the intention of leading to the preparation of more focused proofs of evidence thus saving time and resources at the inquiry.
- 3 Following discussions between the Appellant and the Local Planning Authority, there is agreement in relation to the following matters:
 - a) The Council cannot currently demonstrate a five year supply of deliverable housing land (see separate Housing Land Supply SoCG).
 - b) Although the parties disagree as to the extent of the shortfall, it is nevertheless agreed, on either position, that the shortfall is significant and the weight to be attached to the delivery of housing from the Appeal Scheme is significant. The separate Five Year Housing Land Supply SoCG records the position.
 - c) The development plan policies for the supply of housing are out of date.
 - d) The lack of a five year supply of deliverable housing land triggers the operation of policy DSP40 which was introduced precisely to provide a contingency position to the otherwise restrictive policies or CS14 and DSP6, to permit in appropriate cases development in breach of those policies when the Council could not demonstrate a five year housing land supply.
 - e) As such, Policy DSP40 is the most important policy.
 - f) It is agreed that the Appeal Scheme meets parts (i), (ii) and (iv) of Policy DSP40 on account of the following:
 1. In relation to (i) the proposal is relative in scale to the demonstrated 5 year housing land supply shortfall.
 2. In relation to (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.

3. In relation to (iv) the proposal is deliverable in the short term.
- g) It is the case for the Council that the Scheme fails to satisfy parts (iii) due to the landscape harm (iii), and part (v) for the heritage and environmental harm (v).
 - h) The dispute in relation to parts (iii) and (v) will be addressed in evidence.
 - i) The Appellant's position is that compliance with Policy DSP40 means compliance with the development plan when taken as a whole.
 - j) The Council's position is that compliance with DSP40 would be a significant factor in deciding whether a proposal complies with the development plan when taken as a whole.
 - k) There is no highway objection to the scheme subject to satisfactory completion of a legal agreement.
 - l) There is no objection to the scheme in relation to its sustainability in location terms (having regard to accessing local services and facilities).
 - m) The impacts of the scheme on migratory bird habitat can in principle be mitigated through a financial contribution and provision of a Bird Conservation Area secured through a unilateral undertaking.
 - n) The Council submitted the Fareham Local Plan 2037 to the Secretary of State for independent examination on 30th September 2021.
 - o) The Appeal Site is not part of a designated landscape, but it constitutes part of a valued landscape in the sense of paragraph 174(a) of the NPPF. The site is also proposed as an Area of Special Landscape Quality identified in the Policies Map to the emerging Local Plan (Fareham Local Plan 2037).
 - p) There is no objection to the Appeal Scheme in relation to the integrity or function of the strategic gap.
 - q) 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 lower end of the paragraph 202 scale in the NPPF. However, it is the Appellant's case is there is no harm.
 - r) It is agreed that the loss of BMV agricultural land alone would not be sufficient to warrant the refusal of planning permission, but remains a matter of limited weight as a harm in the overall planning balance.

- s) There are no flood and/or drainage objections to the scheme.
- 4 On the basis of the foregoing, the forthcoming inquiry should therefore focus on the following main issues where there continues to be disagreement between the principal parties in relation to the following:
- i. The impact of the development upon the landscape character and visual amenity of the area
 - ii. Whether the less than substantial harm to the significance of the Grade II* Listed Buildings (on the Council's case) at Great Posbrook Farm is justified or outweighed by the public benefits of the scheme.
 - iii. Whether failure to provide public open space as part of the development is contrary to adopted policy.
 - iv. At the time of this statement being produced the unilateral undertaking is yet to be finalised. Accordingly, the Council is yet to be satisfied that the necessary mitigation of impacts on European Protected Sites ("EPS") will be provided and secured. If agreement is not reached it may be necessary to address these issues in evidence.
 - v. Conformity of the Appeal Scheme with parts (iii) and (v) of Policy DSP40.
 - vi. Whether compliance with Policy DSP40 means compliance with the development plan when taken as a whole.
- 5 The parties have agreed that the Appellant will provide planning obligations in the form of a Unilateral Undertaking ("UU") under Section 106 of the Planning Act regarding necessary contributions subject to the satisfactory provision regarding delivery.
- 6 Subject to the satisfactory completion of the legal agreement, this will ensure that if the appeal is allowed and planning permission is granted, all of the financial contributions and other compliant obligations required to enable the proposed development to go ahead are in place and/or will be delivered at the appropriate times.

