

Section 78 Appeal – Statement of Case

Outline Planning Application for Residential Development
On behalf of Miller Homes and Bargate Homes

Date: May 2022 | Pegasus Ref: P20-3154

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1. Introduction

- 1.1. This Statement of Case has been prepared to support an appeal against the failure of Fareham Borough Council (FBC) to determine planning application P/22/O165/OA within the prescribed time period.
- 1.2. The appeal is submitted by Pegasus Group on behalf of the appellants, Miller Homes Ltd and Bargate Homes Ltd.
- 1.3. The outline planning application was submitted on 28th January 2022 and proposed the construction of up to 375 residential dwellings with access from Newgate Lane East. The application was confirmed as valid from 31st January 2022 and had an initial determination deadline of 2nd May 2022.
- 1.4. The site forms the central and northern parts of HA2 'Newgate Lane South' which was previously proposed to be allocated for about 475 dwellings in the Regulation 18 version of the Draft Fareham Local Plan.
- 1.5. In July 2021, planning permission was granted at appeal for up to 99 dwellings on the southern part of the former HA2 draft allocation, immediately adjacent to the appeal site. This represents a very significant material change in circumstances which must now be taken into account in determining the appeal at our clients' site.

Scope of this Statement of Case

- 1.6. As an appeal against non-determination in advance of the application determination at FBC's planning committee, the appellant does not have the benefit of knowledge of the recommended reasons for refusal.
- 1.7. However, consultation responses from FBC Planning Policy and their landscape consultant have indicated that the Council is opposed to the principle of development and have concerns around potential impacts upon the local landscape and strategic gap.
- 1.8. Concerns have also been raised by Hampshire County Council (HCC) Highways regarding potential transport impacts and by Natural England and HCC Ecology regarding the proposed mitigation for the loss of SPA supportive habitat. Dialogue is ongoing with these consultees to seek to address the matters raised and updates in this regard will be provided during the process of the appeal. A draft Agreed Statement on Transport Matters (effectively a Transport Statement of Common Ground) is submitted with this appeal and the appellants will continue to work with HCC Highways to seek to reach agreement on as many matters as possible in advance of the inquiry.
- 1.9. A draft Statement of Common Ground with FBC is also submitted with this appeal although this cannot be meaningfully progressed until the appellants have had sight of FBC's putative reasons for refusal / Statement of Case.
- 1.10. In light of the above, this statement provides an overview of the site's planning context and a description of the proposed development before outlining relevant planning policy and why the proposals represent sustainable development having regard to the provisions of the National Planning Policy Framework (NPPF) and the Fareham Local Plan, and therefore that the appeal should be allowed.



- 1.11. It should be read in conjunction with the plans and reports submitted with the application including the Design and Access Statement, the Statement of Community Involvement, the Transport Assessment, the Landscape and Visual Impact Assessment, and ecology / biodiversity reports and assessments.

2. The Site and Surrounds

- 2.1. The appeal site lies to the south of Fareham, west of Bridgemary/Woodcot and east of Newgate Lane East (B2285), as shown on the Site Location Plan below. The fields immediately to the south benefit from planning permission for up to 99 residential dwellings.

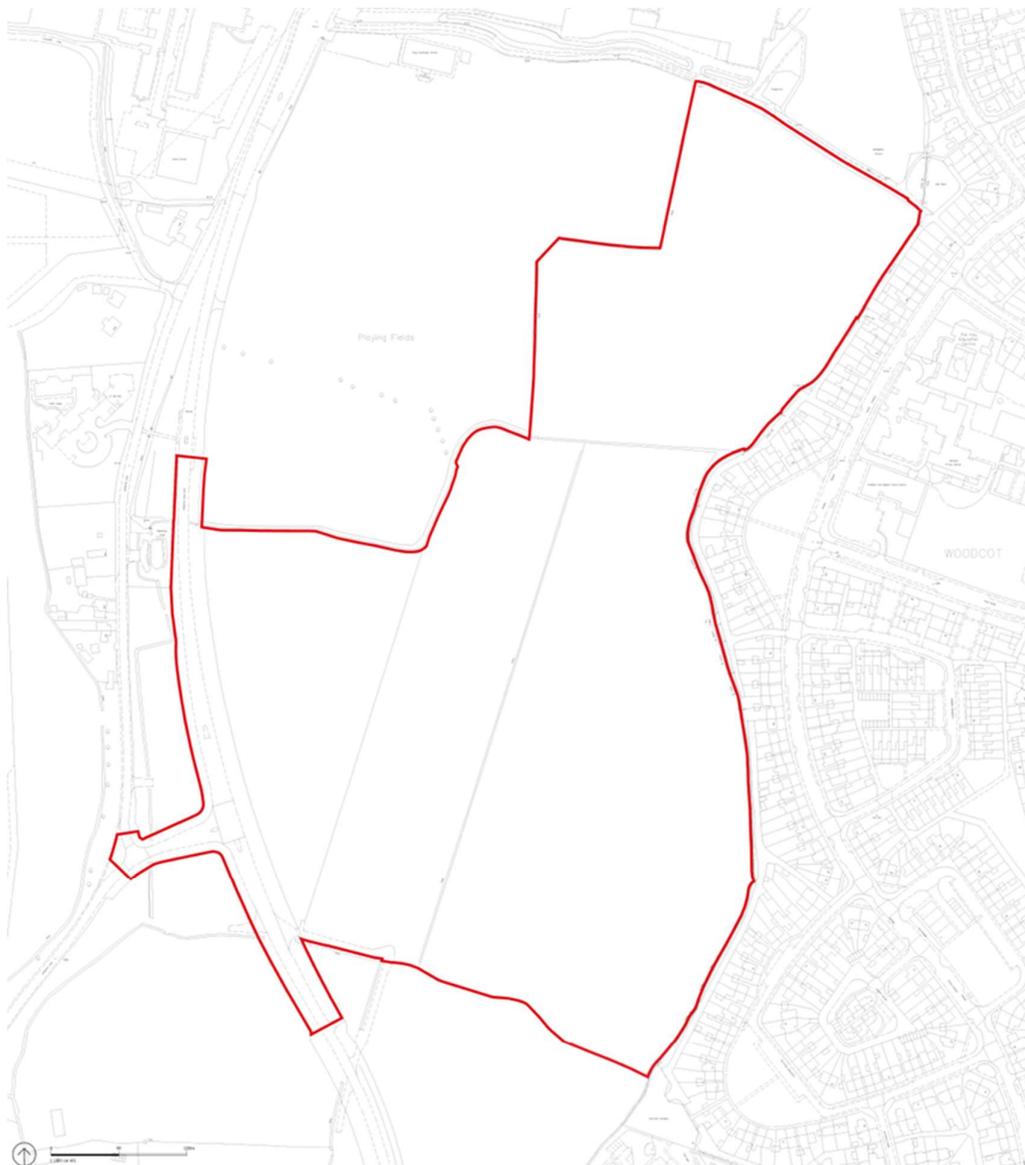


Figure 1 - Site Location Plan

- 2.2. It measures 20.04 hectares and comprises of four field parcels defined by mature hedgerows and trees, and sections of Newgate Lane East to facilitate the site access. A detailed description of the site and its surroundings is contained within the Design and Access Statement.



- 2.3. The site is located outside the defined settlement boundary identified in the Local Plan Part 2: 'Development Sites & Policies' (adopted 2015) policies map, in a 'strategic gap' known as the Stubbington/Lee on Solent to Fareham/Gosport Gap. Gosport Borough and the urban area of Bridgemary/Woodcot lie immediately to the east.
- 2.4. The northern part of the site is covered by an area identified as a 'Secondary support area' for Solent Waders and Brent Geese whilst part of the central and southern portions of the site are identified as 'low use' in this regard. There are no other known statutory or non-statutory landscape or ecological designations on the site.
- 2.5. The site's location in relation to local services, facilities and public transport is set out in detail within the Transport Assessment that accompanies the application, and is considered further in the Planning Assessment section of this statement.

3. Planning History and Context

HA2 Allocation

- 3.1. The appeal site forms the central and northern portions of land that was proposed to be allocated for about 475 dwellings in the Fareham Draft Local Plan 2036 (Regulation 18, published in October 2017) under allocation HA2 'Newgate Lane South'. The plan proposed that the strategic gap boundary be moved to the western boundary of the allocation, with land to the west, comprising the Peel Common waste water treatment works and Newlands solar farm, remaining in the strategic gap. In doing so the Council considered that the site formed a suitable location for sustainable development.
- 3.2. The proposed HA2 allocation spans the land from Tukes Avenue Play Space/Collingwood Playing Fields in the north to Brookers Lane to the south, with the existing urban edge of Bridgemary/Woodcot forming the eastern boundary and the relief road (Newgate Lane East) forming the western boundary (as shown on the extract from the Regulation 18 Local Plan below).

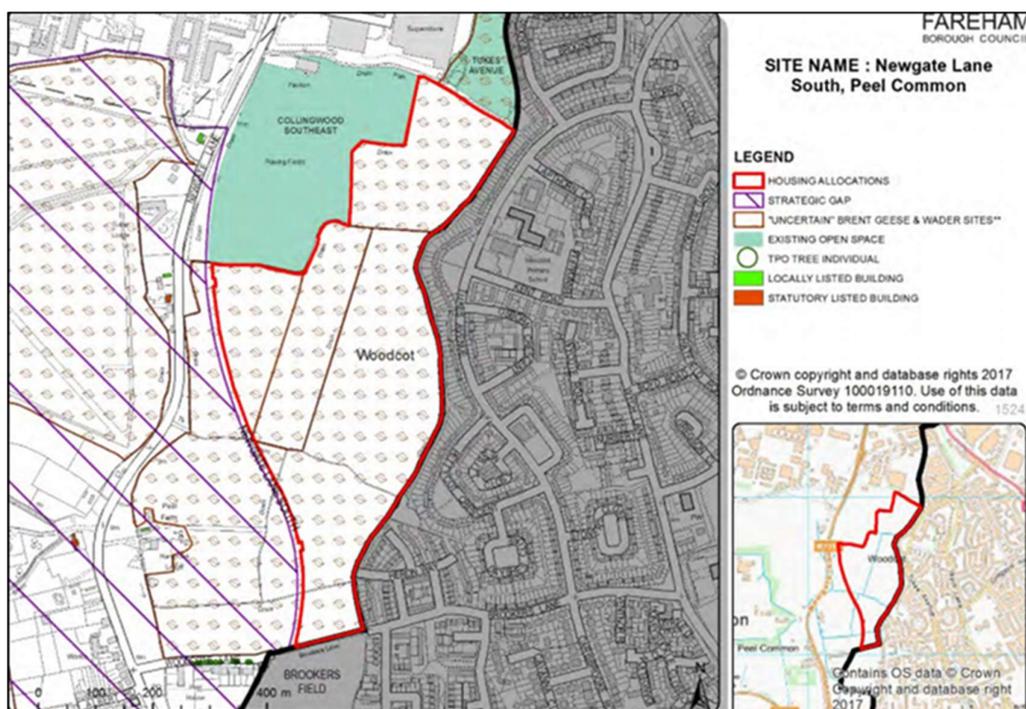


Figure 2 – Extract from Draft Fareham Local Plan 2036 showing HA2 allocation

- 3.3. The HA2 allocation sets out a number of site specific requirements for how Fareham Borough Council (FBC) envisaged the site would be developed. These include: primary site access from Newgate Lane East; the retention of the existing network of field hedgerows, networks and ditches as part of a green network and pedestrian routes through the site; and a green corridor along the western edge of the site to provide an open landscape setting for Newgate Lane East, within the context of its location in a strategic gap, and to help maintain connections to the SINC to the south of Rowner Road and for potential ecological mitigation.

3.4. The site specific requirements were supplemented by a Development Framework which provides further detail on the indicative layout and access points.

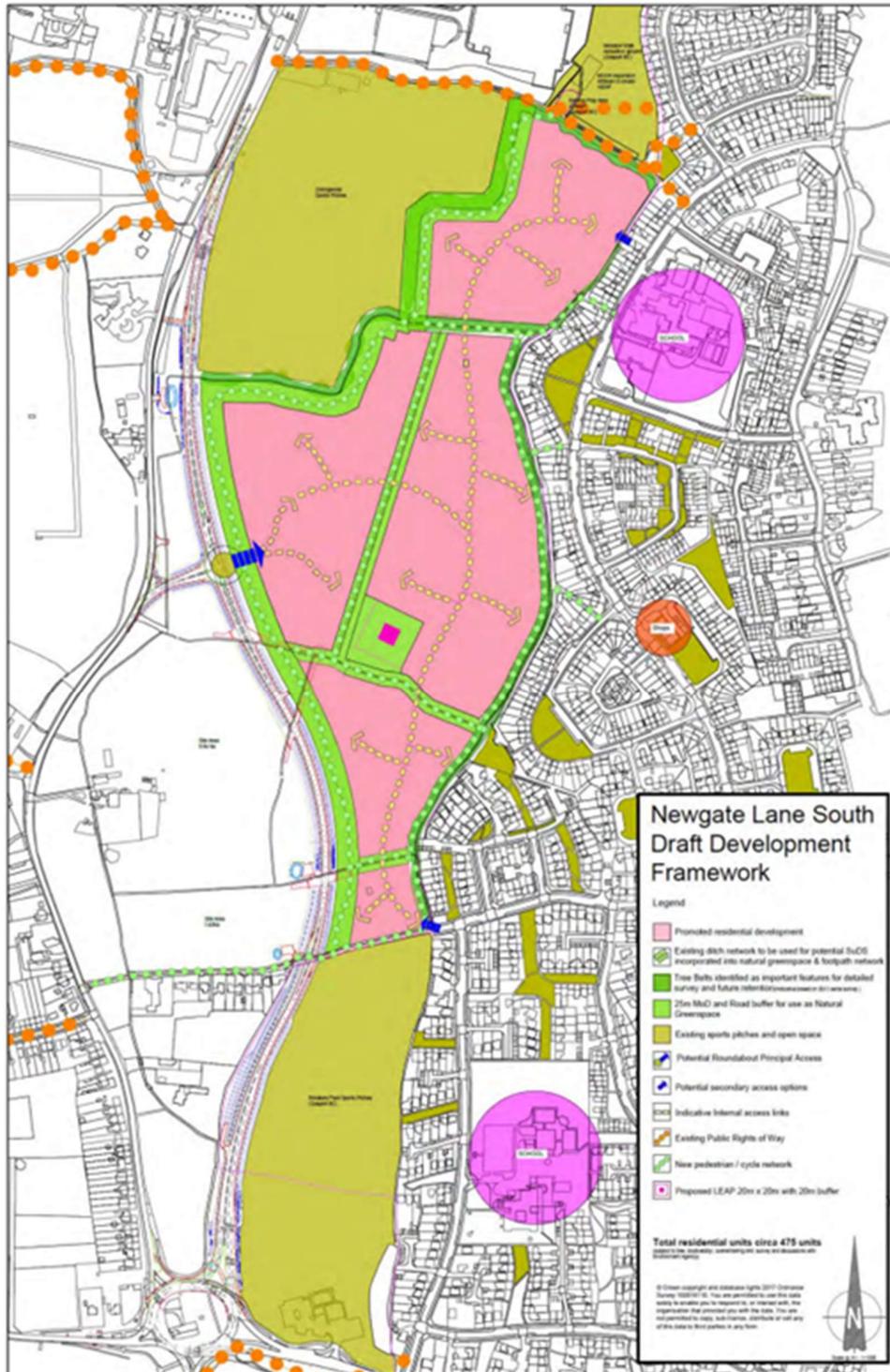


Figure 3 - Extract from Draft Fareham Local Plan 2036 showing HA2 Development Framework

- 3.5. HA2 remained a proposed allocation in subsequent iterations of the emerging Local Plan for over 3 years until it was deleted as a proposed allocation in the Regulation 19 Publication Local Plan in November 2020. The removal of the allocation was on the basis of the Council's flawed decision to plan for a reduced housing requirement based upon the assumed implementation of the Government's draft Standard Method at that time. Despite this position, the latest version of the Local Plan, published in June 2021 (Regulation 19, Revised Publication Local Plan) continues to omit the HA2 allocation, stating "Development would have a detrimental impact on the Strategic Gap" as the reasoned justification for the removal of the allocation within the SA/SEA Report which supports the plan.
- 3.6. In July 2021, Pegasus Group submitted representations to the Council strongly advocating the reinstatement of the HA2 housing allocation following the granting of planning permission on appeal for 99 new homes at Brookers Lane on the southern part of the HA2 site during that month. These representations set out that the site is sustainably located, its development would not cause unacceptable impact upon the strategic gap or character and appearance of the landscape, and that safe access can be provided without significant impacts upon traffic flows on Newgate Lane East. They explain why the site should be allocated in place of other proposed allocations in the Draft Local Plan as it is more sustainably located with lesser impacts. The representations also raise objections to the Council's approach to housing delivery which fails to meet the area's housing needs, including its affordable housing needs, and the unmet need of neighbouring authorities, rendering the Plan unsound.
- 3.7. Figure 4 below shows the site of the approved Brookers Lane scheme and the current appeal site as part of the HA2 proposed allocation.

