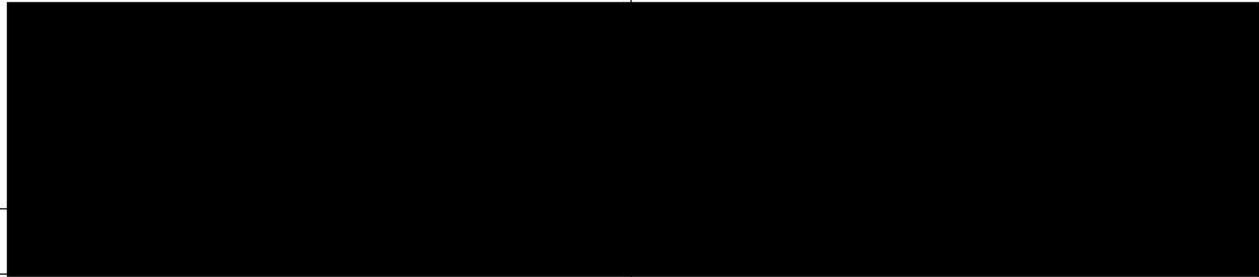


STATEMENT OF COMMON GROUND ON HOUSING NEED AND SUPPLY

SECTION 78 APPEAL AT

LAND EAST OF NEWGATE LANE EAST,
FAREHAM

LPA REF: P/22/0165/OA
PINS REF: APP/A1720/W/22/3299739

	
On behalf of: Fareham Borough Council (the Local Planning Authority)	On behalf of: Pegasus Group (acting on behalf of the Appellant)
Date: 16 September 2022	Date: 16 September 2022

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1. INTRODUCTION

- 1.1 This Statement of Common Ground (SoCG) on housing land supply has been prepared by Pegasus Group on behalf of Miller Homes Ltd and Bargate Homes Ltd (“the Appellant”) in conjunction with Fareham Borough Council (“the LPA”). It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in respect of the residential development of up to 375 dwellings, access from Newgate Lane East, landscaping and other associated infrastructure works at Land East of Newgate Lane East.

- 1.2 The purpose of the SoCG is to identify the areas where the principal parties (the Appellant and the LPA) are in agreement on matters relating to Housing Need and Supply, and to narrow down the issues that remain in dispute. This will allow the Public Inquiry to focus on the most pertinent issues.

2. MATTERS NOT IN DISPUTE

2.1 This section sets out the matters that are not in dispute between the Appellant and the Council.

The Development Plan

2.2 The Development Plan includes the Core Strategy (adopted 2011), the Development Sites and Policies Plan (adopted 2015) and the Welborne Plan (adopted 2015).

2.3 Policy CS2 of the Core Strategy sets a housing requirement for 3,729 homes over the period 2006-26 to respond to the housing needs of Fareham Borough at an annual average of 186 per annum.

2.4 National guidance now identifies that there is a minimum local housing need for 541 homes per annum in Fareham Borough rather than the need for 186 homes, as of 2014 per annum reflected in table 4 of the Development Sites and Policies Plan.

2.5 Policy CS13 of the Core Strategy makes provision for an additional 6,500-7,500 homes to be provided at the Strategic Development Area (North of Fareham). Subsequently confirmed to be about 6,000 homes in the Welborne Local Plan.

2.6 In total the Core Strategy made provision for between 10,229 and 11,229 homes.

The record of delivery

2.7 Over the period 2006-22, a total of 4,746 homes have been delivered in Fareham Borough.

2.8 Previous shortfalls in housing delivery, prior to the calculation of LHN using the standard methodology, are accounted for in the application of affordability uplift.

The Housing Delivery Test results

2.9 The latest Housing Delivery Test result for Fareham Borough is 62%. This means that 38% of the minimum number of homes sought by the Government have not been delivered in the previous three years.

2.10 National policy identifies that a Housing Delivery Test result of anything below 75% represents substantial under-delivery. In such circumstances national policy

identifies that the tilted balance is engaged as per footnote 8 and paragraph 11d of the NPPF.

