

FAREHAM LOCAL PLAN 2037

MATTER 1:

COMPLIANCE WITH THE ACT AND REGULATIONS, THE HABITAT REGULATIONS AND THE PUBLIC SECTOR EQUALITY DUTY

EXAMINATION HEARING STATEMENT ON BEHALF OF:

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1. MATTER 1 – COMPLIANCE WITH THE ACT AND REGULATIONS, THE HABITAT REGULATIONS AND THE PUBLIC SECTOR EQUALITY DUTY

Duty to Cooperate

1.1 What strategic, cross-border matters have arisen through the preparation of the Plan and what cooperation took place to resolve them?

- 1.1.1 The Council has identified strategic cross-border matters in paragraph 2.5 of GEN003, including sub-regional unmet housing needs and affordable housing needs.
- 1.1.2 The emerging Local Plan (eFLP) has been prepared on the basis of an unmet housing need for circa 10,750 homes according to paragraph 4.4 which was identified in September 2020 according to footnote 3 of SOCG5. It was to be addressed by individual LPAs unilaterally seeking to accommodate a proportion and through collaborative work on a non-statutory Joint Strategy which would then inform future reviews of Development Plans as set out in paragraphs 4.11 to 4.13 of SOCG5.
- 1.1.3 Following the identification of an unmet need for 10,750 homes in September 2020, the standard method was amended in December 2020 such that the unmet need had materially changed prior to the Regulation 19 consultation and submission¹. However, this significant change was not identified nor responded to within the submission draft eFLP. There was not therefore any demonstrable collaboration to address this material change in one of the strategic, cross-border issues in the 10 months between this issue arising and the submission of the eFLP.
- 1.1.4 Similarly, nowhere within the evidence base is any consideration given to the extent of unmet affordable housing needs and how these have been addressed in a collaborative way as required by the duty.
- 1.1.5 Furthermore, the Council did not publish a Statement/s of Common Ground alongside the Regulation 19 consultation, as required to demonstrate that the duty to cooperate has been met by paragraph 27 of the NPPF and the PPG (61-020).

¹ Paragraph 13 of FBC003 which was published following submission demonstrates that the unmet need had increased by over 20% from 10,750 to 13,000.

- 1.1.6 Instead of collaborating effectively and considering the increased need for housing across the sub-region, the Council took no account of this change prior to submission. Instead, this issue was only acknowledged by the Council in FBC002 and FBC003 which were published following submission, to which the eFLP has not responded and to which participants have not been provided any opportunity to respond.
- 1.1.7 Furthermore, Welborne was allocated to address sub-regional needs rather than the needs of Fareham as set out in paragraph 7 of the Core Strategy Inspector's Report. The eFLP however relies upon the delivery of Welborne to meet the housing need of Fareham. Rather than identifying a sufficient supply of housing to meet the needs of Fareham in addition to this site which provides for sub-regional unmet needs, the eFLP seeks to divert the supply arising from this site. No justification has been provided for this departure from the adopted Development Plan. The eFLP thereby actually increases the unmet sub-regional need by up to 3,610 homes², rather than seeking to address the unmet needs. Such an approach is not positive, effective, justified and actively undermines the objectives of paragraphs 35a, 35c and 61 of the NPPF.
- 1.1.8 Additionally, the proposal of the Council is to defer meeting the unmet needs, which have increased as a result of the eFLP, to reviews of the Local Plan following the adoption of a non-statutory Joint Strategy rather than addressing needs within the eFLP. This in and of itself recognises that the collaboration has not been effective or constructive to date as required by the duty. Such a proposal would also be unsound³ according to the explicit wording of paragraph 35c of the NPPF⁴.

² This is how many homes are expected to be delivered at Welborne in the plan period according to FBC001.

³ Even if it is considered to be legally compliant.

⁴ The requirement for needs to be addressed rather than deferred was introduced to the NPPF in 2018 to ensure that needs were met under the duty to cooperate.

1.2 Has the cooperation between neighbouring authorities been constructive and proactive?

1.2.1 This is addressed in the previous response.

1.3 What specific actions were identified as a result of dialogue with neighbouring authorities? What were the outcomes and how did they shape the preparation of the Plan?