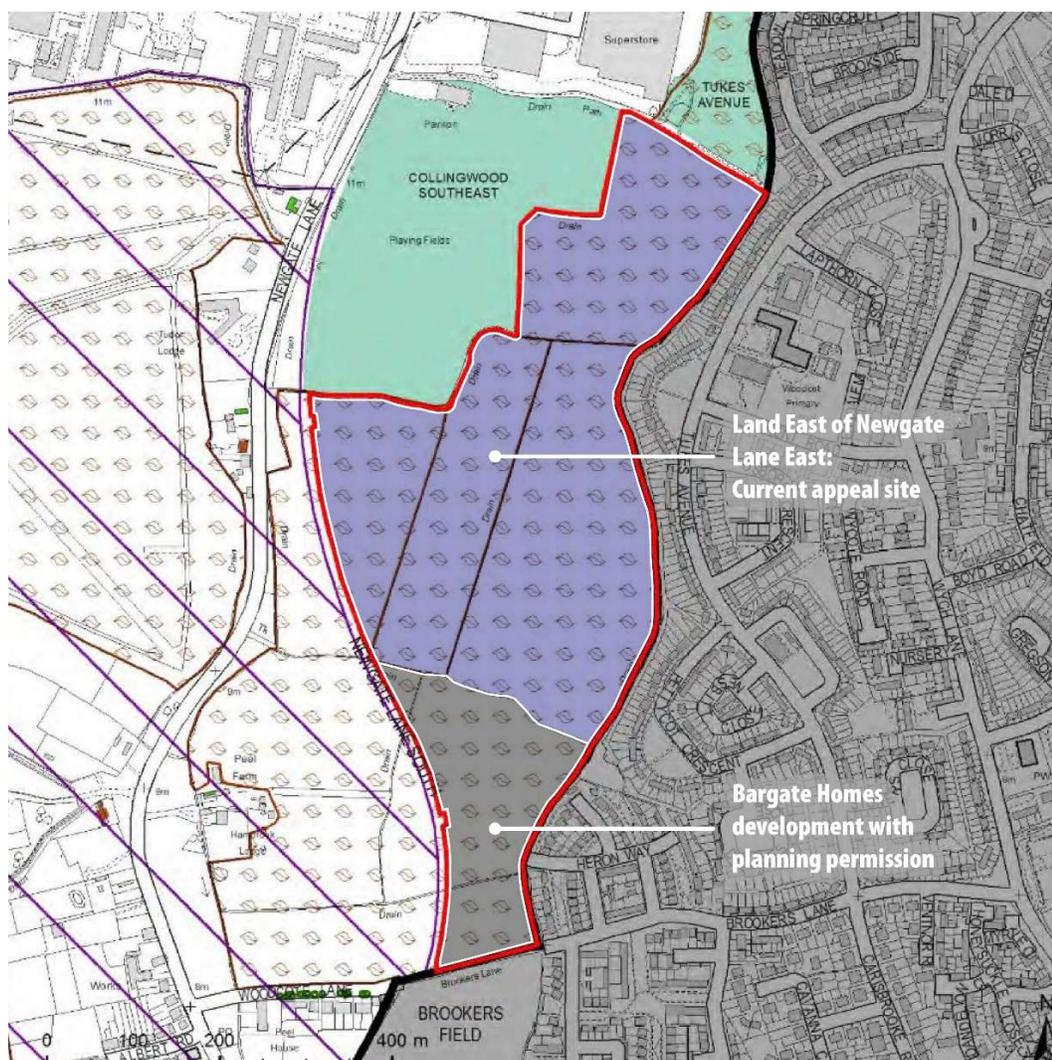


Figure 4 – Approved Brookers Lane site and current appeal site as part of HA2 proposed allocation

- 3.8. Pegasus Group also prepared Hearing Statements and attended the Local Plan Examination hearing sessions which took place in March / April 2022 to continue to raise the concerns outlined above and advocate the reinstatement of HA2. During the course of the hearing sessions the Local Plan Inspector, Helen Hockenfull, raised several areas of concern including around housing need and supply. In particular, the Inspector asked the Council to provide further information on affordable housing need and supply and further information to support the suggested rates of delivery at Welborne Garden Village.
- 3.9. At the time of writing, a post hearing letter from the Inspector is awaited. This letter will set out any concerns that the Inspector has around the soundness of the plan and any additional information and work required as part of the next steps. As such, there is currently uncertainty around the soundness of the plan and timescales for its adoption. This position will be monitored during the course of the appeal.
- 3.10. In the meantime, permission has been granted on the southern part of HA2, as set out in further detail at paragraphs 3.19 – 3.22 below.

Draft Local Plan Allocations within the Strategic Gap

- 3.11. The Revised Publication Local Plan proposes two significant residential housing allocations within the Stubbington/Lee on Solent to Fareham/Gosport Strategic Gap:
- Allocation HA55 'Land South of Longfield Avenue' proposes 1,250 dwellings on the southern edge of Fareham, and north of Stubbington. There is a current undetermined outline planning application at the site for up to 1,200 dwellings (ref. P/20/0646/OA).
 - Allocation HA54 'Land east of Crofton Cemetery and west of Peak Lane' proposes 180 dwellings on the northern edge of Stubbington, and south of Fareham. An appeal for 206 dwellings at the site was allowed on 10th January 2022 (Appeal Ref: APP/A1720/W/21/3275237).
- 3.12. The implications of these allocations / permission are considered in the 'Strategic Gap' section of the Planning Assessment at section 7 of this statement, which includes a Strategic Gap Plan showing the site locations.

Environmental Impact Assessment Screening

- 3.13. A request for a Screening Opinion under Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) relating to the proposed residential development of up to 420 dwellings at land east of Newgate Lane was submitted to FBC on 7th October 2021 (ref. P/21/1656/EA).
- 3.14. On the 11th November 2021, FBC opined that, for the purposes of the Regulations, the proposed development is not likely to have a significant effect on the environment and does not constitute EIA development. An Environmental Statement is not therefore required.
- 3.15. Other than this, there is no known planning history relating to the main portion of the site, east of Newgate Lane East. However, there have been planning applications relating to the construction of the Newgate Lane East 'relief road', part of which lies within the western portion of the site, as well as planning applications and appeals on sites to the south and south-west of the appeal site, as set out further below.

Newgate Lane East Relief Road

- 3.16. On the 20th November 2015, Hampshire County Council granted planning permission for the "Construction of a new southern section of Newgate Lane to provide a new connection from Newgate Lane to Peel Common Roundabout together with the construction of a junction and link road to access the existing route of Newgate Lane" ref. P/15/0717/CC.
- 3.17. The Newgate Lane relief road (known as Newgate Lane East), lies directly to the west of the main body of the appeal site, and was opened in April 2018. The planning application for the relief road included footway/cycleway enhancements at Brookers Lane to the south of the site, which have also now been implemented, as well as improvements to the Peel Common Roundabout to the south and junctions to the north at Longfield Avenue, HMS Collingwood and Speedfields Park.

Recent Appeal Decisions at Newgate Lane East (Brookers Lane)

Land East of Newgate Lane East – appeal ref: APP/J1725/W/20/3265860 & APP/A1720/W/21/3269030 – decision 28th July 2021

- 3.18. These co-joined appeals relate to Bargate Homes' proposals for the development of up to 99 dwellings on Land East of Newgate Lane East (immediately south of the current appeal site and north of Brookers Lane).
- 3.19. The Concept Masterplan for the proposed development is reproduced below. The Strategic Gap Plan at section 7 shows the previous appeal site in the context of the strategic gap and other recently allowed appeal sites and draft Local Plan allocations in the wider area.



Figure 5 – Approved Bargate Homes development at Brookers Lane



3.20. Given that the appeal site straddled the boundary between Fareham and Gosport Boroughs (with part of the access lying within Gosport), duplicate planning applications were submitted to both authorities. The Gosport application was refused planning permission on the basis of the Council's opposition to the principle of development and an appeal was subsequently lodged. The Fareham application was appealed against non-determination and both appeals were heard at a co-joined hearing on 22nd June 2021.

3.21. In the appeal decision letter dated 28 July 2021, the Inspector, Mr. G. D. Jones, allowed both appeals (**Appendix 1**). This represents a very significant change in circumstances.

Land West of Newgate Lane East - appeal ref: APP/A1720/W/20/3252180 and 3252185) – decision 8th June 2021

3.22. These co-joined appeals relate to proposals for the combined development of up to 190 dwellings on Land West of Newgate Lane East (south-west of the appeal site and north of Woodcote Lane).

3.23. Whilst those appeals were dismissed, the Inspector makes pertinent comments on the acceptability of development east of Newgate Lane East in his decision letter dated 8 June 2021 (**Appendix 2**).

3.24. The implications of the above appeal decisions are considered further as part of the planning assessment section of this statement.

Pre-Application Consultation

3.25. As set out above, the site has previously been promoted through the plan making process including through the submission of representations to the 'Regulation 19' consultation on the Draft Local Plan which took place from June to July 2021 and most recently at the Examination hearing sessions which took place in March / April 2022.

3.26. The appellants have entered into pre-application discussions with the Council and a request for pre-application advice was submitted on 8th October 2021, with a meeting held on 24th November 2021. The pre-application concept masterplan proposed up to 420 dwellings on the site, including residential development on the westernmost field.

3.27. Key matters discussed included:

1. The principle of development and impact upon the landscape / strategic gap;
2. Five year housing land supply;
3. Site layout and potential for development to be pulled eastwards to retain an element of open farmland character next to Newgate Lane East.
4. Site access;
5. Open space provision;
6. Habitat Regulation Assessment (HRA) matters; and
7. Scope of technical and environmental reports to support the application.



- 3.28. Consultation responses were received from the Council's Affordable Housing and Environmental Health Officers as well as from Hampshire County Council Ecology, Archaeology and Education only.
- 3.29. A pre-application meeting was also held with Hampshire County Council Highways on 12th November 2021 to agree the scope of the Transport Assessment. This followed the submission of a formal Transport Assessment Scoping Note and discussions with Hampshire County Council continued until the application was submitted.
- 3.30. Community consultation has been undertaken with leaflets sent to c. 280 local residents, Councillors and key stakeholders notifying them of the proposals and inviting them to a virtual public consultation in November 2021. Full details are contained within the Statement of Community Involvement.
- 3.31. All three channels of consultation have provided consultees with the opportunity to provide comments which have been used to inform the proposals.

4. The Proposed Development

4.1. The proposed development has been carefully designed with consideration of the local landscape context as well as through engagement with FBC and HCC Highways pre-application services and following public consultation. The concept masterplan is a product of the constraints and opportunities established through the design process, as well as the design principles set out within FBC's Development Framework for HA2 as set out in the Regulation 18 Draft Local Plan (2017). Full details of the design approach are set out in the Design and Access Statement and Landscape and Visual Impact Assessment.

4.2. The proposed development is for:

'Outline application with all matters reserved (except access) for residential development of up to 375 dwellings, access from Newgate Lane East, landscaping and other associated infrastructure works.'

4.3. The illustrative Concept Masterplan is reproduced below.



Figure 6 - Concept Masterplan



4.4. The key features of the proposals are:

1. Up to **375 market and affordable dwellings** across a range of housing types, tenures and sizes (to be determined at the reserved matters stage);
2. Vehicular access via a **new roundabout** on Newgate Lane East (as shown on drawing ITB10353-GA-102C) as well as pedestrian and cycle connections to Newgate Lane East (west), to Tukes Avenue (east), to the consented development to the south and north to the Public Rights of Way network fronting the site;
3. A **strong landscape framework** incorporating:
 - i. A range of linked, multi-functional open spaces and green corridors that provide leisure options, safe pedestrian environments throughout the site, ecological benefits, as well as an attractive setting for a high-quality residential development;
 - ii. Omission of development from the western field parcel to provide a robust and substantial buffer to soften the edge to the strategic gap and countryside to the west. This area will include a bird mitigation area, drainage features and ecological enhancements and retains reference to the scale and openness of the agricultural context. The area also contributes to the wider strategic green infrastructure network which passes broadly through this part of the site. This quality green frontage will replace the existing backdrop of residential dwellings and trees along the urban edge of Bridgemary/Woodcot;
 - iii. Key central north to south green corridor with retained hedgerow and linear open space. The retained hedgerow would be supplemented by additional tree planting and become the boundary to a north/south linear green space, acting as a distinct break in the massing of the development and adding a green corridor into the overall scheme. This linear corridor is wide enough to provide a multi-functional space offering recreational, ecological and drainage benefits as well as providing a direct link between the northern portion of the site and the green corridor proposed as part of the approved development to the south. This joined up approach offers a continuous green corridor through the wider site linking to existing public open space to the north and south.
 - iv. A large central green and Neighbourhood Equipped Area for Play (NEAP) acting as focal point which together with pocket parks/green spaces will provide a diverse network of access and opportunities for recreation;
 - v. Corner "cushions" of woodland planting at the western edge of the site acting as mini buffers at the corner of each field, to provide additional set back and more opportunities for planting at greater depths and provide additional screening to views from Newgate Lane East.
 - vi. Welcome spaces at key connections / points of entry into the site, where residential development is pulled back to create pocket parks / spaces which merge with the hierarchy of green routes, providing an attractive interface.
 - vii. The retention and enhancement of existing field boundary trees, hedgerows and ditches within proposed open spaces; and



- viii. Attractive sustainable drainage features within proposed open spaces.
- 4.5. The proposed development will deliver 40% affordable housing (150 dwellings), compliant with local policy, to be secured through a S106 Agreement.
- 4.6. The mix of market housing will be determined at the reserved matters stage.
- 4.7. The layout and design of the dwellings together with the associated infrastructure (including estate roads, car parking, incidental landscaping, and drainage and utilities services) will be determined at the reserved matters stage. However, the environmental principles and landscape led approach that have been adopted are enshrined in the layout and will provide a strong framework of green infrastructure to the proposed development, giving the scheme a strong sense of place.

5. Local Plan Policy and Guidance

- 5.1. The following sections summarise the national and local planning policy and guidance pertinent to the appeal site and development proposals.
- 5.2. The plan-led approach to development, as set out by Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires development proposals to accord with the adopted Development Plan unless material considerations indicate otherwise. The relevant adopted Fareham Development Plan policies are therefore set out below, before going on to consider material considerations including the emerging Local Plan and the National Planning Policy Framework.

The Development Plan

- 5.3. The adopted Development Plan for Fareham Borough consists of three main documents (in addition to the Hampshire Minerals and Waste Plan, adopted in October 2013):
- Local Plan Part 1: 'Core Strategy' (Adopted in August 2011);
 - Local Plan Part 2: 'Development Sites & Policies' (DSP) (Adopted in June 2015); and
 - Local Plan Part 3: The 'Welborne Plan' (Adopted in June 2015).
- 5.4. The Core Strategy contains the strategic policies and the DSP contains the development management policies. The Welborne Plan deals specifically with the development of the new garden village.
- 5.5. The Local Plan strategy is out-of-date because it is predicated on an out-of-date assessment of housing needs, in line with paragraph 63 of the Supreme Court judgement in Hopkins Homes/Suffolk Coastal (**Appendix 3**).
- 5.6. The following section sets out the Core Strategy and DSP policies relevant to the proposals. Policies CS2, CS6, CS14, CS22, DSP6 and DSP40 are the 'most important' policies for determining the application. However, as set out further in paragraphs 5.58 to 5.65 below and as consistently confirmed by Inspectors in numerous recent appeal decisions, these policies are out-of-date in terms of paragraph 11(d) of the NPPF and any conflict with these policies should be afforded reduced weight.

Core Strategy

- 5.7. **Policy CS2 'Housing Provision'** establishes the housing land supply sources to meet the OAN of 3,729 between 2006 and 2026 (excluding Welborne), which includes allocated sites and brownfield land. The supply of sites will be kept up to date through a regular review of the Strategic Housing Land Availability Assessment (SHLAA) and allocated through Part 2 of the Plan.
- 5.8. The proposals conflict with policy CS2 in that the appeal site lies outside the defined urban area and does not form an allocation for housing. However, policy CS2 is out-of-date and should be afforded reduced weight.

5.9. **Policy CS4 'Green Infrastructure, Biodiversity and Geological Conservation'** affords protection to important habitats within the Borough including Sites of Special Scientific Interest, Sites of Importance for Nature Conservation, areas of woodland, and the coast and trees will be protected in accordance with the hierarchy of nature conservation designations. In order to prevent adverse effects upon sensitive European sites in and around the Borough, the Council will work with other local authorities (including the Partnership for Urban South Hampshire) to develop and implement a strategic approach to protecting European sites from recreational pressure and development.