The five-year land supply

- 2.11 The LPA's most recently published 5YHLS statement from July 2022, identifies a 5.01 year land supply with a surplus of 6 homes. Through engagement with the Appellant, and reflective of other recent appeals in Fareham the Council accepts that a 5 Year Housing Land Supply cannot be demonstrated.
- 2.12 The Council and the Appellant accept that a range of between 3.86 and 4.88 years can be identified and that the weight to be afforded to the delivery of housing should be substantial at any point within the identified range. Therefore, the parties consider that it is not necessary to test 5YHLS evidence at a round table session in order to determine the weight afforded to the provision of housing.
- 2.13 The Court of Appeal Judgment of Hallam Land identifies that in addition to the extent of the shortfall, the length of time this is likely to persist, and the actions being taken by the LPA to remedy this situation will all also be material to the weight afforded to the supply of housing.

The supply arising from sites granted at appeal

- 2.14 Some 1,074 homes included in the deliverable supply identified within the latest assessment of the LPA arise from sites which have been approved at appeal. At each appeal, with the exception of Down End Road where the appellants addressed the Council's highway concerns during the course of the inquiry, Inspectors applied the policies in the adopted plan but came to a different view, than the Council on the merits as to whether there was a conflict with the adopted Development Plan.

The length of time the shortfalls are likely to persist

- 2.15 Assuming that the trajectory of the LPA is achieved, there will continue to be a record of substantial under-delivery according to the Housing Delivery Test until the publication of the 2023 results in late 2023/early 2024. The unmet need for housing will therefore continue to accrue.

The actions proposed

- 2.16 The LPA has published an Action Plan which identifies a number of actions to address the housing need and supply issues.
- 2.17 The Fareham Local Plan 2037 was submitted for examination in September 2021 and is currently subject to independent examination by the Planning Inspectorate. The Inspector has reviewed written representations and explored Matters and Issues relating to the Plan through hearing sessions held in March and April 2022. The Council received Post Hearings letters in June and September 2022.
- 2.18 The Inspector's June letter identified that she had significant concerns with a number of elements of the submitted Local Plan.
- 2.19 The Inspector's September letter identifies a number of issues where she has outstanding concerns and recognises that main modifications will be required to the plan. The Council are preparing these modifications with a view to undertaking a public consultation in Autumn 2022. The Inspector has not raised points of soundness or legal compliance in relation to emerging policy HP4.
- 2.20 The letter also identifies that further work is required including a review of the Housing Topic Paper, a recalculation of the affordable housing need, an addendum to the Sustainability Appraisal, an update to the Habitats Regulation Assessment, and the preparation of a schedule of main modifications and additional modifications. Some of this work will need to be considered by the Inspector before being subject to consultation. The Inspector expects this consultation exercise to be dealt with through written representations although acknowledges that this may exceptionally necessitate additional hearing sessions. This additional work and these main modifications are currently being prepared by the Council.
- 2.21 When the LPA is unable to demonstrate a five-year land supply the criteria of policy DSP40 of the adopted plan are engaged, and the criteria of policy HP4 will be engaged if the emerging plan is adopted. These policies will however be out-of-date as set out by footnote 8 and paragraph 11d of the NPPF. Case law indicates that the fact that policy is deemed out of date does not dictate the weight which should be given to it. In Fareham this has been repeatedly emphasised by Inspectors on appeal.

The need for affordable housing

- 2.22 There is a current need for 4,874 affordable homes. In addition, there will be a need for additional affordable homes to address the needs of newly arising households, and those who fall into affordable housing need over the plan period.
- 2.23 The current supply of affordable homes in Fareham is 2,639, the Local Plan proposes allocations which the LPA consider would bring forward 2,727 (now 2,709) affordable homes.

The weight to be afforded to the provision of housing

- 2.24 The need for market and affordable housing will be material to the weight afforded to the provision of market and affordable housing.