- 1.3.1 The eFLP proposes to make provision for 900 homes in response to the identified unmet need for 10,750 homes, or to the unmet need for 13,000 homes which now exists. There is no evidence as to why this figure was selected or to which LPA within the sub-region these homes will contribute towards. These issues are not considered in the Sustainability Appraisal or any other part of the evidence base and so the proposed contribution of only 900 homes is neither justified nor positively prepared.

1.4 Aside from Portsmouth, have any other neighbouring authorities approached the Council with a request to accommodate unmet housing (or employment) needs?

1.4.1 Page 78 of FBC002 identifies that there are unmet needs in East Hants, Eastleigh, Gosport, New Forest, Portsmouth and Southampton.

1.4.2 Paragraph 3.1 of GEN003 identifies that each of these authorities are relevant when considering the duty. The Council has however only produced a Statement of Common Ground with Eastleigh, Gosport, Portsmouth and Winchester and these post-date the submission of the eFLP. There is therefore no Statement of Common Ground with East Hants, New Forest or Southampton to demonstrate that there has been effective engagement as required by paragraph 27 of the NPPF. Had such effective collaboration taken place, there may have been a request from these authorities. The absence of such a request which appears to have arisen as a result of the absence of active collaboration does not demonstrate that collaborative collaboration has taken place.

1.5 What process did the Council follow in seeking to address unmet housing needs arising from Portsmouth? Has the process been constructive and proactive?

- 1.5.1 The process has been entirely opaque. Clarity would be welcomed on this, and all participants should be afforded the opportunity to respond once this is available.

1.6 In collaboration with Partnership for South Hampshire, what process is the Council following to seek to address the unmet housing need in the sub region?

- 1.6.1 As set out above, the Council proposes to defer meeting needs to Local Plan Reviews which are proposed to be adopted following the adoption of the non-statutory Joint Strategy. Such an approach would be unsound according to the explicit wording of paragraph 35c of the NPPF. Even if such an approach were considered sound notwithstanding the conflict with the NPPF, to ensure that the deferred substantial unmet needs of the sub-region which have not been addressed through collaborative work are responded to the eFLP should provide a commitment to an early review within a specified timescale. Without this, the needs which should be planned to be addressed now according to the NPPF, will not only be deferred contrary to national policy, but they will be deferred indefinitely. This would not only be even more inconsistent with national policy, but it would not represent positive or effective planning and it would not be justified.

Sustainability Appraisal

1.9 Has the Plan's formulation been based on a sound process of SA in accordance with the regulations and relevant guidance, including the testing and/or consideration of reasonable alternatives for the overall strategy of growth, site allocations and all policies in the Plan?

1.9.1 PPG Paragraph: 001 Reference ID: 11-001-20190722 advises that the role of a SA is to *"promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives."* It adds that *"Sustainability appraisal should be applied as an iterative process informing the development of the plan."*

1.9.2 Our representations on the Revised Publication Local Plan 2037 consultation, dated July 2021, include a commentary on the way in which successive versions of the SA and the emerging Local Plan have treated the former Policy HA2 Newgate Lane South residential site (see paras. 2.33 onwards). To summarise:

1.9.3 The SA/SEA for the Draft Local Plan, October 2017 (ISCP004) identified a "Preferred Development Strategy" for the Local Plan (para. 4.4.10) which included *"Residential option 2F"*. This was based on (inter alia):

"- A preference towards those sites that have lower landscape sensitivity;"

"- A preference towards urban extension sites that provide a logical extension to the existing urban area and/or a defensible urban edge for the future."

(our underlining)

1.9.4 Table 4.3 "Strategic Alternatives for Residential Development" summarises the options assessed and confirms that Option 2F comprises:

"...a Welborne delivery trajectory that delivers approximately 4,000 homes by 2036....In addition to Welborne, Option 2F includes existing Local Plan residential allocations, realistic regeneration sites in Fareham Town Centre and Warsash Maritime Academy, the sites at Cranleigh Road and Romsey Avenue, Portchester, proposed allocations focused on three Greenfield Clusters (Warsash Greenaway Lane; Segensworth; and Newgate Lane South), a reduced scheme at Portchester Downend and a spread of urban fringe sites across the borough."