5.10. The proposals do not conflict with Policy CS4.

5.11. **Policy CS5 'Transport Strategy and Infrastructure'** promotes the achievement of sustainable integrated transport systems for the Borough including the safeguarding of land for identified works; development will not be permitted where this is prejudicial to the implementation of these schemes. The Council will permit development which contributes to necessary infrastructure, does not adversely affect the safety and operation of the local network and is designed and implemented to prioritise and encourage sustainable travel. Development proposals which generate a high demand for travel should be located in accessible areas.

5.12. The proposals do not conflict with Policy CS5.

5.13. **Policy CS6 'The Development Strategy'** provides that development will be focused in the following locations:

- Fareham;
- Fareham Town Centre;
- Western Wards and Whiteley;
- Portchester;
- Stubbington & Hill Head and Titchfield;
- Welborne; and
- The Strategic Development Allocations at Coldeast Hospital and Daedalus Airfield.

5.14. It states:

"In identifying land for development, the priority will be for the reuse of previously developed land, within the defined urban settlement boundaries including their review through the Site Allocations and Development Management DPD, taking into consideration biodiversity / potential community value, the character, accessibility, infrastructure and services of the settlement and impacts on both the historic and natural environment. Opportunities will be taken to achieve environmental enhancement where possible. Development which would have an adverse effect on the integrity of protected European conservation sites which cannot be avoided or adequately mitigated will not be permitted..."

- 5.15. The proposals conflict with policy CS6 in that the appeal site lies outside the defined urban area and does not form an allocation for housing. However, policy CS6 is out-of-date and should be afforded reduced weight. Policy CS14 'Development on land outside settlements' states that:
- "Built development on land outside the defined settlements will be strictly controlled to protect the countryside and coastline from development which would adversely affect its landscape character, appearance and function. Acceptable forms of development will include that essential for agriculture, forestry, horticulture and required infrastructure. The conversion of existing buildings will be favoured. Replacement buildings must reduce the impact of development and be grouped with other existing buildings, where possible. In coastal locations, development should not have an adverse impact on the special character of the coast when viewed from the land or water."*
- 5.16. The proposals conflict with policy CS14 in that the appeal site lies outside the defined urban area and does not form an acceptable form of development listed in the policy. However, policy CS6 is out-of-date and should be afforded reduced weight.
- 5.17. **Policy CS15 'Sustainable Development and Climate Change'** provides that the Council will seek to secure development in locations which are sustainable and where there will be a minimum negative environmental impact. Development should:
- make efficient use of land;
 - seek to properly manage flood risk and waste impacts; and
 - meet Code for Sustainable Homes Level 6.
- 5.18. The proposals do not conflict with Policy CS15.
- 5.19. **Policy CS16 'Natural Resources and Renewable Energy'** requires developers to demonstrate best practice in respect of energy and water efficiency, reduction of carbon emissions and implementation of the waste hierarchy to protect natural resources. Loss of best and most versatile agricultural land should be resisted. Development (of more than 1 dwelling or more than 500 sqm of non-residential floorspace) will be encouraged to contribute to the Fareham target of 12MW of renewable energy by 2020.
- 5.20. The proposals result in limited conflict with Policy CS16 in that they will result in the loss of a relatively small amount of Best and Most Versatile Agricultural Land. However, Policy CS16 pre-dates the NPPF and is more onerous in its restrictive nature. Numerous Appeal Inspectors have afforded any such conflict with Policy CS16 as having only very limited weight, such as Inspector Jordan at paragraph 59 of her decision at Crofton Cemetery (**Appendix 4**).
- 5.21. **Policy CS17 'High Quality Design'** sets out a series of design criteria for new development including the requirement to respond positively to the surrounding environment in terms of scale, form and character, and to promote permeability, legibility, open space and a distinct identity of place. In addition, new housing will be required to: secure adequate internal and external space, dwelling mix, privacy, and sunlight and daylight to meet the requirements of future occupiers.
- 5.22. The proposals do not conflict with Policy CS17.

- 5.23. **Policy CS18 'Provision of Affordable Housing'** provides that on sites of 15 or more dwellings, developers will be expected to provide 40% affordable units unless a lack of viability can be clearly demonstrated.
- 5.24. The proposals do not conflict with Policy CS18.
- 5.25. **Policy CS20 'Infrastructure and Development Contributions'** requires development to provide or contribute towards infrastructure and any necessary mitigation measures through conditions, legal agreement and/or CIL.
- 5.26. The proposals do not conflict with Policy CS20.
- 5.27. **Policy CS21 'Protection and Provision of Open Space'** safeguards the network of open and green spaces for recreation and wildlife value. New development must provide open space in accordance with the Council's standards.
- 5.28. The proposals do not conflict with Policy CS21.
- 5.29. **Policy CS22 'Development in Strategic Gaps'** provides that land within strategic gaps will be treated as countryside, and proposals will not be permitted either individually or cumulatively where they significantly affect the integrity of the gap. Strategic gaps have been identified between Fareham/Stubbington and Western Wards/Whiteley (the Meon gap); and Stubbington/Lee on Solent and Fareham/Gosport.
- 5.30. This policy is concerned with maintaining the settlement pattern and the local landscape character rather than inferring any landscape value per se:

"Strategic gaps do not have intrinsic landscape value but are important in maintaining the settlement pattern, keeping individual settlements separate and providing opportunities for green infrastructure/green corridors. Continuing pressure for high levels of development mean that maintaining gaps continues to be justified." (para. 6.52)
- 5.31. The policy wording states that boundaries of strategic gaps will be reviewed in accordance with the following criteria:

"a) The open nature/sense of separation between settlements cannot be retained by other policy designations;

b) The land to be included within the gap performs an important role in defining the settlement character of the area and separating settlements at risk of coalescence;

c) In defining the extent of a gap, no more land than is necessary to prevent the coalescence of settlements should be included having regard to maintaining their physical and visual separation."
- 5.32. This commitment to review the boundaries of the strategic gaps was added following the comments in the Inspector's Examination Report on the Core Strategy 2011, which highlighted the need to provide robust justification to meet legal and statutory requirements. At para. 47 the Inspector writes:

"Concern has been raised by a number of representors that policy CS22's protection of strategic gaps lacks adequate justification – particularly in view of the restrictive approach

to development outside settlements set out in policy CS14. Nevertheless, given the built-up nature of much of Fareham Borough and noting that some of the Borough's constituent settlements are separated by relatively narrow open gaps, I accept the Council's argument that the broad identification of strategic gaps in the Core Strategy can play a useful role in guiding its intended review of settlement boundaries. Furthermore, and with reference to the Government's localism agenda, it is clear that there is strong local support for preventing coalescence between identified settlements. In principle therefore, the policy is adequately justified – although the detailed boundaries of the gaps themselves remain to be reviewed in the SADM DPD. The Council accepts that policy CS22 could provide clearer guidance for that review, and suggests that criteria be added in line with the PUSH Policy Framework for Gaps¹³ [6.8]. I endorse this change for soundness reasons."

- 5.33. Para. 6.53 of the policy's supporting text goes on to provide that a review of the detailed gap boundaries will be undertaken as part of the DSP to identify the land essential to perform this role and that which cannot be protected by other designations.
- 5.34. This exercise was reported in the FBC's 'Review of Gap Policy Designations' document, published in October 2012. The report considers the role of the gaps in respect of three assessment criteria, namely physical and visual separation, settlement character and landscape sensitivity, and green infrastructure value, and, for Fareham–Stubbington, concludes that it continues to provide a function which cannot be fulfilled by other policies. For this reason, the Fareham to Stubbington gap remains unchanged in the DSP.
- 5.35. Although the proposals lie within the Stubbington / Lee on Solent and Fareham / Gosport Strategic Gap, they will not significantly affect the integrity of the gap – either individually or cumulatively – and for this reason they do not conflict with Policy CS22.

Development Sites and Policies (DSP)

- 5.36. **Policy DSP1 'Sustainable Development'** reflects the presumption in favour of sustainable development as set out in the NPPF. The Council will always work proactively with applicants to find solutions that enable proposals to be granted permission wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 5.37. The proposals do not conflict with Policy DSP1.
- 5.38. **Policy DSP2 'Environmental Impact'** states that development proposals should not, individually or cumulatively, have a significant adverse impact on neighbouring development or the wider environment in terms of noise, air or other pollutants. Proposals should have a satisfactory arrangement for the management of waste and protection of water resources.
- 5.39. The proposals do not conflict with Policy DSP2.
- 5.40. **Policy DSP3 'Impact on Living Conditions'** states that development proposals should ensure that there will be no unacceptable adverse impact upon living conditions on the site or neighbouring development, by way of the loss of sunlight, daylight, outlook and/or privacy.
- 5.41. The proposals do not conflict with Policy DSP3.



5.42. **Policy DSP4 'Prejudice to Adjacent Land'** states:

"Where piecemeal development could delay or prevent the comprehensive development of a larger site, a legal agreement will be sought, to ensure that any permitted development does not prejudice the development of adjacent land and that highway access, pedestrian access and services to adjoining land are provided."

5.43. The proposals so not conflict with Policy DSP3.

5.44. **Policy DSP5 'Protecting and Enhancing the Historic Environment'** seeks to protect heritage assets including sites of archaeological importance, taking account of their significance.

5.45. The proposals do not conflict with Policy DSP5.

5.46. **Policy DSP6 'New Residential Development Outside of the Defined Urban Boundaries'** reinforces the Core Strategy's objective to restrict development outside existing settlements, unless specific circumstances apply. It states:

"New buildings should be well-designed to respect the character of the area and, where possible, should be grouped with existing buildings."

5.47. The proposals conflict with policy DSP6 in that the appeal site lies outside the defined urban boundary and does not form an acceptable form of development listed in the policy. However, policy DSP6 is out-of-date and should be afforded reduced weight.

5.48. **Policy DSP13 'Nature Conservation'** provides that development is permitted where designated sites and protected/priority species are protected, and where appropriate enhanced. Proposals resulting in detrimental impacts to these sites or species shall only be granted where impacts are outweighed by the needs for/benefits of the development; and adverse impacts can be appropriately mitigated or compensated.

5.49. The proposals do not conflict with Policy DSP13.

5.50. **Policy DSP14 'Supporting Sites for Brent Geese and Waders'** states that proposals on 'important' sites for brent geese and/or waders may be granted permission where it can be demonstrated there is no adverse impact on those sites or appropriate avoidance and/or mitigation measures can be secured.

5.51. The proposals do not conflict with Policy DSP14.

5.52. **Policy DSP15 'Recreational Disturbance on the Solent Special Protection Areas (SPA)'** states that proposals resulting in 'in combination' effects of recreation on the Special Protection Areas can be satisfactorily mitigated through the provision of a financial contribution that is consistent with the approach being taken through the Solent Recreation Mitigation Strategy. Applications resulting in a 'direct effect' may be subject to appropriate assessment.

5.53. The proposals do not conflict with Policy DSP15.

5.54. **Policy DSP40 'Housing Allocations'** sets out the allocated sites for housing on the policies map. In addition, 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."

5.55. The proposals do not conflict with Policy DSP40.

Weight to be given to the Development Plan Policies

5.56. Not all of the FBC policies cited above should be given full weight in the consideration of the proposals, as confirmed by Inspectors in numerous recent appeal decisions including at Brookers Lane (**Appendix 1**), Land west of Newgate Lane East (**Appendix 2**), Crofton Cemetery (**Appendix 4**), Downend Road (**Appendix 6**) and Posbrook Lane (**Appendix 15**).

5.57. Whilst the purposes of policies CS2, CS6, CS14 and DSP6 are recognized to be 'broadly' consistent with the NPPF, the settlement boundaries upon which their spatial application is predicated are acknowledged as out-of-date. This is due not only to the housing land supply/Housing Delivery Test situation but is derived from the fact that the settlement boundaries were based on a now out-of-date assessment of housing need. Accordingly, in line with the Supreme Court judgement in Hopkins Homes/Suffolk Coastal (**Appendix 3**), the decision maker is entitled to accord these policies reduced weight.

5.58. This has been confirmed in multiple recent appeal decisions, including most recently by Inspector Rose in his decision letter of 25th February 2022 for Land east of Posbrook Lane, Titchfield (Appeal Ref. APP/A1720/W/20/3254389 – **Appendix 15**) where he stated at para. 107:

"The housing requirement underlying Policies CS6, CS14 and DSP6 as set out in Policy CS2 pre-dates the Framework and is agreed to be out-of-date. The restrictive settlement boundaries derived from that housing requirement and identified in those policies are thereby also out-of-date and, accordingly, the weight to be attached to any conflict with them is reduced."

- 5.59. Similarly, Inspector Jordan in her decision letter of 10th January 2022 for Land East of Crofton Cemetery, Stubbington (Appeal Ref: APP/A1720/W/21/3275237 – **Appendix 4**) concluded at para. 9:

"The CS predates the Framework and so is not based on an up-to date Framework complaint assessment of housing needs. The housing requirement has not been reviewed within the last 5 years. Policy CS2 and CS6 cannot therefore be considered to be up to date. In addition, policies CS14 and DSP6 are derived from settlement boundaries which are based on an out of date housing requirement and this reduces the weight I can attribute to them."

- 5.60. Therefore these policies, which control development outside the defined settlement boundaries, do not represent up-to-date policies / carry limited weight.

- 5.61. The same principle applies to the boundaries of the strategic gap policy, CS22. These were drawn in the context of a given assessment of development needs which is no longer accurate. This is recognized in the emerging Local Plan, in which the Council have proposed significant development within the strategic gap.

- 5.62. Appeal Inspectors have recently considered this issue. In his decision letter dated 28th July 2021 for the appeal to the south at Brookers Lane, Inspector Jones stated at para's 15 and 16:

"The criteria of DSP40 offer flexibility and are not as restrictive as the requirements of those other policies, including CS14, CS22 and DSP6. As another Inspector recently concluded when considering two other nearby appeals (the Peel Common Inspector), it follows that in circumstances where the DSP40 contingency is triggered, the weight attributable to conflicts with those more restrictive Policies [LP1 Policies CS14 and CS22 and LP2 Policy DSP6] would be reduced and would be outweighed by compliance with LP2 Policy DSP40.

That Inspector went on to identify that, because the LP1 pre-dates the Framework, Policy CS2 does not represent an up-to-date Framework compliant assessment of housing needs, nor has the housing requirement of the development plan been reviewed within the last 5 years, and applying the Standard Methodology generates a higher housing need figure. In these circumstances, I agree with his conclusion that LP1 Policies CS2 and CS6 are out-of-date in the terms of the Framework and that against this background, the weight attributable to conflicts with Policies CS14 and CS22 of the LP1 and LP2 Policy DSP6 is reduced to the extent that they derive from settlement boundaries that in turn reflect out-of-date housing requirements." (Pegasus emphasis added).

- 5.63. It is therefore clear that Policy DSP40 is in any event the operative development plan policy, although it is itself subject to paragraph 11(d) of the NPPF as set out below.

Material Considerations

- 5.64. The following are material considerations that are relevant in consideration of the appeal proposals.

Emerging Local Plan



5.65. FBC is currently preparing a new Local Plan. The emerging FBC Local Plan has comprised the following iterations:

- Draft Local Plan (Regulation 18), published December 2017;
- Issues and Options, published July 2019;
- Supplement to the draft Local Plan, published January 2020;
- Draft Local Plan (Regulation 19), published October 2020; and
- Revised Draft Local Plan (Regulation 19), published June 2021.

5.66. The Local Plan Examination hearing sessions took place in March / April 2022.

5.67. As set out above, Pegasus Group and others have submitted representations (July 2021) objecting to the Council's approach to housing delivery which fails to meet the area's housing needs, including its affordable housing needs, and the unmet need of neighbouring authorities, rendering the Plan unsound. The representations strongly advocate the reinstatement of the HA2 housing allocation to meet housing needs.

5.68. Pegasus Group attended the Local Plan Examination hearing sessions in March / April 2022 to re-iterate this position. During the course of the hearing sessions the Local Plan Inspector raised several areas of concern including around housing need and supply. In particular, the Inspector asked the Council to provide further information on affordable housing need and supply and further information to support the suggested rates of delivery at Welborne Garden Village.

5.69. At the time of writing, a post hearing letter from the Inspector is expected which will set out any concerns that the Inspector has around the soundness of the plan and any additional information and work required as part of the next steps. As such, there is currently uncertainty around the soundness of the plan and timescales for its adoption.

5.70. Therefore, whilst the plan has been submitted for Examination, there are significant unresolved objections to the plan and uncertainties around its soundness and it should be afforded only limited weight at this time, in accordance with para. 48 of the NPPF.