The parameters for assessing the five-year land supply

- 2.25 It is appropriate to consider the five-year land supply over the period 1st July 2022 to 30th June 2027, and any subsequent period of assessment should not be taken into account for the purposes of this appeal.
- 2.26 The five-year land supply should be assessed against the minimum local housing need of the standard method as the housing requirement is more than five years old and has not been reviewed.
- 2.27 It is appropriate to take into account the latest evidence when assessing the deliverability of sites.
- 2.28 The deliverable supply should reflect the net capacity of sites rather than the gross capacity.
- 2.29 In accordance with the PPG (68-035) residential institutions for older people should be included in the deliverable supply based on the amount of accommodation released in the housing market. In Fareham Borough, 1.88 bedspaces in residential institutions would release one home in the market according to the data provided by the PPG (63-016a).
- 2.30 In accordance with the PPG (68-034) communal establishments for students should be included in the deliverable supply based on the average number of students in student only accommodation. In Fareham Borough, 2.26 student

bedspaces would equate to 1 home according to the data provided by the PPG (68-034).

- 2.31 Sites which post-date the base-date should not be included in the deliverable supply until the assessment is updated.
- 2.32 To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years.
- 2.33 Sites with outline planning permission for major development, allocations and sites identified on a brownfield land register should only be considered deliverable where there is clear evidence that completions will begin on-site within five years.

3. MATTERS IN DISPUTE

The Development Plan

- 3.1 The Appellant considers that the policies of the Core Strategy and Development Sites and Policies Plan were designed to respond to the housing requirement of the Core Strategy for 186hpa, it will be necessary to allow developments that do not strictly accord with these policies to address the minimum local housing need for 541hpa as required by national policy.
- 3.2 The LPA disagrees. The evidence will demonstrate that Inspectors on appeal have applied policy DSP40 and given it great or full weight. It is necessary to apply the criteria in DSP40 as part of a plan led approach to determine where development should go. The Inspector on the emerging plan has not identified a need to alter the strategic gap or settlement boundaries to accommodate additional housing and that the mechanism within DSP40 to address the need for housing in circumstances of a HLS shortfall is continued in its replacement policy within the new plan (Policy HP4).
- 3.3 The Appellant considers that the Strategic Development Area at Welborne was allocated to address unmet sub-regional needs as explicitly set out in paragraph 7 of the Inspector's Final Report on the Core Strategy, paragraph 43 of the Inspector's Final Report on the Development Sites and Policies Plan, and paragraph 13 of the Inspector's Final Report on the Welborne Plan. The Appellant therefore considers that the proposal of the emerging Local Plan Review to divert the entirety of the supply of housing at Welborne to address the needs of Fareham Borough rather than the unmet sub-regional needs makes a significant contribution to the now evident unmet need for c.13,000 homes across the sub-region. As such, the Appellant considers that the need for housing in Fareham should not be considered in isolation of the unmet sub-regional need which arises in large part as a direct consequence of the strategy of the emerging Local Plan Review.
- 3.4 The LPA disagrees. It was accepted by the LP Inspector for the Part 3 plan that Welborne did contribute to the needs of Fareham (see Para 13 of the Inspector's report for LP3). He also concluded that any re-assignment of sub-regional housing requirements within the area is more appropriately considered at the sub-regional level (i.e. by PUSH). The LPA can confirm that the figures for supply from Fareham in PFSH's September 2021 report (Table 4 of the October 2021

PfSH Statement of Common Ground report, from which the figure of 13,000 unmet need originates) include the provision from Welborne. This matter is covered in the PoE para 4.3.3.

The record of delivery

- 3.5 The Appellant considers that the provision of between 10,229 and 11,229 homes of the Core Strategy provides for an average requirement for between 511 and 561hpa which would require the provision of between 7,672 and 8,422 homes over the period 2006-22. The Appellant therefore calculates that over this period, based on the 4,746 completions achieved, the policies of the adopted Development Plan have been ineffective in meeting the housing requirement of the Development Plan by between 2,926 and 3,676 homes.
- 3.6 The LPA disagrees. The LPA considers that the record of substantial under delivery provides no indication that the policies of the Development Plan have been ineffective. Past under delivery is accounted for in the Standard Methodology. Past levels of completions have been impacted principally by the Nitrate issue in Fareham, which reduced the number of consents being issued by the Council, which has led to a decrease in housing delivery. The Nitrates issues in Fareham is now resolved and the number of consents granted is increasing.
- 3.7 The Appellant considers that the record of substantial under delivery demonstrates that the policies of the Development Plan have been ineffective in delivering a sufficient supply of homes by a substantial margin.