1.0 INTRODUCTION

General

- 1.1. Preparation of this document follows discussions between Steven Brown of Woolf Bond Planning LLP, acting on behalf of the Appellant and Richard Wright acting on behalf of Fareham Borough Council.
- 1.2. It is agreed that it would be helpful to seek agreement on relevant factual information prior to consideration of the appeal at the inquiry.
- 1.3. Separate Statements of Common Ground have been prepared in relation to the following topics:
 - Housing Land Supply
 - Heritage
 - Landscape

The Previous Appeal Decision

- 1.4. 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).
- 1.5. 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)

The Council's Position

- 1.6. The Council published a Report to Planning Committee setting out the reasons on which officers recommended refusal of planning permission. Following the publication of the report, but before the Planning Committee had met, the Applicant lodged an appeal against non-determination. Officers subsequently provided an updated recommendation to Members of the committee that, had the Council been in a position to determine the application, planning permission ought to have been refused. Members resolved to follow the Officer recommendation.

1.7. 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.

- 1.8. Paragraph 10.1 of the Officer Report makes it clear that reasons (e) to (k) can be addressed through the completion of a satisfactory legal agreement.
- 1.9. Provided a draft unilateral undertaking is provided to demonstrate that reasons (e) to (k) are addressed, this leaves reasons (a) to (d) to be addressed in 'evidence'.

2.0. DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

Context

- 2.1. The Appeal Site is located on the settlement edge of Titchfield.
- 2.2. The Appeal Site is locationally sustainable in terms of being within walking and cycle distance from local services and facilities, including schooling and employment.
- 2.3. The Site is not located within or adjoining a Conservation Area. There are identified grade II* Listed Buildings and locally listed buildings at Great Posbrook Farm to the south and west of the site.

The Appeal Site

- 2.4. The Appeal Site, located to the east of Posbrook Lane, is edged red on Site Location Plan No. 16.092.01 and extends to approximately 4ha. The proposed dwellings are shown to be located on approximately 1.65ha of the Site.
- 2.5. The Site is used for horse grazing and the western part of the site is crossed by two pedestrian rights of way, footpaths 34 and 39.
- 2.6. 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.
- 2.7. It is located adjacent to but beyond the settlement boundary for Titchfield as defined in the Core Strategy and Local Plan Part 2.
- 2.8. To the south east of the site is the 'blue land' under the control of the Appellant which is proposed as a Bird Conservation Area of circa 6.49ha. The entirety of the blue land extends to approximately 8.5ha and is also used for grazing. Information is shown on Combined Areas Plan No. 16.092.10 (attached).
- 2.9. Although the Appeal Site is not designated for any landscape 'value' or quality in the current adopted Local Plan, following the earlier appeal decision, the Appeal Site is considered to form part of a 'valued' landscape for the purpose of paragraph 174(a) of the NPPF. The site is an Area of Special Landscape Quality identified in the Revised Policies Map to the emerging Local Plan (Fareham Local Plan 2037).

- 2.10. 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). The site is identified in the Solent Waders & Brent Goose Strategy as being a Primary Support Area (F48B). It is also identified in the Fareham Local Plan 2037 as being a BG&W Classification 2 - Primary Support Area.
- 2.11. As detailed in the Flood Risk Assessment that accompanied the application, the appeal site is classified as falling within Flood Zone 1.

3.0 DESCRIPTION OF THE APPEAL SCHEME

Scheme Description

3.1. 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.”

3.2. Only the principle of developing the site for up to 57 dwellings as well as the means of access are to be determined as part of the application.

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

Plans and Particulars

3.4. 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. 16.092.02A

3.5. 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).

3.6. The updated Illustrative Plan (No. 16.092A) has been prepared to show the indicative location of an on-site LEAP. Delivery of the LEAP at the reserved matters stage is secured through the obligations secured in the UU.