National Planning Policy Framework

5.71. The Housing White Paper 'Fixing our Broken Housing Market', published in February 2017, set out the Government's plan for tackling the housing crisis by planning for "*the right homes in the right places*". It placed great emphasis on the need to plan for and deliver homes much more quickly and identified issues around the robustness of the current '5-year housing land supply' mechanism, due to inconsistencies in both the OAN and supply methodologies.

5.72. In response to the White Paper, the National Planning Policy Framework (NPPF) was revised in July 2018 and in February 2019.

5.73. More recently, the NPPF was revised again in July 2021, with an increased focus on design quality, with the aim of creating 'beautiful' and 'sustainable' places not only for sites individually but for places as a whole.

Section 2: The Presumption in Favour of Sustainable Development

- 5.74. The NPPF is clear that the purpose of the planning system is to contribute to sustainable development. Sustainable development is summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs, and should achieve net gains for economic, social and environmental objectives.
- 5.75. The application of the 'presumption in favour of sustainable development' is explained in para. 11. For decision-taking this means:
- "c) approving development proposals that accord with an up-to-date development plan without delay ["the straight balance"]; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole ["the tilted balance"]." [Pegasus annotations.]*
- 5.76. The circumstances in which policies are deemed 'out of date' is confirmed in footnote 8, which include (but are not limited to), for applications involving the provision of housing, where an LPA cannot demonstrate a five-year supply of deliverable housing sites OR where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. (Pegasus emphasis added).
- 5.77. Section 6 below provides a summary of Fareham's housing need and supply. Having regard to FBC's housing land supply position and Housing Delivery Test result, evidence demonstrates that on both counts, the presumption is triggered. FBC has agreed in recent Statements of Common Ground for nearby appeals that it cannot demonstrate a five-year supply of housing land, as well as within their January 2022 Five Year Housing Land Supply Position Statement (**Appendix 5**). We note that their more recent Position Statement (April 2022 – **Appendix 16**) purports that the Council can demonstrate a 5.08yr supply. Pegasus Group strongly disagree with this position and consider there to be a significant shortfall in housing land supply as set out further in Section 6 below.
- 5.78. The circumstances in which policies in the NPPF 'provide clear reason for refusing' a proposed development (such that the presumption does not apply) are confirmed in footnote 7, as follows:
- "The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 180) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 67); and areas at risk of flooding or coastal change."*

5.79. Specifically, in respect of impacts on local habitat sites, Paragraph 182 confirms that the presumption in favour of sustainable development does not apply where:

"the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site."

5.80. As is justified in Section 7 of this statement, the development proposals are not caught by para. 182 because significant effects on habitats sites can be appropriately mitigated, and therefore the presumption does apply.

Section 4: Decision-Making

5.81. The NPPF is explicit that decision makers should seek to champion sustainable development by working with applicants to find solutions to approve proposals. Paragraph 38 states:

"Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible."

5.82. Whilst the NPPF is clear that the planning system should be plan-led, paragraphs 48, 49 and 50 explain that the weight to be given to emerging plans should be in accordance with their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with the NPPF.

Section 5: Delivering a Sufficient Supply of Homes

5.83. The NPPF continues to be an important vehicle to assist the government's target to deliver 300,000 net additional homes a year. Para. 60 asserts:

"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay."

5.84. Other sections of the NPPF relevant to the appeal proposals are:

- Chapter 8: Promoting healthy and safe communities;
- Chapter 9: Promoting sustainable transport;
- Chapter 11: Making effective use of land;
- Chapter 12: Achieving well designed places;
- Chapter 14: Meeting the challenge of climate change, flooding and coastal change;

- Chapter 15: Conserving and enhancing the natural environment; and
- Chapter 16: Conserving and enhancing the historic environment.

Habitats Regulations Assessment (HRA)

- 5.85. The Local Planning Authority is required to carry out an appropriate assessment under the Conservation of Habitats and Species Regulations 2017 as amended (the 'Habitats Regulations') known as a Habitats Regulations Assessment (HRA), to test if a plan or project proposal could significantly harm the designated features of a European site.
- 5.86. European sites include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs).
- 5.87. The HRA comprises several distinct stages. The first stage of the HRA process includes formally screening a proposed plan or project to decide whether it is likely to have a significant effect on a European designated site. If, at the screening stage, any significant effects of a plan or project on a SPA or SAC (alone or in combination with other plans or projects) can be excluded, then the plan or project can be “screened out” and no further assessment is required. However, where any significant effect of a plan or project on a SPA or SAC (alone or in combination with other plans or projects) cannot be excluded, then the competent authority will be required to assess the effects in more detail through an Appropriate Assessment, to ascertain whether an adverse effect on the integrity of any SPA or SAC can be ruled out.
- 5.88. In this case, a HRA is required to assess the impacts of the residential development within Fareham Borough upon European Sites and it will be the appeal Inspector's responsibility, as Competent Authority, to undertake a HRA in that regard, in consultation with Natural England. To assist this process a 'shadow' HRA has been prepared by Tetra Tech and is considered further in section 7 below.

Other Considerations

- 5.89. Other material considerations of relevance to the development as a whole are:
- FBC Supplementary Planning Guidance, including:
 - Affordable Housing SPD, December 2005;
 - Design Guidance SPD, December 2015; and
 - Planning Obligations SPD, April 2016.
 - The Gosport Borough Local Plan 2011–2029;
 - Solent Recreation Mitigation Definitive Strategy (approved by FBC Executive in March 2018) and the Bird Aware Strategy (2017) and developer contributions as of 1st April 2022 as updated on the Bird Aware Solent webpage);
 - Natural England Nutrient Neutrality Guidance, March 2022;



- Executive Briefing Paper 'Implications of Natural England advice on New Forest Recreational Disturbance', 7th December 2021;
- Executive Briefing Paper 'Fareham Borough Solent Waders and Brent Geese Mitigation Solution' 7th December 2021.
- Fareham Landscape Assessment (2017); and
- Technical Review of Areas of Special Landscape Quality and Strategic Gaps (September 2020).

6. Housing Need and Supply, including Affordable Housing

Housing Need

- 6.1. Given that the length of time since the adoption of the FBC Core Strategy (2011) exceeds five years, the NPPF dictates that the 'standard method' for calculating housing need applies.
- 6.2. The minimum housing need for Fareham Borough calculated using the standard method is 541 dpa, as set out in the Council's latest Five Year Housing Land Supply Position Statement, dated April 2022 (**Appendix 16**). As set out further below, the appellants dispute the housing land supply position of 5.08 years set out by the Council in their statement.
- 6.3. Para. 74 of the NPPF makes clear that an appropriate buffer should be applied as follows:
- 5% to ensure choice and competition in the market for land; or
 - 10% where the local planning authority wishes to demonstrate a five-year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or
 - 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply (to be applied where the annual delivery of housing over the past three years falls below 75% of the annual local authority's housing requirement).
- 6.4. New Housing Delivery Test results were published on 14th January 2022. These set out that the Council delivered 62% of their requirement over the past three years and as such a 20% buffer is required in Fareham Borough.
- 6.5. The Housing Delivery Test has reduced the 'homes required' within the 2019 to 2020 year by a month and within the 2020 and 2021 year by four months, in order to reflect the disruption to local authority planning services and the construction sector as a result of the Coronavirus pandemic. This artificial reduction has not reduced the need for new homes.
- 6.6. In any case, the fact that the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years also means that the presumption in favour of sustainable development (the tilted balance) is engaged, as per para. 11(d) and footnote 8 of the NPPF.

Affordable Housing Need

- 6.7. The FBC Objectively Assessed Housing Need Update, April 2016 indicates that in Fareham Borough in 2016 there were already 7 homeless households, 85 households in temporary accommodation, 882 households in overcrowded accommodation, 199 concealed households, 40 households in affordable homes that remained in affordable housing need, and 788 other households in affordable need.

- 6.8. The severe shortfall in affordable housing delivery within Fareham Borough (discussed further below) has adversely affected the ability of households to access housing, with adverse effects on affordability. This in turn is likely to have required households to migrate out of Fareham to access appropriate accommodation and/or to fall into affordable need including those households that have become homeless or are accommodated in overcrowded, shared or otherwise unsuitable accommodation. The position is therefore now likely to be worse than that identified in the Objectively Assessed Housing Need Update (2016).
- 6.9. FBC's Housing Evidence: Overview Report 2017 recommended that the emerging Local Plan Review proceeded on the basis of a 30% affordability ratio, identifying an annual affordable housing need for 302 homes per annum in the period 2011 to 2036.
- 6.10. FBC's Affordable Housing Strategy 2019 identifies that 3,000 households are in affordable need and that there is a need to deliver 3,500 affordable homes until 2036, or circa 206 per annum, although this does not appear to have been informed by an evidence-based analysis as the 2017 Overview Report was.
- 6.11. The Affordable Housing Strategy further identifies that circa 300 households are in greatest need and that there is an acute need for affordable housing, and in particular an acute need for those households with more urgent needs, in Fareham South, where the appeal site is located.
- 6.12. FBC has recently published an Affordable Housing Topic Paper dated May 2022. This Background Paper provides analysis of the need and supply of affordable housing in the Borough and provides justification for the affordable housing requirement set out in the emerging Fareham Borough Council Local Plan 2037. It was prepared in response to the Local Plan Hearings to provide further clarification in relation to the Council's affordable housing requirement. It identifies an affordable housing need of 5,422 households between 1st April 2021 and 1st April 2037.
- 6.13. The appellants' position is that the methodology used in the Affordable Housing Topic Paper does not accord with that set out in Planning Practice Guidance and therefore cannot be afforded any weight in this appeal.

Housing Supply

- 6.14. The latest FBC Five Year Housing Land Supply Statement (April 2022 – **Appendix 16**) sets out a supply of 3,298 dwellings from 1st April 2022 to 31st March 2027, which equates to a 5.08 year land supply with an oversupply of 55 dwellings. The Council's previous Position Statement (January 2022 – **Appendix 5**) indicated a supply of 4.31 years (shortfall of 446 dwellings).
- 6.15. The position of the appellants however, is that the deliverable supply is actually significantly lower than this.
- 6.16. Statements of Common ground between the Council and appellants at recent appeals have identified the supply as being between 0.93 and 3.57 years, as set out below:

- Land east of Posbrook Lane, Titchfield – Appeal Ref: APP/A1720/W/20/3254389

Statement of Common Ground, 19th October 2021 – FBC 3.57 yrs, Appellant, 0.93 yrs.



Inspector's Report, 25th February 2022, para's 57 – 61 (**Appendix 15**) – "57. It is common ground that the authority is unable to demonstrate a 5-year housing land supply (5YHLS). It is further agreed that available supply falls within a range of between 3.57 years, as maintained by the Council, and 0.93 years, as contended by the appellant.

58. It is undisputed there is a significant shortage of planned housing in Fareham. The Council's pressing need for housing is further underlined by the Government's publication of its most recent Housing Delivery Test results in January 2022. These identify a declining annual performance by the Borough from 79% to 62%.

59. The Borough's housing performance now falls within the terms of Footnote 8 of the Framework as being substantially below (less than 75% of) its housing requirement over the previous three years, and the presumption in favour of sustainable development under paragraph 11d) is thereby engaged. A 20% buffer continues to be required.

60. Further, absent a 5YHLS, Policy DSP40 also becomes engaged and this is a matter to which I return in detail as part of my planning balances.

61. It is common ground that there is a significant unmet need for affordable housing within the Borough."

- Land to the east of Newgate Lane East, Fareham – Appeal Refs: APP/A1720/W/21/3269030 & APP/J1725/W/20/3265860

Statement of Common Ground, 21st June 2021 – FBC 3.57 yrs, Appellant 0.95 yrs.

Inspector's Report, 27th July 2021, para. 29 (**Appendix 1**) – "FBC cannot currently demonstrate a Framework compliant supply of housing land. Although the main parties have differing views on the extent of the housing delivery shortfall, FBC and the appellant agree that supply lies in the range of 0.95 to 3.57 years. Although it seems likely to be lower based on the evidence before me, I have used FBC's figure of 3.57 years as a benchmark to assist in making my decision."

- Land to the east of Downend Road, Portchester, Fareham – Appeal Ref: APP/A1720/W/21/3272188

Statement of Common Ground, 2nd July 2021 – FBC 3.57 yrs, Appellant, 1.75 yrs.

Inspector's Report, 18th October 2021, para. 29 (**Appendix 6**) – "The Council is unable to demonstrate a five year supply of land for housing development. The current supply is 3.57 years at most, and therefore the shortfall is significant. This means that the contribution of 350 houses to supply must count as a benefit of considerable weight. This would clearly outweigh the low level of harm identified."

- Land East of Crofton Cemetery and West of Peak Lane, Stubbington – Appeal Ref: APP/A1720/W/21/3275237

Statement of Common Ground, 5th October 2021 – FBC 3.57 yrs, Appellant 3.17 to 3.44 yrs.

Inspector's Report, 10th January 2022, para. 6 (**Appendix 4**) – "The parties concur that the Council is currently unable to demonstrate a five year supply of housing land. The current figure is agreed to be between 3.17 and 3.57 years of supply. The parties also agree that

significant weight is to be attached to the delivery of housing from the proposed development."

- 6.17. The appellants' position is that the current supply is towards the lower end of the 0.93 to 3.57yr supply range set out above, and certainly that the shortfall is significant. The appellants will review their calculation of housing land supply as part of their evidence in due course.
- 6.18. In terms of the application of the presumption in favour of sustainable development, footnote 8 of the NPPF is clear that para 11d (the tilted balance) is engaged where either there is no five year housing land supply or the Housing Delivery Test is failed (i.e. delivery falls below 75% for the previous three years). In this case, the presumption is engaged on both counts.
- 6.19. Pegasus Group's representations on the emerging Local Plan demonstrate that the housing land shortfall is not short-lived and will persist for some time with no evidence that a five-year land supply will be able to be demonstrated at the point of adoption of the Local Plan as required by paragraph 74 of the NPPF, and even thereafter there is no evidence that a five-year land supply will be able to be restored.

Affordable Housing Supply

- 6.20. There has been a chronic under-supply of affordable housing in Fareham Borough for many years. This is clearly demonstrated in Table 1 below which shows an overall shortfall of 2,336 affordable dwellings from 2011 to 2021.

Table 1 – Affordable Housing Shortfall

	Cumulative Affordable Need *	Delivery **	Cumulative Delivery	Shortfall
2011/12	302	127	127	-175
2012/13	604	91	218	-386
2013/14	906	58	276	-630
2014/15	1,208	137	413	-795
2015/16	1,510	27	440	-1,070
2016/17	1,812	85	525	-1,287
2017/18	2,114	41	566	-1,548
2018/19	2,416	44	610	-1,806
2019/20	2,718	10	620	-2,098
2020/21	3,020	64	684	-2,336

* Source: FBC's Housing Evidence: Overview Report 2017

** Source: DLUHC Live tables on affordable housing supply – Table 1008c

- 6.21. Delivery of affordable housing in Fareham has therefore fallen substantially since a peak of 137 affordable dwellings delivered in 2014/15. Since then, delivery has collapsed, with an average of only 45 affordable dwellings delivered per year over the last 6 years. The 150 affordable dwellings proposed as part of this appeal scheme would equate to roughly the same as the last four years of FBC's affordable housing delivery combined.
- 6.22. Even if the delivery is assessed against the need identified in the Affordable Housing Strategy of 206 dpa (although as highlighted above, we have concerns that this is not informed by an evidence-based analysis), there is still a severe shortfall with only 74 affordable homes having been delivered since the strategy was produced in 2019, against a need of 412 dwellings over the first two years (a shortfall of 338 dwellings).
- 6.23. The ability of FBC to respond to this significant need for affordable housing will also be affected by the amendments to the planning application at Welborne Garden Village (6,000 dwellings) which were accepted by FBC's planning committee on 27th January 2021. These amendments, which are a result of viability issues, would see the site delivering only 366 affordable dwellings by 2036 (based upon FBC's trajectory for the site at that time), over 800 less than assumed by FBC when they first resolved to grant planning permission. Once a realistic trajectory is assumed for this site the contribution would be even lower.
- 6.24. In contrast, the appeal proposals would deliver half of FBC's annual affordable housing need on a single site, the majority of which would be delivered within five years. As set out in section 7 below, the 150 affordable dwellings can be delivered quickly thereby making a very substantial contribution towards the identified affordable housing need in the short term.
- 6.25. In Fareham Borough, a household is currently required on average to spend 10.74 times the annual average income in the borough to access housing, which is above the average ratio of 9.1 for England¹. This is likely to compromise the ability of a larger proportion of households to access the market, with consequent financial and social harms including overcrowding, shared households, food and fuel poverty, homelessness and implications for social mobility and health.
- 6.26. In this context, the provision of 150 affordable dwellings to help address a persistent and chronic under-supply of affordable housing is a very significant matter to be weighed in the planning balance, especially in the context of a much reduced delivery of affordable housing at Welborne.
- 6.27. We note that the Council's Affordable Housing Officer has raised no objection to the application proposals.