The Housing Delivery Test results

- 3.8 The LPA considers that the record of substantial under delivery provides no indication that the policies of the Development Plan have been ineffective. Past under delivery is accounted for in the Standard Methodology. Past levels of completions have been impacted principally by the Nitrate issue in Fareham, which reduced the number of consents being issued by the Council, which has led to a decrease in housing delivery. The Nitrates issues in Fareham is now resolved and the number of consents granted is increasing.
- 3.9 The Appellant considers that the record of substantial under delivery demonstrates that the policies of the Development Plan have been ineffective in delivering a sufficient supply of homes by a substantial margin.

The five-year land supply

- 3.10 The Appellant considers that as set out in paragraphs 51 and 52 of the Court of Appeal Judgment of Hallam Land the extent of the shortfall, the length of time this is likely to persist, and the actions being taken by the LPA to remedy this situation will all be material to the weight afforded to the conflict with policies that impede the supply.
- 3.11 The LPA disagrees.
- 3.12 The LPA considers that the absence of a five-year land supply provides no indication that the policies of the Development Plan have been ineffective. Past levels of completions have been impacted principally by the Nitrate issue in Fareham, which reduced the number of consents being issued by the Council, which has led to a decrease in housing delivery. The Nitrates issues in Fareham is now resolved and the number of consents granted is increasing.
- 3.13 The Appellant considers that as a result of the absence of a five-year land supply, the most important policies are out-of-date for another reason as set out by footnote 8 and paragraph 11d of the NPPF and this also demonstrates that the policies have been ineffective in maintaining a sufficient supply to meet the minimum expectation of national policy.

The supply arising from sites granted at appeal

- 3.14 The Appellant considers that without the 1,074 homes which have been granted on appeal notwithstanding the fact that the LPA considered that these conflicted with the Development Plan, the LPA would identify a 3.35 year land supply, and this demonstrates that if the policies of the Development Plan are applied in the way in which the LPA interpret them, there would be a substantial five year-land supply shortfall on any basis. The Appellant therefore considers that it will be necessary for developments to be approved which do not strictly accord with the LPA's interpretation of the policies of the Development Plan to address housing needs.
- 3.15 The LPA disagrees. The LPA considers that the collective reasoning in the appeals referred to in the evidence demonstrates that decisions should be taken in accordance with the criteria in DSP40 in circumstances where a HLS shortfall exists.

The extent of the five-year land supply shortfall

3.16 The LPA considers that the minimum local housing need of the standard method remains unchanged throughout the course of a year and as such identifies a five-year requirement for 3,246 homes.

3.17 The Appellant considers that as the standard method identifies the minimum local housing need as of 1st April 2022, it is necessary to take account of any under or over delivery which has occurred prior to the base-date from 1st April to 1st July 2022. As such, the Appellant identifies a five-year requirement for 3,387 homes.

3.18 The parties disagree on the deliverable supply and the respective positions are summarised in the following table.

Site	The LPA's updated position	The Appellant's position
Category A sites		
Small permitted sites	70	60
Sites with outline planning permission for non-major development	12	12
Sites with detailed planning permission	1,169	1,169
Category B sites		
Sites with outline planning permission	1,311	1,277
3-33 West Street	26	0
Land at 18 Titchfield Park Road	5	0
Welborne	510	630
Land between and to the rear of 56-66 Greenaway Lane	28	0
Land East of Posbrook Lane	57	0
Eyersdown Farm	38	0
Uncontested sites	647	647
Allocated sites without planning permission	105	0
Heath Road	70	0
Wynton Way	13	0
335-357 Gosport Road	8	0
Land East of Church Road	14	0
Sites identified on the BLR	192	0
Warsash Maritime Academy	100	0
Locks Heath District Centre	35	0
Former Filling Station	30	0
Assheton Court	27	0
Sites outside of Category A and B		
Sites outside of Category A and B	206	0
Land at Brook Lane	137	0