3.7. A composite list of the appeal plans and particulars is set out below:

The Original Application Submission (29 Oct 2019)

- Supporting Planning Statement
- Covering Letter
- Application Forms and Certificates
- Affordable Housing Statement

- Design and Access Statement
- Site Location Plan 16.092.01 (HGP Architects)
- Illustrative Site Plan 16.092.02 (HGP Architects)
- Transport Assessment including Proposed Site Access Plan No. 19-241/0031 (Odyssey)
- FRA & Drainage Strategy (Odyssey)
- Heritage Assessment (Cogent Heritage)
- Landscape and Visual Impact Assessment (SLR)
- Preliminary Ecological Appraisal (EcoSupport)
- Outline Proposals for Bird Conservation Area (EcoSupport)
- Phase 1 Geo-Environmental Site Assessment (REC)
- Archaeological Desk Based Assessment (including Geophysical Survey, Allen Archaeology)
- Minerals Constraints Assessment (Land and Mineral Management)
- Arboricultural Impact Assessment (Sapling Arboriculture Ltd.)
- Site Topographical Survey

Additional Documents Submitted Post Registration of the Application

Submitted on 10th December 2019

- Preliminary Ecological Appraisal Update (Eco Support)
- Dormouse Mitigation Strategy (Eco Support)
- Reptile Mitigation Strategy (Eco Support)

Submitted on 14th January 2020

- Response to Landscape Comments including in Urban Designer's Comments (SLR)

Submitted on 16th January 2020

- Highways Response Technical Note (Odyssey)

Submitted on 30th January 2020

- Updated Dormouse Mitigation Strategy (responding to HCC Ecologist) (Eco Support)
- Response to Landscape Comments including in Urban Designer's

Submitted on 10th February 2020

- Revised Affordable Housing Proposals (Woolf Bond Planning)

Submitted on 12th February 2020

- Highways Response to HCC Highways including Swept Path Analysis (Odyssey)
- Bird Conservation Area Proposals Addendum (Eco Support)
- Information to support Habitat Regulations Assessment (Foreman Homes)

Submitted 23rd April 2020

- Updated Nutrient Budget (Foreman Homes)

Technical Considerations

- 3.8. The technical considerations relating to the proposed scheme are summarised below.

Dwelling Mix and Affordable Housing

- 3.9. As set out above, the Scheme provides for a total of up to 57 dwellings, including the provision of up to 22 affordable dwellings on site (and an off-site financial contribution equivalent to the provision of 0.8 dwellings, thus achieving a full policy-compliant 40% affordable housing provision).
- 3.10. The Scheme has the potential to provide a mix of house types with detailed design considerations such as layout, scale, appearance and landscaping reserved for subsequent determination.
- 3.11. The size and tenure mix of the affordable housing units is to be secured through the legal agreement and includes up to 15 social/affordable dwellings for rent and up to 7 intermediate/shared ownership dwellings.

Transport Assessment

- 3.12. A Transport Assessment has been undertaken by Odyssey confirming the acceptability of the scheme in highway and transport sustainability terms.
- 3.13. HCC Highways has confirmed no objection subject to the satisfactory completion of a legal agreement.

Ecology

- 3.14. The Appellant has prepared and submitted a shadow HRA document (SB9 to the Appellant's Planning Statement of Case refers).

- 3.15. In order to secure compliance with the Conservation of Habitats and Species Regulations 2017 and local and national policy, mitigation is required for recreational disturbance to European Protected Sites, the loss of part of a Primary Support Area for Brent Geese and Waders and the generation of nutrients entering the water environment. The Appellant intends to secure such mitigation through a unilateral undertaking.
- 3.16. It is agreed that if the unilateral undertaking properly provides for the payment towards the Solent Recreation Mitigation Strategy reason for refusal (e) would be addressed.
- 3.17. It is agreed that if the unilateral undertaking properly secures provision and management of a suitable Bird Conservation Area, reason for refusal (f) would no longer apply.
- 3.18. It is also agreed that, subject to appropriate mitigation land within the land edged in blue adjacent to the Appeal site being secured, the nutrient neutrality calculations within the shadow HRA show that there would be a net reduction of nutrient nitrogen reaching the Solent satisfactorily addressing reason for refusal (g).
- 3.19. At the time of this statement being produced the unilateral undertaking is yet to be finalised. Accordingly, the Council is yet to be satisfied that the necessary mitigation of impacts on European Protected Sites (“EPS”) will be provided and secured. If agreement is not reached it may be necessary to address these issues in evidence.
- 3.20. Natural England has not objected to the Appeal Scheme in relation to EPS matters. This includes in relation to recreational impacts upon the New Forest Special Protection Area.