¹ Source: ONS Housing affordability in England and Wales 2021 annual data, 23 March 2022

7. Planning Assessment

7.1. The following section provides a thematic assessment of the proposal against the key policy and material considerations.

a) Principle of Development

- 7.2. The starting point for assessing the principle of the proposed development is consistency with the development plan. The spatial strategy in the Core Strategy is set out in Policy CS2, which sets out development needs in the plan period; in CS6, which establishes the settlements and allocations to deliver development needs; in CS14 which restricts development outside settlement boundaries and allocations; and in CS22, which establishes the principle of strategic gaps. This strategy is then delivered in the DSP through its allocations, its identification of settlement boundaries and strategic gap boundaries and through DSP6, which is the counterpart of CS14. In addition, DSP40 provides an 'exceptions' policy to release land for development outside settlement boundaries/within the strategic gaps, if the Council cannot demonstrate a 5-year housing land supply.
- 7.3. The appellants, for the reasons set out below, consider the proposals to fulfil the criteria in DSP40 in full and, as that policy acts as an exception to the restrictive policies CS14, CS22 and DSP6, the proposals are, consequently, in compliance with the development plan, taken as a whole. As such, paragraph 11(c) of the NPPF is engaged and the proposals should be permitted 'without delay'.
- 7.4. However, if there is deemed to be a breach of any of the criteria of Policy DSP40 (the appellants do not consider that to be the case), this should not prevent planning permission from being granted by reference to the second limb of s. 38(6) of the 2004 Act i.e. that 'determination must be made in accordance with the plan unless material considerations indicate otherwise' (Pegasus emphasis added). The material consideration in this case is that the development plan is not up-to-date. This is because, as set out in Section 5 above, the 'most important policies for determining the application' are not up-to-date because they are predicated on an out-of-date assessment of housing needs, in accordance with the principles established through the Supreme Court judgement in Hopkins Homes/Suffolk Coastal (**Appendix 3**). As such, the 'presumption in favour of sustainable development' (the tilted balance) set out in paragraph 11(d)(ii) of the NPPF is engaged.
- 7.5. The fact that the 'most important' policies are out-of-date also means that the weight to be given to any breach of these out-of-date policies within that assessment of the "tilted balance" is reduced accordingly.
- 7.6. The site is not located within the Green Belt or AONB or any statutory environmental designation as listed in Footnote 7 of the NPPF, nor does the proposal adversely affect the integrity of local habitat sites having regard to the test in para. 182 of the NPPF, which would otherwise preclude the 'presumption'.
- 7.7. As set out in para. 11 of the NPPF, 'sustainable development' means granting permission unless any adverse impacts of doing so would "significantly and demonstrably outweigh the benefits", when assessed against the NPPF.

- 7.8. The location of the site outside of the defined urban boundary, although contrary to the spatial development strategy, is therefore not prohibitive to its development in planning terms because the 'titled balance' applies.
- 7.9. The identified need for housing growth, both at a national and local scale, is a material consideration which must be afforded considerable weight in establishing the residential development of the site as having a significant economic and social benefit.
- 7.10. Section 9 below demonstrates that the many and manifest benefits of the proposals are not 'significantly and demonstrably' outweighed by any harms arising.
- 7.11. The following paragraphs consider the proposals against each of the criteria of Policy DSP40. However, before undertaking this analysis, it is important to note the comments from Inspector Jones in his decision letter dated 28th July 2021 for land to the south at Brookers Lane (Appeal Refs: APP/A1720/W/21/3269030 & APP/J1725/W/20/3265860) (**Appendix 1**) in respect of the effectiveness of the policy in helping to address housing land supply shortfall:
- "the evidence suggests that the balance they (criteria (ii) and (iii)) strike between other interests, including character / appearance and the Strategic Gap, and housing supply may be unduly restrictive given that the supply shortfall has persisted for a number of years in spite of this Policy".*
- 7.12. We concur with the Inspector's view in this regard and the assessment below should be read in this context.
- i) The proposal is relative in scale to the demonstrated 5-year housing land supply shortfall**
- 7.13. Recent appeal decisions, including those for land immediately to the south of this site, have demonstrated that the housing land supply position is significantly less than 5 years. The proposal for up to 375 dwellings would assist in reducing the shortfall without over-delivering against local needs. It is also similar in scale to other schemes which were deemed to comply with this criterion of DSP40, such as the application allowed at appeal for 350 dwellings at Land to the east of Downend Road, Portchester (appeal decision at **Appendix 6**).
- 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**
- 7.14. It is helpful to look at the components of this criterion in isolation.
- 7.15. First, the site represents a sustainable location. There is good access to a range of everyday facilities by foot or by bicycle via proposed connections at the site boundaries linking to existing footways and cycleways, as well as to the south through the approved Bargate Homes development, as highlighted on the Concept Masterplan. These allow access to a range of education, retail, employment and leisure facilities in the local area as set out in more detail within the Transport Assessment.
- 7.16. Higher order facilities in Fareham, Gosport and beyond can be accessed via public transport with bus stops served by regular services being located on Newgate Lane East

and Tukes Avenue. Furthermore, unlike any proposed strategic allocation in Fareham Borough, the site's location offers its future residents convenient opportunities to travel on the nearby Bus Rapid Transit (BRT) and cycleway route which currently operates between Fareham railway station and Gosport Ferry, with funding in place for its further extension as part of the sub-regional transport network. The BRT runs through Bridgemary/Woodcot and is within easy walking distance of the site.

- 7.17. The Transport Assessment concludes that the site benefits from its location close to a wide range of local services and facilities that are located within a reasonable walking distance and a comfortable cycling distance. On this basis, the proposed development complies with the NPPF in this regard and, in transport and highway terms, the proposals represent sustainable development.
- 7.18. This is consistent with its former identification as an allocation site in the draft Local Plan as well as the findings of the Appeal Inspector who considered the development at Brookers Lane to the south who concluded at para. 51 (**Appendix 1**):
- "The appeals development would bring a range of benefits, most notably the delivery of a reasonably substantial amount of housing **in an accessible location with good access to a range of services and facilities.** In the context of the area's current issues with housing delivery, the benefits together carry, at the least, considerable weight in favour of the appeals development" and at para. 52 **"...it would be sustainable development** in the terms of the Framework for which there is a presumption in its favour, such that **the site is a suitable location for housing**". (Pegasus emphasis added).*
- 7.19. Secondly, we turn to adjacency. This criterion is principally concerned with "existing urban settlement boundaries". The site's entire eastern boundary lies immediately adjacent to the 'Urban Area Boundary' for Bridgemary / Woodcot as defined on the Gosport Borough Local Plan 2011-2029 Policies Map, and part of the site's northern boundary lies adjacent to the 'Defined Urban Settlement Boundary' for Fareham.
- 7.20. Finally, the proposals are well related to and well-integrated with the neighbouring settlement.
- 7.21. The proposals are directly linked to the neighbouring settlement of Bridgemary / Woodcot and Fareham through pedestrian / cycle links provided on the northern, southern, eastern and western boundaries of the site, as set out on the Concept Masterplan. These links provide direct and safe connections from Bridgemary / Woodcot and Fareham to significant areas of public open space that are proposed as part of the scheme, including a Neighbourhood Equipped Area for Play (NEAP). This will present a significant social and environmental benefit for existing residents thus helping the new development integrate with the existing community and improving community connectivity by establishing new routes for passage through the site.
- 7.22. It is noted that in considering the site to the south, Inspector Jones concluded "...I see no reason why the appeals development would not be well related to the neighbouring settlement in a functional sense." (para. 25). However, he also concluded that from a landscape and visual impact perspective, the proposed development could not be seen to be well related to the existing settlement boundary and well integrated with the neighbouring settlement in terms of DSP40 criteria (ii). The Inspector commented on the "rather uncharacteristic extent to which the settlement edge of Bridgemary / Woodcot would protrude westward into the countryside as a result of the development." (para. 23).

7.23. However, the circumstances are materially different in the case of the current proposals, which must be viewed comprehensively with the approved development of up to 99 dwellings to the south. The approved development will extend the settlement edge of Bridgemary / Woodcot westwards as far as the western edge of built form on the appeal site. When the appeal proposals are viewed comprehensively with the approved development to the south they would not be seen as an uncharacteristic protrusion but rather as a logical completion of the westward extension of Bridgemary / Woodcot, framed by existing and approved development to the north and south in Fareham and set back from the alignment of Newgate Lane East to the west. Thus, the current proposals will effectively complete the extent of residential development to the east of Newgate Lane East.

7.24. Furthermore, where concerns were raised with regards to the potentially exposed northern edge of the development approved as part of the appeal site to the immediate south (notwithstanding the included landscape edge and potential for landscape planting), the current scheme proposes a substantial landscape buffer along its western boundary. The western field now retained in the current proposals creates a soft new settlement edge and buffer to Newgate Lane East which will benefit the assimilation of the combined comprehensive site's development within the local landscape.

7.25. For all of the above reasons, the proposals are sustainably located, adjacent to, well related to and well integrated with the neighbouring settlement and meet the requirements of criterion (ii).

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

7.26. The proposal is cognisant of its urban edge location, having regard to the character of the nearby countryside, its strategic gap location and the character of the adjacent settlement of Bridgemary / Woodcot (this being the key 'neighbouring settlement' in question).

7.27. Currently, the predominant character of the existing settlement edge is defined by the late twentieth century development on the edge of Gosport. Built form is predominantly two storey, however there is little scope for it to interact with the adjacent landscape positively due to the rear aspects of much of that housing facing the countryside together with a mix of rear garden property boundaries, rows of garages and a concrete access road. Existing trees soften this to a degree, however this boundary vegetation is comprised of a single line of mature trees with poor quality remnant hedgerow beneath.

7.28. In this context, the proposed development presents an opportunity to improve this aspect. The density and scale of the proposed development has been carefully considered to respect the local built form and character, albeit the detailed layout and appearance of the development will be "reserved matters". In particular, the Concept Masterplan allows for the incorporation of tree lined streets with grass verges and linked green spaces which are characteristic of existing development within Bridgemary / Woodcot.

7.29. As set out in section 4 above, the Concept Masterplan is very much 'landscape led' with a strong landscape framework at its core. The criteria requires adverse impacts to be "minimised", and this is achieved through the overarching strategy of retaining existing green infrastructure, supplementing this with additional planting within landscape areas and

placing built aspects of the proposed development in an immediate and established landscape framework.

7.30. This includes a substantial landscape buffer and retained field and hedgerow along the western edge of the site which will soften the edge of the development and replace the existing backdrop of residential dwellings and trees along the urban edge of Bridgemary / Woodcot.

7.31. Furthermore, the north / south linear green space acts as a distinct break in the massing of the development and adds a green corridor into the overall scheme. The 'corner cushions' of planting further limit any prominence of built form. These integral landscape features ensure adverse impacts upon the countryside and strategic gap are minimised through sympathetic design in compliance with criterion (iii).

iv. It can be demonstrated that the proposal is deliverable in the short term

7.32. The appellants are committed to early delivery of the proposals. Miller Homes and Bargate Homes are major housebuilders with a track record of delivery of high-quality housing in the region. An indicative combined housing delivery programme is set out below which confirms that the proposal is deliverable in the short term and therefore compliant with criterion (iv):

Table 2 – Delivery Programme

Programme	Timeframe/Numbers
Grant of Outline Planning Permission	March 2023
Submission of Reserved Matters	September 2023
Approval of Reserved Matters	February 2024
Discharge of Conditions	May 2024
Commencement on site	June 2024
Housing Completions	
1st Unit	February 2025
100th Unit	February 2026
200th Unit	February 2027
250th Unit	February 2028
300th Unit	February 2029
350th Unit	February 2030
375th Unit	August 2030

v. The proposal would not have any unacceptable environmental, amenity or traffic implications

- 7.33. The planning application is supported by a suite of technical reports which demonstrate that there are no unacceptable environmental, amenity or traffic implications associated with the proposal, as discussed further below.
- 7.34. In particular, in terms of environmental implications, the application includes a shadow HRA which sets out the mitigation measures that are required to ensure that there are no adverse effects on the integrity of designated sites. Following the issuing of revised nutrient mitigation guidance by Natural England in March, 2022, a revised shadow HRA will be submitted during the appeal process and ahead of the inquiry.
- 7.35. The application is also supported by an agricultural land assessment which demonstrates that the relatively small loss of Best and Most Versatile agricultural land is a minor negative impact which is acceptable on balance (a principle accepted as part of numerous appeals within the borough, including at the recent appeal at land immediately to the south of the site).
- 7.36. We also note that a position of no objection has been reached by all of the following consultees, subject to conditions/planning obligations:
- HCC Flood and Water Management Team.
 - HCC Archaeology.
 - Southern Water.
 - FBC Tree Officer.
 - FBC Environmental Health Officer (Contaminated Land).
 - FBC Conservation Planner.
 - FBC Public Spaces Operations Manager.
- 7.37. Ecology implications are considered in full under issue 7 below. This confirms that the only outstanding matters (as raised recently in Natural England and HCC Ecology's consultation responses) is in relation to the quantum / suitability of on-site and off-site bird mitigation areas which address the loss / partial loss of the secondary support / low use sites (as identified in the Solent Waders and Brent Goose Strategy), and the duration of bat and nesting bird surveys. Dialogue with Natural England and HCC Ecology is ongoing in this regard and we will provide an update shortly.
- 7.38. With regards to amenity implications, the Concept Masterplan shows how the site could be designed to set back built development from existing dwellings in Bridgemary / Woodcot, with existing boundary vegetation retained and enhanced to minimise any impacts upon the amenity of existing residents. Further consideration of 'amenity' issues such as overlooking, access to outdoor space and sunlight / daylight will be assessed at the reserved matters stage. However, it is considered that the proposal will not have any unacceptable amenity implications.

- 7.39. In terms of traffic implications, the proposals will not cause any unacceptable impacts. The Transport Assessment prepared by i-Transport assesses the likely traffic effects of the proposed development on the local network, in line with a scope of assessment that has been discussed and agreed with the Highway Authority and where there are significant areas of agreement on the approach to assessment presented. The Transport Assessment includes demonstrating the technical acceptability (in design and operational terms) of the proposed means of vehicular access to the site via a new four-arm roundabout on Newgate Lane East, and assessment of traffic impacts of the scheme proposals beyond the site. This confirms that the new access will not have a significant impact on traffic flows on Newgate Lane East and that the proposed development will not cause any unacceptable impacts on highway safety or the wider local highway network. Whilst HCC retains concerns about the principle of a new access to Newgate Lane East, these concerns are not borne out by any technical evidence of harm arising as a result of the proposals.
- 7.40. For all of the above reasons, there is no conflict with policy DSP40.
- 7.41. We note the consultation response from FBC's Head of Planning Strategy and Economic Regeneration (dated 19th April 2022) makes no mention of policy DSP40, despite this being the key Local Plan policy against which the proposals should be considered. Nor does the response acknowledge the Council's lack of five year housing land supply or its failure to meet the Housing Delivery Test, both of which alter how the proposals should be assessed against national and Local Plan policies. These are important considerations which change the planning policy context, as demonstrated in recent appeal decisions in the borough, and must be given due weight in the planning balance.

b) Design, Layout and Quantum of Development

- 7.42. The planning application is supported by a Design and Access Statement which tells the story of the evolution of the proposals in response to the constraints and opportunities of the site and stakeholder consultation.
- 7.43. A 'landscape led' approach has been adopted to underpin the Concept Masterplan. The overarching design principles include:
1. Consider the components of the surrounding landscape character;
 2. Retain and make best use of existing landscape elements and features;
 3. Optimise protection and screening for visual amenity receptors (albeit these are limited);
 4. Avoid loss or damage to retained landscape elements and features;
 5. Conserve and enhance ecological fabric;
 6. Utilise existing key connections through the site;
 7. Maximise opportunities to create new connections in the area;
 8. A developable envelope that's informed by the green infrastructure led approach; and

9. Outward looking development that provides natural surveillance and character to streets and spaces.

7.44. A 'pre-application' concept masterplan which proposed up to 420 dwellings was the subject of consultation with FBC, HCC and the local community in November 2021 (as reproduced below).