- 1.9.5 Newgate Lane South was allocated under Policy HA2 to deliver up to 475 dwellings.
- 1.9.6 The Cranleigh Road, Portchester residential site was included in Option 2F and in other options due to a s.78 appeal being allowed.
- 1.9.7 In August, 2020, the Government commenced a consultation on changes to the Standard Method calculation of housing need. If those changes were implemented following consultation, the result would have been a reduction in Fareham's housing requirement by over 100 homes per annum. The Council proceeded to prepare its Publication Regulation 19 Local Plan on the (mistaken) assumption that this would be the outcome, that plan being published in November, 2020.
- 1.9.8 As a result, the Council continued with a strategy based on Option 2F, although it removed the allocations of Newgate Lane South (now East of Newgate Lane East) and Romsey Avenue, Portchester, and it did not allocate the identified potential Strategic Growth Areas at Fareham South or the western part of Downend Road, Portchester, all due to its assumed reduced housing requirement. Appendix G to the November 2020 SA/SEA stated that HA2 Newgate Lane South was omitted because *"Development would have a detrimental impact on the Strategic Gap"* and for parts of the site because *"Site designated as a Brent Geese and Solent Waders low use site and there is no evidence of a strategy-compliant solution."* Our representations of July, 2021 raise concerns that these criticisms were not also applied consistently to another site.
- 1.9.9 The Government's consultation changes to the Standard Method were not implemented and in fact Fareham's annual housing need increased from 514 to 541 dwellings, confirming the erroneous basis on which the Regulation 19 plan had been prepared. When the Revised Publication Local Plan was published in June 2021, the HA2 Newgate Lane South (or East) site was again omitted as an allocation.
- 1.9.10 By that time, the southern part of the site had been the subject of cross-boundary outline planning applications for up to 99 dwellings (one application being to Fareham Borough for the residential element, the other to Gosport Borough due to access coming from Brookers Lane). Non-determination appeals were pursued, which were determined by the Decision Letter of

Inspector G.D. Jones dated 28 July, 2021 which was published within the consultation period on the Revised Publication Local Plan. As highlighted in our previous representations, the Inspector concluded that:

(para. 31) "*Given the relatively modest scale of development proposed relative to the overall scale of the Strategic Gap along with the site's location on the outer edge of the Gap adjacent to the settlement boundary, there would not be a significant effect on the integrity of the Gap, be it individually or cumulatively*"

and

(para 52) "*....the development would be sustainable development in terms of the Framework....such that the site is a suitable location for housing.*"

- 1.9.11 We note that the SA process is an iterative one. We also note that the submitted Revised Publication Local Plan was published in June 2021 and that version of the SA/SEA which supports the submitted Local Plan is dated May 2021, so both pre-date this appeal decision. The Proposals Map has therefore not been updated to show this committed development and to amend the settlement boundary to Bridgemary to include the southern part of the HA2 omission site within the urban area. Given that the HA2 omission site was omitted from the Local Plan primarily because it was alleged by the Council that "*Development would have a detrimental impact on the Strategic Gap*", but now that an Inspector has since granted planning permission for housing on part of the site, concluding that "*there would not be a significant effect on the integrity of the Gap, be it individually or cumulatively*", it would be reasonable to expect that the next iteration of the SA/SEA will re-assess the balance of the HA2 omission site and reach a different conclusion regarding the impact of its development on the Strategic Gap. Whether the Inspector recommends that the balance of the HA2 omission site is re-allocated will depend on her findings on other matters, but the appeal decision is a significant material change of circumstances.

1.10 Are the likely environmental, social and economic effects of the Plan adequately and appropriately assessed by the SA? Is the SA adequate in terms of its assessment of the likely effects of the plan's policies and allocations; its consideration of reasonable alternatives; and its explanation of why the preferred strategy and policies were selected and other were rejected?

1.10.1 No – the SA needs to be updated in the light of recent appeal decisions allowing the residential development in the Borough, including but not limited to:

- Land East of Newgate Lane East (formerly Newgate Lane South) – up to 99 dwellings on the southern part of the former draft allocation site HA2 (dated 28th July 2021);
- Land East of Crofton Avenue and West of Peak Lane, Stubbington – 206 dwellings on draft allocation site HA54 (dated 10th January 2022);
- Land South of Romsey Avenue, Fareham – 225 dwellings on former draft allocation site HA5 (dated 28th January 2022);
- Land east of Downend Road, Portchester – up to 350 dwellings on draft allocation site HA4 (dated October 2021).