Drainage

- 3.21. Details relating to the proposed drainage strategy are set out in the accompanying FRA.
- 3.22. The supporting material to the application demonstrates that the scheme is acceptable in drainage terms. The proposed dwellings are located entirely within flood zone 1.

Education provision

- 3.23. The requirement for a financial contribution towards education provision will be secured through the legal agreement.

4.0 PLANNING POLICY

The Development Plan

- 4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 4.2. At the local level, the development plan comprises as follows:
- Local Plan Part 1: Core Strategy (2011-2026)
 - Local Plan Part 2: Development Sites & Policies (2015)
 - Local Plan Part 3: Welborne Plan (2015)
- 4.3. The parties agree that the relevant policies applicable to the determination of the Appeal are as follows:

Local Plan Part 1: Core Strategy

CS2 - Housing Provision
CS4 - Green Infrastructure, Biodiversity and Geological Conservation
CS5 - Transport Strategy and Infrastructure
CS6 - The Development Strategy
CS14 - Development Outside Settlements
CS15 - Sustainable Development and Climate Change
CS16 - Natural Resources and Renewable Energy
CS17 - High Quality Design
CS18 - Provision of Affordable Housing
CS20 - Infrastructure and Development Contributions
CS21 - Protection and Provision of Open Space
CS22 – Development in Strategic Gaps

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

Local Plan Part 2: Development Sites and Policies

DSP2 – Environment Impact
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

- 4.5. It is agreed that Policy DSP6 is out of date on account of the lack of a five year supply of deliverable housing land.
- 4.6. It is also agreed that DSP40 is the most important policy for the determination of the Appeal.
- 4.7. It is agreed that the Local Plan Part 3 is not applicable to the determination of the Appeal Scheme, save for its relevance to the assessment of deliverable housing supply from Welborne.
- 4.8. Relevant policies are to be addressed in evidence.

Material Considerations

General

- 4.9 The following represent material considerations in the determination of the appeal scheme:
 1. The NPPF and the approach to the presumption in favour of sustainable development
 2. The five year housing land supply position
 3. Appeal decisions
 4. The emerging Fareham Borough Local Plan
 5. Case law
- 4.10. It is accepted that the Council is currently unable to demonstrate a five year supply of deliverable housing land against the Standard Methodology set out in the NPPF. This represents a material consideration.
- 4.11. As set out in the Executive Summary, it is agreed that the lack of a five year supply of deliverable housing land triggers the operation of Policy DSP40 which was introduced precisely to provide a contingency position to the otherwise restrictive policies of CS14 and DSP6 to permit in appropriate cases development in breach of those policies when the Council could not demonstrate a 5 year housing land supply.
- 4.12. It is agreed that the Appeal Scheme satisfies the requirements at criteria (i), (ii) and (iv) of Policy DSP40; but there remains dispute as to the acceptability of the scheme in relation to the criteria (iii) (landscape); and heritage, loss of BMV land, and, in the absence of mitigation, harm to European Protected Sites (criteria (v)).

- 4.13. The Appeal Scheme would result in the loss of 12.5ha of BMV agricultural land. It is agreed that the loss of subgrade 3a and 3b 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. In this case, the Appellant considers that the loss of BMV would not represent an unacceptable environmental implication in the terms of Policy DSP40 (v). The Council considers that it would.
- 4.14. It is also agreed that there is a significant need for affordable housing, which is a material consideration.
- 4.15. The Council considers that some weight can be attached to the Fareham Local Plan 2037 and its policies, with the amount of weight being governed by the tests under paragraph 48 of the NPPF. The Appellant agrees with the reference to paragraph 48 of the NPPF and considers, given its recent submission for examination, limited weight can be attached to it.
- 4.16. The following policies from the emerging Fareham Local Plan 2037 are relevant.