Figure 7 – Pre-application Concept Masterplan

- 7.45. Whilst there were concerns around the principle of development and impact upon the Strategic Gap, there were no negative comments from FBC's urban designer on the design and layout of the proposals, other than querying the loss of the western hedgerow. The planning officer also queried the potential for development to be pulled eastwards to retain an element of open farmland character next to Newgate Lane East.
- 7.46. The proposals were subsequently revised (see Concept Masterplan at para. 4.3 above) to retain the western field and hedgerow, thereby creating a sizable buffer along the western edge of the site which is to be used as a bird mitigation area in perpetuity. This will help ensure the physical and visual level of separation between the residential part of the site, and Stubbington to the west, is maintained.
- 7.47. The final concept masterplan illustrates a scheme of up to 375 dwellings with a strong green infrastructure that retains and enhances hedgerows, ditches and trees. This green infrastructure offers a network of pathways and spaces that provide safe and attractive routes. Buildings face outwards ensuring that streets and spaces are well overlooked, welcoming and safe.
- 7.48. The development proposals equate to an average gross density across the site (excluding the Newgate Lane East highway works) of 19.87 Dwellings Per Hectare (DPH). The average net density (excluding all open space and SuDS features) is 38.7 DPH. This is consistent with the density proposed for the consented site to the south, which was considered to be acceptable by the Inspector in that case, and represents an efficient and sustainable use of land in an urban edge and sustainable location.
- 7.49. We note FBC's Urban Design Officer's comments (dated 19th April 2022) that the average density of the scheme is not high, but querying variation across the site.
- 7.50. The dwelling mix will be agreed at the reserved matters stage and will be informed by local need. This will also be subject to approval by FBC. As a result, we do not anticipate a dwelling mix that will result in stark density variances across the site (for example a large proportion of apartments). Instead, subtle variations in density will be used as a design tool (not simply a by-product of dwelling mix) to demonstrate best practice principles of placemaking across the site. These principles underpin a scheme that has a cohesive overall character, whilst avoiding banality and a lack of hierarchy. As stated by the Urban Design Officer, "apartments can be attractively assimilated into streets", much as terraces can. These can also be vital tools to create enclosure and natural surveillance over public areas; particularly larger open spaces. Conversely, a subtle reduction in density (more detached and semi-detached houses) can soften the development in more sensitive areas to break up the built form.
- 7.51. The masterplan has been designed by the developers and design team to ensure it is robust, efficient, and does not present unnecessary detailed design challenges that can undermine the delivery of appropriate densities. We note that FBC's landscape consultant has commented negatively on design and layout matters. His comments are strongly refuted and contradict FBC's Urban Design Officer's positive comments that the proposal "...would provide a suitable landscape led linked GI framework and perimeter block development parcels that can deliver the attributes of good placemaking".

c) Housing and Affordable Housing

- 7.52. The proposal is for up to 375 dwellings which will comprise of a mix of unit types and sizes.
- 7.53. The mix of the private market housing will be determined at the reserved matters stage.
- 7.54. 40% of the housing will be provided as affordable housing, comprising a blend of affordable tenures. The tenure, mix and delivery of the affordable dwellings is described in the Affordable Housing Statement.
- 7.55. The new homes will make a significant contribution to meeting local housing need and will offer a broad mix of dwelling types and sizes across a range of tenures to help foster a mixed and diverse community and provide opportunities for local people looking to get on the 'property ladder'. As set out in section 6 above, the new homes will also make a significant contribution to addressing the Council's considerable affordable housing shortage.
- 7.56. The construction of the new homes will also provide economic benefits to the local area through the creation of new jobs and the grant of government funding to the local authority. Once the homes are occupied, new residents will help to boost the economy by increasing local spending and will contribute to the funding of local services through Council Tax payments.
- 7.57. The economic benefits to the local community are described further in the Economics Benefits Statement and in section 9 below.

d) Highways and Transport

- 7.58. The site benefits from its location close to and well connected to a wide range of local services and facilities including retail, schools and employment, as shown on Figure 2 and Table 5.2 of the Transport Assessment.
- 7.59. Walking and cycling are realistic modes of travel to and from the site, with the access strategy providing a permeable and connected development with connections to the north, south, east, and west to reduce travel distance to local facilities and services.
- 7.60. Good quality bus services operate within the local area, with the Services 9/9A and the BRT being particularly attractive to future residents and providing direct and frequent access to Fareham, Gosport, and the wider area. Fareham rail station is also accessible by bus and cycle from the site and provides connections to destinations further afield such as Portsmouth, Southampton, Winchester, and London.
- 7.61. We note that Hampshire County Council confirms that there is an adequate range of services and facilities within suitable walking and cycling distance of the site, and that access to public transport opportunities is also acceptable, subject to the delivery of the access strategy proposed. Whilst Hampshire County Council has raised some matters relating to off-site connectivity and improvements, these are matters of detail that will be addressed in the lead up to the appeal and that will form part of a package of mitigation measures to be secured. The Framework Travel Plan also sets out measures to support increased use of sustainable travel and is considered by HCC to be of a good standard.

- 7.62. Vehicular access to the site is proposed from Newgate Lane East through the delivery of a new four-arm roundabout junction, designed in accordance with relevant standards and in a manner that does not significantly impact on the utility / function of Newgate Lane East.
- 7.63. A full Pre-Application Design Submission has been made for the proposed roundabout junction and is supported by an Independent Road Safety Audit, which confirms there are no residual safety concerns. HCC has confirmed that in geometry terms the proposed access roundabout is acceptable. Capacity assessment of the proposed junction has been presented in the Transport Assessment which demonstrates that the junction will operate within capacity, will maintain the free flow of traffic on Newgate Lane and improve access to Newgate Lane.
- 7.64. The local highway network can accommodate the traffic generated by the development during the peak periods without resulting in a 'severe' residual cumulative impact to the network operation or unacceptable traffic implications and is therefore in full accordance with the policies set out in the NPPF and Policy DSP40.
- 7.65. The Transport Assessment concludes that the development proposal fully satisfies local and national transport policies and should be considered acceptable in transport terms.
- 7.66. We note the comments from HCC Highways and HCC Countryside Services Teams. In conclusion, HCC recommends refusal at this time due to an alleged conflict with paragraphs 110/111 of the NPPF, but also notes that these objections can potentially be overcome by the submission of additional information.
- 7.67. The key areas of concern identified by HCC can be summarised as follows:
- **Site Access** – Raising concern about the impact of a new junction on the utility of Newgate Lane East, and requesting minor alterations to various drawings and clarification on the drainage design.
 - **Pedestrian and Cycle Accesses** – Seeking confirmation on the deliverability of the proposed active travel connections, and an alternative scheme for the improvement of the Service Road connection to Tukes Avenue.
 - **Walking and Cycling Provision** – Requesting that the Walking and Cycling Audit be further extended to consider routes to additional facilities, namely the catchment schools, and to consider potential improvements to various off-site routes.
 - **Sustainable Travel Improvements** – Requests for contributions towards various improvements of sustainable travel opportunities, namely the improvement of the Newgate Lane East / Brookers Lane Crossing, the development of School Travel Plans and improvement of local bus stops.
 - **Traffic Assessment** – Various technical matters raised relating to the traffic assessment, namely seeking sensitivity testing of traffic flows at the site access, additional detail / revisions to the detailed junction models, and seeking an alternative assignment of traffic for trips using the Stubbington Bypass.
- 7.68. i-Transport on behalf of the appellants are in the process of preparing the additional and expanded information that has been requested with the expectation that agreement can be reached on many of the matters raised.

- 7.69. HCC has raised concern regarding the principle of delivering a new access to Newgate Lane East on the basis that it considers it may undermine the utility of the newly improved route. Further detail on the modelling of the junction has been requested and will be addressed, but in principle terms, HCC has confirmed that the geometry of the junction is acceptable, the junction has been subject to independent Road Safety Audit with HCC accepting the Audit conclusions, and the assessments presented demonstrate that the junction will operate acceptably without unacceptable impacts on traffic. NPPF para 111 is clear that only where the impacts of development would result in severe residual impacts should a development be refused, and the Assessments demonstrate this will not occur.
- 7.70. In relation to walking and cycling connections, HCC's concerns on the accesses proposed to the site relate to matters of detail and will be confirmed. Beyond the site boundaries, HCC has accepted the findings of the assessments of routes presented (i.e. the WCHAR), but is seeking that this be expanded to also consider routes to the catchment schools as well as to give consideration to the potential improvement of various off-site connections. The WCHAR considered in detail the routes from the site to key local facilities, and in relation to education facilities, to the schools most proximate to the site. Whilst these do not currently form the catchment schools for the site, they are the nearest and most likely to be accessed by residents of the development. Nevertheless, additional assessments will be presented of routes to the catchment schools and the improvements to off-site routes that HCC has identified will be explored. None of these matters comprises a significant constraint that would render the scheme unacceptable and are simply matters of detail.
- 7.71. The appellants have committed to provide the funding requested for the improvement of the Brookers Lane crossing and are prepared to make reasonable contributions towards the improvements of bus stops and school travel connections. The detail of these will be explored and additional information provided in due course, alongside a planning obligation that secures the proposed mitigation package necessary.
- 7.72. On traffic impact matters, HCC confirms in its response that the majority of the assessment parameters are acceptable, confirming agreement to the estimates of traffic generation, traffic distribution, baseline traffic data, traffic growth, assessments scenarios and approach to modelling. HCC has raised various detailed comments on the assessments, primarily related to some of the route choice assignment assumed for travel west of the site and some of the modelling parameters where further information / clarification is sought. These matters will be addressed, and a further assessment presented to HCC to confirm the conclusions of the Transport Assessment. Nevertheless, none of the matters raised affect the conclusions of the Transport Assessment, which is that the scheme proposals will not result in a 'severe' residual cumulative impact, the very high bar set for the dismissal of development proposals on transport grounds by the NPPF.
- 7.73. HCC confirms that the provision of additional information may overcome its objections and the appellants will work to achieve that during the course of the appeal.

e) Strategic Gap

- 7.74. The appeal site lies within the Stubbington/Lee on Solent and Fareham/Gosport Strategic Gap, as illustrated on the plan below (a full sized version of which was submitted with the planning application). This plan also shows recently approved planning applications and draft housing allocations within the gap (as discussed further below).

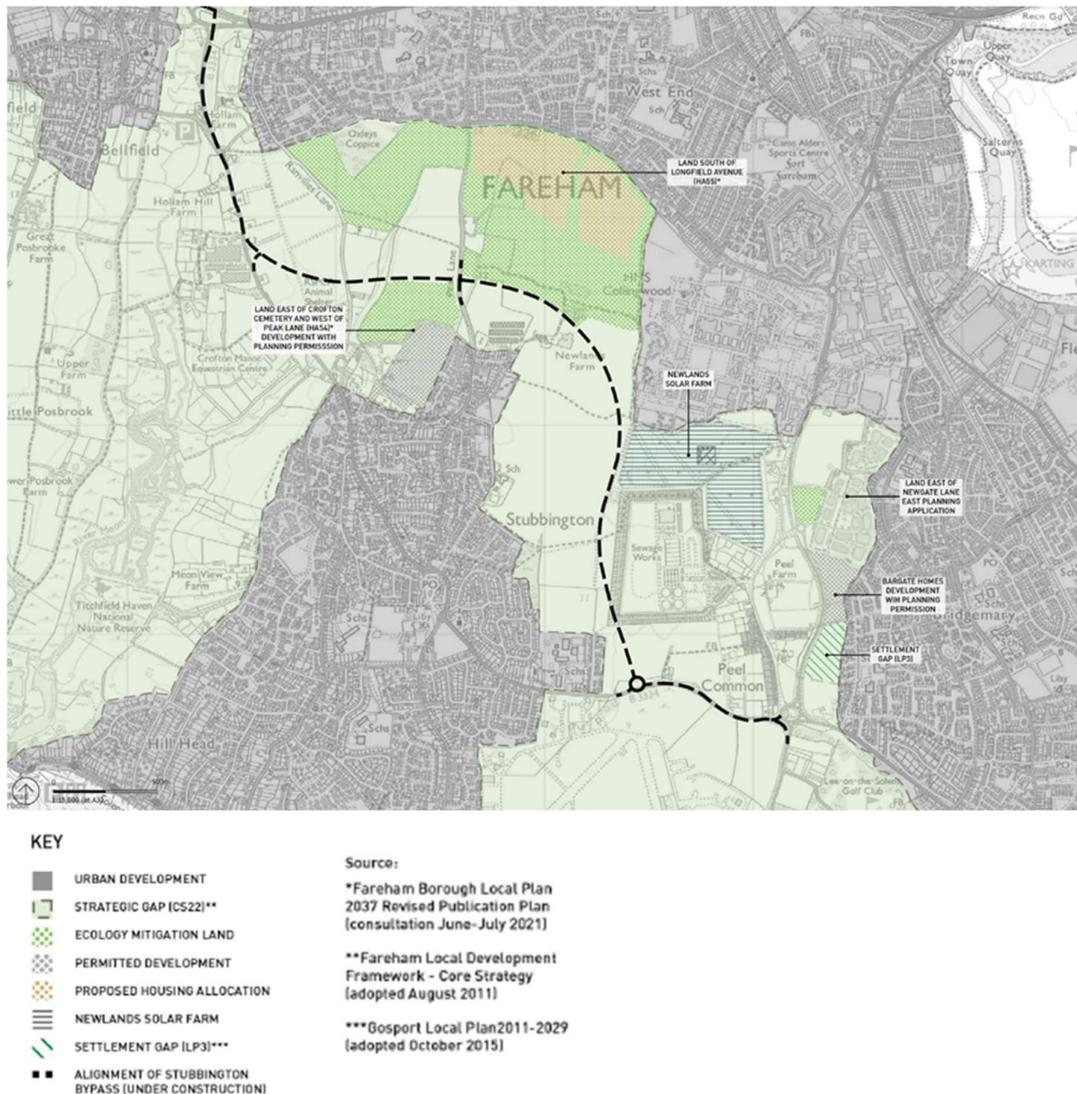


Figure 8 – Strategic Gap Plan

- 7.75. Policy CS22 'Development in Strategic Gaps' provides that land within strategic gaps will be treated as countryside, and proposals will not be permitted either individually or cumulatively where they significantly affect the integrity of the gap.
- 7.76. Policy CS22 does not therefore impose a blanket ban on development in the strategic gaps, but guards against significant adverse effects on its functionality and value.
- 7.77. Policy CS22 must also be read alongside Policy DSP40 in the absence of a five year housing land supply. The strategic gap test within Policy DSP40 (criterion iii) is not that there should be no adverse effects on the gap, but that proposals "minimise any adverse impact" through sensitive design; this is a lower test.
- 7.78. Indeed, as set out in section 5, Appeal Inspectors have recently confirmed that the weight attributable to any conflict with CS22 would be reduced and outweighed by compliance with Policy DSP40, given the five year housing land supply position and age of the development plan.

- 7.79. The evidence base to the emerging local plan includes a review of strategic gaps (Technical Review of Areas of Special Landscape Quality and Strategic Gaps, 2020). Although the review does not present any specific changes to the strategic gap boundaries, in respect of the site and its context, the study does note that this part of the gap is 'minimum functioning and weak'.
- 7.80. By adopting a sensitive landscape led approach which minimises adverse impacts, the proposal is compliant with both Policy DSP40 (criterion iii) and Policy CS22. The Landscape and Visual Impact Assessment (LVIA) sets out that the site is well placed to accommodate development without undue consequences or impacts on the role and function of the strategic gap as a whole, on the basis that:
1. A substantial distance will be retained across the wider gap, between the site and Stubbington;
 2. In terms of visibility, the site is physically and visually well contained, placed within a strong framework of green infrastructure and the settlement edge – furthermore, the site (and potential development) will not be visible across the gap from Stubbington;
 3. The surrounding context and urbanising influences, including the residential areas of Peel Common, Bridgemary and Woodcot, together with the approved 99 home development to the immediate south, which reduce the degree of change as they provide a relevant settlement edge context;
 4. The opportunity to contribute to, and maintain, a strong green infrastructure network and facilitate a strategic green infrastructure connection through the area that will reinforce and connect the linear routes which cross broadly north to south through this area; and
 5. In connection with the green infrastructure provision, the ability to incorporate substantial mitigation that will successfully avoid or minimise landscape and visual effects.
- 7.81. In particular, following pre-application consultation, the development now proposes that the western field and hedgerow are retained, thereby creating a sizable buffer along the western edge of the site which is to be used as a bird mitigation area in perpetuity. This will help ensure the physical and visual level of separation between the residential part of the site, and Stubbington to the west, is maintained. The Inspector at the Crofton Cemetery appeal recognised the benefit of such an approach in her report (**Appendix 4**) at para. 46 where she stated:
- "Furthermore, the use of the land to the north of Oakcroft Lane as an ecological enhancement area would contribute to ensuring that a physical and visual level of separation between Stubbington and Fareham would be maintained."* She concluded at para. 48 *"I am therefore satisfied that the use of the land south of Oakcroft Lane for housing would not lead to an unacceptable erosion of the integrity of the wider gap, and so would not undermine its effectiveness and I find no conflict with policy CS22 of the CS or DSP40 of the LP in this regard."*
- 7.82. There are similarities between the East of Crofton Cemetery scheme and the appeal proposal in that the Crofton Cemetery housing site extends a similar distance northwards as existing development to its immediate east; and the appeal scheme extends a similar

distance westwards as the consented scheme to the south, similarly maintaining the physical level of separation between Stubbington and Fareham, and Stubbington and Bridgemary / Woodcot respectively. Furthermore, notwithstanding the position of the site in its local context, nor the adjacent land uses of the Newlands Solar Farm and Peel Common Waste Water Treatment Works, there remains a distinct and robust physical and visual sense of separation to the west of Newgate Lane East, augmented by the tree and woodland cover and built development around Stubbington and Peel Common. The strategic gap will continue to function in this sense and maintains distinction between Stubbington and Fareham/Gosport.