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Robann Park	39	0
Rookery Avenue	30	0
Windfall		
Windfall	100	100
TOTAL	3,165	2,618

3.19 The LPA considers that it is able to demonstrate a 4.88 year land supply with a shortfall of 81 homes.

3.20 The Appellant considers that the LPA is able to demonstrate a 3.86 year land supply with a substantial shortfall of 769homes.

The actions proposed

3.21 The LPA considers that the Inspector examining the Local Plan Review has not raised points of soundness or legal compliance in relation to meeting the proposed housing requirement (LHN + element of Sub-Regional housing need), the spatial strategy, or the principal of the strategic gap designation.

3.22 The Appellant considers that Inspector has requested additional work is undertaken which will be relevant to both the housing requirement and the supply of housing and as such has reached no final conclusion on the first issue. The Appellant considers that the latter two issues are not relevant to the need for or supply of housing to which this Statement of Common Ground responds and will be addressed by other witnesses.

3.23 The Appellant considers that the additional work requested by the examining Inspector including the requirement for an assessment of the need for affordable housing in accordance with national guidance will have implications for the housing requirement as set out by the PPG (2a-024), and the requirement for an update to the assessment of supply may have implications on the 5YLS and plan period supply positions.

3.24 The LPA disagrees.

3.25 The Appellant considers that those elements of the emerging Local Plan Review which the Inspector has identified significant concerns with, or which will be affected by additional work which has yet to be undertaken, can be afforded only limited weight. The Appellant considers that the modifications necessary to address these concerns which have yet to be drafted can be afforded no weight.

- 3.26 The LPA disagrees.
- 3.27 The LPA considers that there will continue to be a record of under-delivery, for a short period once the Local Plan review is adopted, based on the HDT. The proposed stepped housing requirement is less than the minimum local housing need in first two years of the plan, and increased for later years. The stepped requirement has been accepted by the Local Plan Inspector.
- 3.28 There is a sub-regional need of 13,000 homes, which will be addressed by LPAs across the sub-region. The Fareham Local Plan Review will contribute to this unmet need. The Council considers Fareham’s contribution to this is a matter for the Local Plan examination.
- 3.29 The LPA consider that paragraph 11d will be engaged for a short period once the Local Plan Review is adopted until the 2024 HDT results are published.
- 3.30 The Appellant considers that as accepted by the LPA to the examination of the emerging Local Plan Review there will remain a record of substantial under-delivery according to the Housing Delivery Test until late 2023/early 2024 even assuming that the trajectory of the LPA is achieved, and the proposed stepped housing requirement is found sound, and the Local Plan Review is adopted. As such the Appellant considers that in this eventuality the most important policies of the Local Plan Review will be out-of-date, and the tilted balance will be engaged as set out by footnote 8 and paragraph 11d of the NPPF. The Appellant also considers that post-adoption there will remain a pressing need for housing owing to the facts that the proposed stepped housing requirement is less than the minimum local housing need in the short-term, and the Local Plan Review proposes to contribute to rather than address the unmet sub-regional need for c.13,000 homes.

The need for affordable housing

- 3.31 The Appellant considers that the current need for 4,874 affordable homes represents a substantial need, and that once newly arising needs are taken into account and assessed in accordance with national guidance there is likely to be a need for in excess of 7,000 affordable homes over the plan period, such that even if the supply identified by the LPA is able to be delivered there will remain a substantial need for affordable housing.

3.32 The LPA disagrees. This is part of the further work instructed by the Inspector in her Further Post hearings letter (September 2022), referred to in paragraph 2.17, and so it would be premature to state a position on the level of newly arising need. The Appellant has not shared any evidence to support their position.