Fareham Local Plan 2037

DS1 – Development in the Countryside
DS2 – Development in the Strategic Gaps
DS3 - Landscape
H1 – Housing Provision
HP1 – New Residential Development
HP4 – Five-Year Housing Land Supply
HP5 – Provision for Affordable Housing
CC1 – Climate Change
CC2 – Managing Flood Risk and Sustainable Drainage Systems
NE1 – Protection of Nature Conservation, Biodiversity and the Local Ecological Network
NE2 – Biodiversity Net Gain
NE3 – Recreational Disturbance on the Solent Special Protection Areas (SPAs)
NE4 – Water Quality Effects on the Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar Sites of the Solent
NE5 – Solent Wader and Brent Goose Sites
NE8 – Air Quality
NE10 – Protection and Provision of Open Space
TIN4 – Infrastructure Delivery
D1 – High Quality Design and Place Making
D2 – Ensuring Good Environmental Conditions
D4 – Water Quality and Resources
D5 – Internal Space Standards
HE1 – Historic Environment and Heritage Assets
HE3 – Listed buildings and structures and/or their Settings
HE5 – Locally Listed Buildings and Non-designated Heritage Assets

- 4.17. Whilst it is common ground that there is a material land supply shortfall in the five year housing land supply position, the extent of that housing land supply shortfall is not currently agreed. This matter is addressed in a separate Housing Land Supply SoCG.

5.0 CONSIDERATION OF THE APPEAL APPLICATION BY FAREHAM BOROUGH COUNCIL

- 5.1. The Appeal Scheme was reported to Committee with a recommendation to refuse planning permission.
- 5.2. The position in relation to the responses received upon the application may be summarised as follows:

No Objection (subject to conditions/S106/details at reserved matters stage)	Objection
<ol style="list-style-type: none"> 1. Historic England 2. Environmental Health 3. Contaminated Land 4. Trees 5. Southern Water 6. Natural England 7. HCC Ecology 8. HCC Countryside Access 9. HCC Highways 10. HCC Minerals and Waste 11. HCC Archaeology 12. HCC Childrens Services 13. Fareham & Gosport Clinical Commissioning Group - NHS 	<ol style="list-style-type: none"> 1. Local Residents 2. Leisure and Environmental Services 3. Parish Council

- 5.3. The report to committee sets out the comments received upon the application and the officer’s assessment.
- 5.4. On the issue of heritage, Lucy Markham of Montagu Evans provided heritage comments upon the application on behalf of Fareham Borough Council dated 29 January 2020. That response included the following summary points:
- the proposed development would cause less than substantial harm to the listed farmhouse and barn, at the lower end of the spectrum; and
 - The proposed development would not harm the Titchfield Conservation Area, nor the locally listed buildings within the Great Posbrook farmstead.

6.0 FIVE YEAR HOUSING LAND SUPPLY

- 6.1. It is agreed that the LPA is currently unable to demonstrate a five-year land supply and that as a result the presumption in favour of sustainable development of paragraph 11d applies for the determination of this appeal, provided that in undertaking an appropriate assessment, the Inspector concludes that the proposal will not adversely affect the integrity of the habitats site (with reference to paragraph 182 of the NPPF).
- 6.2. It is agreed that Housing Delivery Test results were published on 19th January 2021 and that as a result it is necessary to apply a 20% buffer in Fareham.
- 6.3. It is agreed that whilst the respective parties differ on the precise extent of the current shortfall, with the Council identifying a 3.57 year supply of deliverable housing land and the Appellant identifying a 0.93 year supply, the shortfall on either position is agreed as significant and the weight to be attached to the delivery of housing from the Appeal Scheme is also agreed as significant. The respective positions are set out in the accompanying Housing Land Supply SoCG. As such it is not considered necessary for the Inspector to conclude on the precise extent of the shortfall.