- 7.83. Overall, the proposals will:
1. Not result in the coalescence of local settlements;
 2. Allow a visual 'sense' of separation to be maintained;
 3. Retain the character and identity of the adjacent settlements; and
 4. Protect the value of green infrastructure.
- 7.84. Indeed, although the Council's position has now changed, earlier iterations of the emerging Local Plan were resoundingly clear that development could be accommodated within this part of the gap, with the proposed allocation of HA2. The Council's 2019 Strategic Housing and Economic Land Availability Assessment (SHELAA) assessed the suitability of the appeal site and concluded *"Development could be accommodated without significant effects on the landscape character of the wider area (following construction of Newgate Lane South) or the integrity of the Strategic Gap"*.
- 7.85. As part of the Regulation 19 Revised Local Plan, the Council has proposed two sizeable allocations within the gap. Allocation HA55 'Land South of Longfield Avenue' proposes 1,250 dwellings on the southern edge of Fareham, and north of Stubbington. There is a current undetermined outline planning application at the site for up to 1,200 dwellings, care home, primary school, retail uses, community centre, open space and supporting infrastructure (ref. P/20/O646/OA) which was submitted in July 2020 by Hallam Land Management.
- 7.86. Allocation HA54 'Land east of Crofton Cemetery and west of Peak Lane' proposes 180 dwellings on the northern edge of Stubbington, and south of Fareham.
- 7.87. Persimmon Homes' full application for 206 dwellings at the site (ref P/20/O522/FP) was refused by FBC on 18th February 2021. The principal reasons for refusal related to the quantum/design of development rather than the principle of development within the strategic gap. The subsequent appeal was allowed on 10th January 2022 (Appeal Ref: APP/A1720/W/21/3275237) (**Appendix 4**). As set out at paragraph 7.78 above, the Inspector concluded that the proposal would not lead to an unacceptable erosion of the integrity of the wider gap, and would not undermine its effectiveness and found no conflict with policies CS22 or DSP40 in this regard.
- 7.88. It is therefore clear that both the Council and appeal Inspectors have confirmed that the principle of residential development within the strategic gap can be acceptable.

- 7.89. The co-joined appeals at Land West of Newgate Lane East (Appeal ref: APP/A1720/W/20/3252180 and 3252185) related to the combined development of up to 190 dwellings (south-west of the current appeal site and north of Woodcote Lane).
- 7.90. Whilst those appeals were dismissed, in his decision letter dated 8 June 2021 (**Appendix 2**), the Inspector, Mr. I. Jenkins, commented on those appeal proposals in relation to the Spatial Development Strategy of the extant development plan at paras. 78–86. At para. 84, he commented:
- "Furthermore, in my judgement, the impact on the integrity of the Strategic Gap would be greater than would be likely to be the case if the same scale of development were to be located to the east of Newgate Lane East, next to an existing urban settlement boundary and Peel Common were to remain a small, isolated ribbon of development within the gap."*
- 7.91. This adds significant weight to the case in support of development at the former HA2 housing allocation, given that a Planning Inspector has concluded that housing development to the east of Newgate Lane East would be potentially acceptable in terms of its impact on the strategic gap. In allowing the subsequent appeals at Brookers Lane, east of Newgate Lane East, Inspector Jones affirmed this view.
- 7.92. At paragraph 31 of the appeal decision (**Appendix 1**) at Brookers Lane, the Inspector concluded that Bargate Homes' development of up to 99 dwellings on the southern part of the HA2 site *"would not be a significant effect on the integrity of the Gap, be it individually or cumulatively."* (Pegasus emphasis added). By commenting on its cumulative effect, the Inspector must be referring to its development as part of the wider development of the HA2 site because that is the only area of land that can be developed together with that appeal site. A Planning Inspector has therefore concluded that the development of the current appeal site would not have a significant effect on the integrity of the strategic gap.
- 7.93. Now that development of the southern part of HA2 has been granted planning permission and is to proceed, and that it has been confirmed by an Inspector that development of the whole HA2 site will not significantly harm the integrity of the strategic gap, it would have been entirely justifiable for the Council to take these significant changes in circumstances into account and to work positively with the applicants to deliver a scheme which both makes a significant contribution to Fareham's housing needs and is designed to create a new landscaped edge to the strategic gap at this point. However, that opportunity has not been taken and as a result the appellants have had to exercise their right to appeal.

f) Landscape and Open Space

- 7.94. The landscape impact of the proposed development has been assessed in the Landscape and Visual Impact Assessment (LVIA) submitted with the application. The Council's consultation response on landscape and visual matters acknowledges that the LVIA has been prepared in accordance with relevant guidance.
- 7.95. The LVIA considers the character of the site at the national, county and specifically borough level, where it falls within the Woodcot/Alver Valley character area (sub area O8.1a). The report notes that the site sits within a variable pocket of landscape and, notwithstanding the nature of the agricultural landscape between Newgate Lane East and Woodcot/Bridgemary in themselves, these cannot be separated from the extensive urbanising influences which surround and frame it, particularly in the context of the more

recent severance of the agricultural land that has arisen from the route of the bypass (Newgate Lane East).

- 7.96. A comprehensive and robust scheme of mitigation has been developed to successfully mitigate both landscape and visual effects and, more importantly assimilate the proposed development into the landscape and deliver a high-quality landscape context. Key aspects of the approach to mitigation are summarised as:
1. Broad limits to the spatial extent of the development envelope to create robust landscape buffers at key points of the site. This includes the retained western field, adjacent to Newgate Lane East (providing a substantial buffer) and northern and southern landscape buffers to the edges of the site (and interface with consented residential development and open space respectively);
 2. Division of the development envelope into a series of smaller scale parcels so as to maximise the retention of internal field boundaries (noting some limited losses remain);
 3. Creation of a diverse network of open spaces, including linear parks and a central green, interconnected by the proposed linear green infrastructure;
 4. For existing vegetation, retain and enhance these components through supplemental planting and enhanced programmes of management – landscape planting will be included in all landscape buffers, subject to appropriate detailed design; and
 5. A limit of 'two storey dwellings' in respect of the proposed height of built form.
- 7.97. The report concludes that, in the context of the very limited and highly localised landscape and visual effects, the proposed development is considered to be acceptable in landscape and visual terms.
- 7.98. Public Open Space will be provided on-site which will include informal amenity space and a NEAP which will be accessible to the new residents and wider community. Pedestrian links will be provided to promote accessibility and interconnectivity of these spaces.

g) Ecology

- 7.99. DSP13 nature conservation establishes the key principles for development proposals in respect of biodiversity, including the protection of designated sites and protected and priority species. The biodiversity network should not be fragmented and where possible biodiversity 'gain' should be sought.
- 7.100. The Ecological Impact Assessment submitted with the application describes the habitats on site and assesses the potential for protected species. The site has been assessed as being of no more than local value in terms of habitats present with the features of relatively higher interest including the mature trees and hedgerow network being retained within the scheme design. Survey work has identified the site as supporting a relatively low diversity of foraging and commuting bats, breeding and wintering birds and a population of slowworms is also present on site.
- 7.101. The proposed mitigation and compensation includes the retention and positive management of retained features and the creation of new habitats which would deliver an enhancement at the site and an overall net gain in biodiversity of 10.12 habitat units, which

is an increase of 23.01% (further details are set out within the Biodiversity Net Gain Assessment).

- 7.102. A translocation exercise for reptiles, sensitive lighting scheme in respect of bats and the provision of new bat and bird units within newly construction dwellings has also been proposed.
- 7.103. We note that HCC Ecology's comments (8th March 2022) request further survey data in respect of bats and nesting birds. As set out in ECOSA's response letter dated 31st March 2022 (**Appendix 7**) this data will be submitted shortly and, whilst it is acknowledged that the data is required for certainty, it is unlikely that the results would significantly alter the overall mitigation, compensation and enhancements required.
- 7.104. ECOSA's letter of 31st March also agrees to securing a Reptile Mitigation Strategy and Lighting Strategy through condition, as requested by HCC Ecology, as well as committing to 20% of all new buildings being fitted with Vivara Pro Build bat features, or other similar features.
- 7.105. Policy CS4 seeks to ensure that sites designated for their nature conservation importance (including ecologically sensitive European sites) are protected from the adverse effect of development. The site is not within any designated sites, but lies within proximity to a number of protected areas.
- 7.106. Policy DSP15 established the Council's policy for dealing with the effects of recreational disturbance on the Solent SPAs specifically. The Solent Recreation Mitigation Definitive Strategy was updated in April 2018 and establishes a per dwelling contribution (based on unit size) based on the necessary funding required to appropriately manage the impact of additional residents arising from new development in terms of provision and management of existing and additional recreational space. A full payment will be secured through a legal agreement.
- 7.107. In relation to the New Forest SAC/SPA/Ramsar, Fareham Borough Council has adopted an interim mitigation strategy ('Implications of Natural England advice on New Forest Recreational Disturbance', 7th December 2021) which includes a series of projects to improve and manage open spaces within the Borough to deflect visits from the New Forest. It is proposed that a contribution of £247.05 per dwelling is made in accordance with the interim strategy, to be secured through legal agreement.
- 7.108. The northern part of the site is covered by an area identified as a 'Secondary support area' (F23) for Solent Waders and Brent Geese whilst part of the central and southern portions of the site are identified as 'low use' in this regard (F15). Policy DSP14 sets out that applications resulting in a 'direct effect' may be subject to appropriate assessment.
- 7.109. To mitigate the partial loss of F15, it is proposed that a Winter Bird Mitigation Area measuring 5.0 ha is created at Old Street, Stubbington which will enhance the wader and brent goose network. A Winter Bird Mitigation Strategy setting out the background, rationale and proposed management of the Mitigation Area is included within the shadow HRA. This mitigation strategy has been approved as part of the appeal allowed at Brookers Lane to the south (APP/A1720/W/21/3269030). Originally, it was agreed with Natural England that the proposed mitigation area was capable of mitigating the loss of F15 associated with three sites, Newgate Lane East (at Brookers Lane), Land at Newgate Lane (South) and Land at Newgate Lane (North). Following the unsuccessful appeals at the latter



two sites, it is now proposed that the strategy is secured to mitigate the loss of F15 for this current appeal, in accordance with the 'cluster' approach set out within the 'Fareham Borough Solent Waders and Brent Geese Mitigation Solution' dated 7th December 2021.

- 7.110. To mitigate the loss of F23, it is proposed that an on-site Winter Bird Mitigation Area measuring approximately 2 hectares is also created. This will be located at the western extent of the site (a field compartment which is currently part of F15). A Winter Bird Mitigation Strategy setting out the proposed management of the on-site Mitigation Area is included within the shadow HRA.
- 7.111. The proposed approach to mitigation provides a significant increase in habitat quality (ensuring suitable habitat every year as opposed to only when suitable crops are planted) and security in-perpetuity and the shadow HRA concludes that there will be no adverse effect on the integrity of the SPA in this regard.
- 7.112. We note that Natural England (consultation response dated 22nd April 2022) and HCC Ecology has requested further consideration of the quantum/suitability of on-site and off-site bird mitigation areas which address the loss/partial loss of the secondary support/low use sites. Tetra Tech's letter response to HCC Ecology submitted on 26th April 2022 (**Appendix 8**) provides further information and clarification in this regard and explains why the appellant considers the mitigation measures proposed are robust and effective. As Natural England are the lead consultee on this matter, Tetra Tech are continuing dialogue with them and we will provide an update shortly in this regard.
- 7.113. Natural England have identified that there is the potential for nutrients arising from increased wastewater from residential development to affect the qualifying features of European designated sites in the Solent. This effect has been identified as having the potential to promote algae growth that can affect aquatic vegetation and increase turbidity thereby affecting foraging efficacy of fish-eating birds, and the availability of suitable vegetation for species such as dark-bellied brent geese.
- 7.114. The shadow HRA submitted with the application includes a nutrient calculation using the methodology set out in Natural England's 'Advice on Achieving Nutrient Neutrality for New Development in the Solent Region' 2020. This shows that the proposed development will result in a net decrease in Total Nitrogen.
- 7.115. We note that since the planning application was submitted, Natural England has updated their guidance on achieving nutrient neutrality (letter to LPA's 'Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites' dated 16th March 2022) and more recently has again updated their Nutrient Calculator 'Solent Nutrient Budget Calculator – Version 2' issued on 21st April 2022. Tetra Tech are reviewing this guidance to understand if there are any resultant changes to the nitrogen budget for the proposals and if any mitigation is required in this regard, and will provide an update shortly.
- 7.116. The shadow HRA submitted with the planning application concludes that with the application of mitigation, as set out above, there would be no impact on the integrity of any European site.
- 7.117. The development proposals are therefore not caught by para. 182 of the NPPF because significant effects on habitats sites can be appropriately mitigated, and therefore the presumption in favour of sustainable development does apply.

h) Arboriculture

- 7.118. The application is supported by an Arboricultural Impact Assessment (AIA) which provides an assessment of the existing trees on site. A total of 85 trees, groups of trees and hedgerows were surveyed, of which 13 trees and 3 groups of trees were identified as high quality 'Category A' for reasons of landscape and visual value. The proposal would require no high quality trees or groups of trees to be removed. A section of one moderate-quality group of trees, one low-quality group of trees and 10 sections of hedgerow are proposed to be removed.
- 7.119. The AIA concludes that the loss of trees can be readily mitigated and the retained trees can be adequately protected during construction activities to sustain their health and longevity, which can be secured through an Arboricultural Method Statement.
- 7.120. FBC's tree officer has raised no objection to the proposals.

i) Flood Risk and Drainage

- 7.121. The application is supported by a Flood Risk Assessment (FRA). The site is located in Flood Zone 1. The FRA sets out that the proposed development will incorporate a sustainable drainage system that will discharge surface water at a suitably restricted rate into the existing watercourses on site and provide storage for all storm return periods up to and including the 1:100 year rainfall event with an allowance for climate change.
- 7.122. The exact nature of the storage will be confirmed at detailed design stage but can be accommodated using a variety of SuDS methods such as permeable paving, swales and attenuation basins. Attenuation features can be addressed through a comprehensive approach to detailed landscape design, ensuring that these integrate with the landscape and ecological mitigation proposals in addition to their functional role.
- 7.123. Foul water from the site will be drained into the public foul sewer beneath Brookers Lane via the approved development to the south. Where possible this will be via gravity, however, due to the very shallow gradients of the site it is likely that some areas of the proposed development will need to be pumped to allow this connection.
- 7.124. This FRA concludes that the site is not at risk of flooding from tidal or fluvial sources, overland flows or groundwater and the proposed development is suitable in terms of flood risk.
- 7.125. Neither the Local Lead Flood Authority (HCC) nor Southern Water have raised any objections to the proposals, subject to the imposition of conditions.

j) Noise

- 7.126. Having regard to Policy DSP2 and the NPPF, a noise assessment has been undertaken in accordance by Tetra Tech, who are accredited by the Institute of Acoustics.
- 7.127. The noise survey results confirm that the dominant noise source in the area is road traffic noise from Newgate Lane East.

- 7.128. The noise modelling concludes that noise limits for external amenity areas outlined in BS 8233 are met across the site with no mitigation in place, and no further measures are required.
- 7.129. All indicative residential spaces will benefit from standard double glazing with alternative means of ventilation across the majority of facades.
- 7.130. The assessment concludes that the proposed noise mitigation is sufficient to reduce the effects of identified sources of noise to below adopted thresholds (within the context of BS 8233) and avoid the Significant Observed Adverse Effect Level (SOAEL), and that the development is acceptable with regards to noise.
- 7.131. The Airport Manager at Solent Airport Daedalus has raised concerns regarding the potential for noise complaints from future residents of the development as part of their comments on the planning application. We note that this issue was considered as part of the planning application for 75 dwellings on land southwest of the appeal site (known as 'Newgate Lane North') – ref. P/18/1118/OA. During the course of that application, FBC's Environmental Health Officer requested that an Aircraft Noise Assessment be undertaken to survey aircraft noise levels associated with Solent Airport, and the potential impact of this upon the proposed residential development. Hepworth Acoustics undertook this assessment in December 2018 (**Appendix 9**) which covered not only the Newgate Lane North site, but also the associated application for 115 dwellings at 'Newgate Lane South' (P/19/O460/OA), immediately to the south. The assessment concluded that no significant noise impact attributable to Solent Airport is anticipated at the two development sites and that no additional mitigation would be necessary to adequately control internal daytime noise levels, as standard thermal double glazing and non-acoustic trickle vents will be adequate in that regard. FBC's Environmental Health Officer agreed and raised no objection in his consultation response dated 8th January 2019 (**Appendix 10**).
- 7.132. Given that the current appeal site lies further away from Solent Airport than both Newgate Lane North and Newgate Lane South, we see no reason to reach a different conclusion to that set out above. We also note that FBC's Environmental Health Officer has not raised any concerns in respect of the current proposals. Furthermore, no such concerns were raised in respect of the approved development of 99 dwellings immediately to the south.
- 7.133. For all of the above reason, there will be no unacceptable noise issues associated with the proposed development.

k) Air Quality and Odour

- 7.134. The application is accompanied by an Air Quality Assessment (AQA). The AQA identifies potential effects during the demolition and construction phases, including fugitive dust emissions from site activities, such as earthworks, construction and trackout. It concludes that, with mitigation measures in place such as dust suppression, the effects from the construction phase are not predicted to be significant.
- 7.135. In terms of the operational phase, detailed dispersion modelling of traffic pollutants has been undertaken, which take into account exhaust emissions from additional road traffic generated due to the proposed development.