7.0 MATTERS IN DISPUTE

7.1. The areas of disagreement comprise as follows:

1. The impact of the development upon the landscape character and visual amenity of the area which is agreed by both parties to form part of a valued landscape.
2. Whether the less than substantial harm to the significance of the Grade II* Listed Buildings (on the Council's case) at Great Posbrook Farm is justified or outweighed by the public benefits of the scheme.
3. Whether failure to provide public open space as part of the development is contrary to adopted policy.
4. At the time of this Statement being produced the unilateral undertaking is yet to be finalised. Accordingly, the Council is yet to be satisfied that the necessary mitigation of impacts on European Protected Sites ("EPS") will be provided and secured. If agreement is not reached it may be necessary to address these issues in evidence
5. The scale of the shortfall in relation to the Council's five year housing land supply position, although it is agreed that the position does not need to be explored in evidence.
6. Conformity of the Appeal Scheme with parts (iii) and (v) of Policy DSP40 and other adopted and emerging local plan policies.
7. Whether compliance with Policy DSP40 means compliance with the development plan when taken as a whole.

7.2. The draft unilateral undertaking UU is not yet finalised and matters of dispute may still arise in relation to it which will need to be addressed in an Addendum SoCG and/or in evidence.

7.3 As per the Inspector's Case Management Conference Note (21 Sept 2021), separate statements of disagreement relating to heritage and landscape will be prepared in relation to heritage and landscape matters. The position to be set out therein will inform the evidence to be prepared on those matters.

8.0 HEADS OF TERMS FOR UNILATERAL UNDERTAKING

- 8.1. It is agreed between the parties that the Appellant will provide planning obligations, in the form of an undertaking under Section 106 of the Town and Country Planning Act (1990) in favour of Fareham Borough Council and Hampshire County Council.
- 8.2. The legal undertaking is intended to ensure the financial contributions and other compliant obligations to enable the proposed development to go ahead are provided in accordance with paragraphs 55 and 57 of the NPPF in the event the Inspector is minded to allow the appeal. In this regard, and at this time, other than providing for a LEAP, the heads of terms make no provision for additional on-site public open space. This remains a matter of dispute between the parties. However, the Appellant's position, on a without prejudice basis to their case, is additional public open space could be provided to the south of the proposed dwellings (and within the red line application site) if the Inspector considered additional public open space was necessary.
- 8.3. At the time of writing this Statement, the draft undertaking proposes to secure the following obligations:
 - i. The onsite provision of up to 22 affordable dwellings with an agreed mix of dwelling type, size and tenure to meet locally identified need, and an off-site financial contribution equivalent to the provision of 0.8 dwellings, thus achieving a policy-compliant 40% affordable housing provision.
 - ii. The on-site provision of a LEAP, along with the sum of £70,000 towards provision of the LEAP by the Borough Council as well as a maintenance sum of £38,000.
 - iii. A financial contribution towards Bird Aware Solent.
 - iv. The provision of a Bird Conservation Area ("BCA"), with suitable provisions for and financial contributions for the future management and maintenance of the BCA.
 - v. The sum of £121,915 towards additional infrastructure at Titchfield Primary School.
 - vi. The sum of £183,500 to be used for resurfacing and associate works to 1.5km of Footpath 48 and 51
- 8.4. The legal agreement will be completed and submitted to the inquiry.

9.0 CONDITIONS

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

10.0 CORE DOCUMENTS LIST

- 10.1. A common list of documents will be produced and these are to be referenced as core documents to the inquiry.

11.0 AGREEMENT: SCHEDULE OF COMMON GROUND

- 11.1. This document is accepted as the agreed Statement of Common Ground for the appeal being considered under PINS Ref: APP/A1720/W/3254389.
- 11.2. It has been duly signed by representatives of the Appellant (Foreman Homes Ltd.) and Fareham Borough Council.

Signed *Steven Brown* on behalf of Foreman Homes Ltd.

Steven Brown BSc Hons DipTP MRTPI 21st October 2021
NAME DATE



Signed . on behalf of Fareham Borough Council

Richard Wright BSc MSc MRTPI 21st October 2021

.....
NAME DATE