7.136. The AQA concludes that the effects associated with the proposed development in respect of Nitrogen Dioxide (NO₂) and Particulate Matter (PM) is 'negligible' and below the Air Quality Objectives, and no further mitigation is required to protect future occupants.

7.137. The AQA also considers odour, given the location of the waste water treatment works west of the site. The proposed residential development site will mostly be located within an area (zone C) where the odour impacts from the waste water treatment works are not significant, as such no mitigation will be required in this area. It is considered that the odour may be potentially detectable at the western corner of the development site (zone B) on occasions and as such, ideally private amenity space should not be located in this area. The concept masterplan reflects this position with private rear gardens excluded from zone b.

7.138. No concerns have been raised by FBC's Environmental Health Officer in respect of either air quality or odour.

l) Sustainability

7.139. Policy CS15 'Sustainable Development and Climate Change' provides that development should:

- Make efficient use of land;
- Seek to properly manage flood risk and waste impacts; and
- Meet Code for Sustainable Homes Level 6.

7.140. The first two criteria are addressed elsewhere in this section and within the supporting technical reports. The Code for Sustainable Homes has now been withdrawn (by virtue of the Written Ministerial Statement of 25 March 2015).

7.141. The proposed development commits to:

1. Construction to take place in accordance with a Construction Environmental Management Plan (CEMP);
2. Installation of electric vehicle charging points;
3. Water efficiency measures to seek to meet the government's optional standards requirement of no more than 110 litres per person per day;
4. Consideration of internal measures such as low energy appliances, lighting and heating systems; and
5. Compliance with Part L of the Building Regulations which takes the reduction in emissions from at least 19% to 31%.

m) Education

7.142. HCC's Children's Services Department, as the Local Education Authority, provided comments on the application on 8th March 2022. The comments sought to secure a contribution of £2,161,125 to meet the cost of an additional 113 primary places and

£1,987,798 for secondary places, together with £500,000 for early years. In addition, cycle and footpath improvements are requested from the development to the identified catchment schools to ensure safe travel to school.

- 7.143. The appellant's education consultant, EFM, responded on 1st April 2022 (**Appendix 11**) raising a number of concerns with the approach taken by HCC in respect of reliance on catchment schools; places existing locally; falling rolls; distance to catchment schools; and the proposed use of contribution funding.
- 7.144. HCC's response dated 20th April 2022 (**Appendix 12**) proposes to reduce the requirement for a contribution by 50% in relation to the primary and secondary contributions in light of the concerns raised by EFM, and acknowledges that no additional school places (primary or secondary) would be required to accommodate the additional pupils generated by the development. It has revised its request for contributions to "school infrastructure improvements" which are unspecified.
- 7.145. No basis for the calculation of the education contribution has been provided to identify how it would be expended, how the figure has been arrived at, or to identify the alleged deficiencies in existing school infrastructure requiring improvement.
- 7.146. In response to HCC Highways comments related to walking and cycling routes to the catchment schools, i-Transport is preparing additional analysis which will identify if any further enhancements to these routes is needed, and to establish how any improvements could be delivered.
- 7.147. However, the appellant still has concerns that HCC has assessed only the four catchment schools (Crofton Anne Dale Infant and Junior Schools, and Wallisdean Infant and Junior Schools) without due acknowledgement that there are eight other schools which lie closer to the proposed development, some in Fareham Borough and some in neighbouring Gosport Borough, and a further school 2.2 miles from the site – closer than two of the catchment schools. The nine closer schools currently have 302 surplus places compared to 31 surplus places across the four catchment schools.
- 7.148. HCC has not provided satisfactory reasoning to justify the exclusion of using schools which lie closer to the site than catchment schools to serve the development. Clearly using closer schools would be a more sustainable option as pupils would be more likely to travel by sustainable modes such as walking and cycling. It is therefore the appellants' position that, in practice, residents of the site will be highly likely to seek to access education within the schools east and south of the site, rather than the catchment schools.
- 7.149. This approach was agreed as part of the application for 99 dwellings (ref. P/19/1260/OA) immediately to the south of the current appeal site. In this case HCC agreed that contributions towards the closest schools (in Gosport Borough) would be appropriate rather than towards the more distant catchment schools (in Fareham Borough) – see HCC Children's Services consultation response dated 2nd January 2020 (**Appendix 13**) and subsequent emails dated 21st May 2020 – 24th March 2021 (**Appendix 14**).
- 7.150. The appellant maintains the position that due consideration should be given to the use of closer non-catchment schools to serve the development and that it is these schools which are most likely to support the development. However, should the Inspector disagree, and recognising that some households may seek to access the catchment schools for other reasons, the appellant will also consider travel routes to catchment schools as part of the



work undertaken by i-Transport in responding to the consultee comments from HCC Highways.

- 7.151. As part of the Statements of Common Ground, the appellant will continue to liaise with HCC to seek to reach agreement in relation to which schools should serve the development and securing any necessary contributions and obligations to deliver improvements to routes to such schools where these are necessary.
- 7.152. However, with sufficient spaces to meet the needs of the development already available across the group of schools, the Appellants do not consider a contribution towards “improving the infrastructure” at the catchment schools to be “necessary” in CIL terms.

8. Conditions, CIL and Planning Obligations

- 8.1. Policy CS20 requires development to provide or contribute towards infrastructure and any necessary mitigation measures through conditions, Community Infrastructure Levy (CIL) or legal agreement.

Conditions

- 8.2. Draft conditions are proposed in the draft Statement of Common Ground. These will be discussed with FBC, HCC and other relevant parties.

Community Infrastructure Levy

- 8.3. The Planning Obligations Supplementary Planning Document for the Borough of Fareham (April 2016) sets out the Council's process for securing planning obligations through the CIL and Section 106 Agreements.
- 8.4. FBC adopted its CIL Charging Schedule in April 2013. The charge for all Class C3 (residential) development excluding Welbourne is £105 per sqm (index linked).
- 8.5. The CIL payment will be used to fund local infrastructure and services as directed by the Council.

Section 106 Agreement

- 8.6. The draft Statement of Common Ground includes a draft list of planning obligations. These will be discussed with FBC, HCC and other relevant parties and draft S106 Agreements will be presented in due course.

9. Planning Balance

Compliance with the Development Plan

- 9.1. In the situation where a five-year housing land supply cannot be demonstrated, policy DSP40 is engaged.
- 9.2. Whilst it is accepted that policies CS6, CS14 and DSP6 serve to direct development to within the settlement boundaries, DSP40 establishes that development will be permitted outside these limits where there is no five-year housing land supply and where the relevant criteria are met. The weight afforded to policies CS2, CS6, CS14 and DSP6 is also reduced given that the Council's housing requirement has not been reviewed within the last 5 years, they are derived from settlement boundaries which are based on an out of date housing requirement and that the Housing Delivery Test has been failed.
- 9.3. Section 7 above demonstrates that the proposal is:
1. Relative in scale to the five-year housing land supply shortfall;
 2. Well located and integrated with the neighbouring settlement, in a sustainable location;
 3. Sensitively designed and respects the landscape and character of the area;
 4. Deliverable in the short term; and
 5. Will not result in any unacceptable environmental, amenity and/or traffic implications.
- 9.4. In the balancing exercise the urbanising effect of development of a greenfield site is therefore weighed against policy DSP40 and, having met all the criteria described above, we conclude that the proposal represents well designed, integrated, and sustainable development which can bring forward up to 375 new homes in the short term.
- 9.5. Similarly, the proposal is also compliant with policy CS22 which allows development within the strategic gap where it does not adversely affect the integrity of the gap. Section 7 above establishes that the proposal would:
1. Not result in the coalescence of local settlements;
 2. Allow a visual 'sense' of separation to be maintained;
 3. Retain the character and identity of the adjacent settlements; and
 4. Protect the value of green infrastructure.
- 9.6. The provisions of policy CS22 are therefore met.
- 9.7. Accordingly, the proposal is in accordance with the development plan and paragraph 11(c) of the NPPF is engaged. If it is deemed that there is any breach of Policy DSP40, then the presumption in favour of sustainable development (the tilted balance) is engaged in accordance with paragraph 11(d) of the NPPF, as set out below.

The Tilted Balance

- 9.8. One of the fundamental objectives of the NPPF is to boost the supply of housing as part of the presumption in favour of sustainable development.
- 9.9. The NPPF test provides that in the absence of a five year housing land supply / failure to meet the Housing Delivery Test, planning permission should be granted without delay unless any adverse impacts of doing so would “significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.
- 9.10. The NPPF explains that there are three dimensions to sustainable development, and these are:
- Economic;
 - Social; and
 - Environmental.
- 9.11. Whilst it is important to recognise that these three dimensions are not a checklist, they do provide a useful tool in contemplating the breadth of sustainability considerations to be weighed in the planning balance. It is considered that the proposals reflect all three dimensions and thus represent sustainable development. As explained below the proposals will secure significant benefits which must be weighed in the planning balance.

Economic

- 9.12. In respect of economic matters, benefits created by the scheme are set out in detail in the Economic Benefits Assessment submitted with the application, and are summarised in the infographic below. These benefits should be given significant weight in the planning balance.

P20-3154

ECONOMIC BENEFITS

375 HOMES AT LAND EAST OF NEWGATE LANE EAST



CONSTRUCTION PHASE



75
Supply chain jobs supported.



256
Construction job years during build phase.



£52million
Total GVA contribution during build phase.



£47million
Approx capital investment.

OPERATIONAL PHASE



£1.8million
First occupation expenditure.



Over **476**
Economically active residents.



£13.6million
Annual household expenditure.



£681,500
Increase in annual council tax revenue.



£6.2million
Annual household spend in retail and leisure.



40
Jobs supported through household expenditure.



Landscape led
Development.



Over **two thirds**
Employed in high value occupations.



New cycle routes
and footpaths.

Figure 9 – Economic Benefits Infographic

Social

- 9.12.1. The development will provide a mix of housing types and sizes, meeting the needs of the local population.
- 9.13. Substantial weight must be given to the provision of housing both per se and in the light of the authority's current housing land supply, and the extent of the undersupply.
- 9.14. Substantial weight must also be given to the provision of affordable housing in light of the chronic historic under-delivery of affordable housing in the Borough. This constitutes a very significant benefit in terms of paragraph 11 of the NPPF.
- 9.15. The proposals also include a significant area of public open space and children's play area which provide places for recreation, play and walking, and help contribute towards wider development plan objectives to support healthy communities. This should be afforded moderate weight.

Environmental

- 9.16. In terms of the environmental role, the development of greenfield land will typically have some adverse impacts, no matter how sustainably located that site is.
- 9.17. In this case, the proposals will result in a small loss of agricultural land, however, this has been assessed as carrying very minor weight.
- 9.18. Although the site is not subject to any landscape designation, we nonetheless accept that there is a minor to moderate adverse impact identified as a result of the landscape and visual impact of development on greenfield land in the longer term. The integrity of the strategic gap, however, is not affected, and therefore a neutral impact is identified in this regard.
- 9.19. The site has been the subject of ecological surveys and the key ecological features, primarily important hedgerows and trees, are proposed to be retained. The development will introduce significant areas of public open space and new trees and vegetation alongside water features that serve as part of the sustainable drainage system.
- 9.20. The appellants are committed to enhancement measures and the Biodiversity Net Gain Assessment submitted with the planning application demonstrates that an overall net positive effect will be achieved. These improvements will result in a moderate ecological benefit to the site.
- 9.21. In terms of the effect on designated sites, the shadow HRA submitted with the application demonstrates that, with appropriate mitigation, the proposals will result in no adverse effects, which would weigh as neutral in the planning balance. The proposals will not adversely impact upon local hydrology or air quality, and mitigation payments will be secured in respect of the potential increased recreational use of designated sites.
- 9.22. The dwellings will be designed to reduce overall energy and carbon dioxide emissions by reducing energy consumption through design, orientation, lighting, heating requirements and air tightness, including low energy appliances and heating systems.

9.23. Furthermore, the appellants are also willing to commit to all dwellings being designed with water efficiency measures to seek to meet the government's optional standards requirement of no more than 110 litres per person per day usage, as well as the provision of electric vehicle charging points. Such design measures would result in minor environmental benefits.

9.24. The table below summarises the benefits and adverse impacts of the proposals.

Table 3 – Benefits and Adverse Impacts

Economic	
Increased local household spending	Substantial Benefit
Construction and supply chain jobs supported	Substantial Benefit
Role of housebuilding in supporting the post-Brexit and post-COVID economy	Substantial Benefit
Jobs supported through household expenditure	Moderate Benefit
Community Infrastructure Levy contribution	Minor Benefit
Social	
Provision of new housing in light of current housing land supply / HDT position	Substantial Benefit
Provision of on-site affordable housing	Substantial Benefit
Provision of on-site open space for play, walking and recreation	Moderate Benefit
Increased use of local facilities	Moderate Benefit
Environmental	
High quality landscape-led scheme design	Substantial Benefit
Effect on Designated Sites	Neutral impact
On-site retention and enhancement of landscape features	Moderate Benefit
On-site biodiversity mitigation and enhancement to deliver Biodiversity Net Gain	Moderate Benefit
Commitment to sustainable design	Minor Benefit
Landscape and visual impact	Minor to Moderate Adverse Impact
Loss of agricultural land	Very Minor Adverse Impact



- 9.25. The three dimensions of sustainable development have been assessed and it is concluded that not only do the adverse impacts not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole, but the benefits significantly outweigh any harm, and planning permission should be granted accordingly.

10. Summary and Conclusions

- 10.1. This Statement of Case has been produced to assist the Inspector in their consideration of the planning issues arising in the appeal at Land East of Newgate Lane East for the proposed development of up to 375 dwellings.
- 10.2. The proposed development represents sustainable development providing much needed housing, including affordable housing, within Fareham borough.
- 10.3. It is accepted that the proposed development would change the nature of the site from fields to residential. However, this is an inevitable consequence of any greenfield development.
- 10.4. Furthermore, now that development of the southern part of HA2 has been granted planning permission and is to proceed, and that it has been confirmed by an Inspector that development of the whole HA2 site will not significantly harm the integrity of the strategic gap, it would be entirely justifiable for these significant changes in circumstances to be taken into account in assessing the proposed development.
- 10.5. When the appeal proposals are viewed comprehensively with the approved development, they form a logical and continuous westward extension of Bridgemary/Woodcot, framed by existing and approved development to the north and south in Fareham and by Newgate Lane East to the west. Thus, the appeal proposals will effectively complete the extent of residential development to the east of Newgate Lane East.
- 10.6. The Concept Masterplan is very much 'landscape led' with a strong landscape framework at its core. In particular, the retained western field and substantial landscape buffer along the western edge of the site will soften the edge of the development and ensure adverse impacts upon the countryside and strategic gap are minimised through sympathetic design.
- 10.7. The proposed roundabout junction at Newgate Lane East is designed in accordance with relevant standards and in a manner that does not significantly impact on the utility / function of Newgate Lane East. The proposed development will not cause any unacceptable impact on highway safety or the wider local highway network. Opportunities for sustainable movement are taken up by the proposals and safe and suitable access provided for all people.
- 10.8. The proposal has been assessed against the relevant Development Plan policies, including DSP40 and CS22, and is shown to be compliant in respect of its impact on the built and natural environment and local infrastructure.
- 10.9. In the absence of a five-year supply and the failure of the Housing Delivery Test, the presumption in favour of sustainable development set out in the NPPF is engaged, which establishes that new development should be approved without delay unless adverse impacts would significantly and demonstrably outweigh the benefits. The planning balance above clearly demonstrates that on the counts of economic, social and environmental dimensions, the proposed development meets and in fact exceeds this test.
- 10.10. We therefore respectfully request that the appeal be allowed, subject to imposition of suitably worded conditions and S106 Agreement.

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

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