

Examination of the Fareham Local Plan 2037

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By email via the Programme Officer

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Dear Mrs Wootton,

Examination of the Fareham Local Plan 2037

1. I would firstly like to thank the Council for their hard work and constructive contributions at the hearing sessions.
2. As I advised at the 'round up' session, I am writing to you regarding areas of the Plan where I continue to have significant concerns and to set out options for the way forward.
3. The Council prepared a Schedule of Actions following the hearing sessions and have already prepared several additional evidence documents. These have been uploaded to the Examination Library.
4. This letter does not address all of the issues but rather focuses on the areas where I have soundness or legal compliance concerns. For the avoidance of doubt, they are in addition to the modifications suggested during the hearing sessions.

Habitats Regulation Assessment (HRA)

5. As the Council are aware, new guidance has been issued by Natural England with regard to nutrient neutrality. The Council in their response on this matter (FBC065), expressed the intention to recalculate the nutrient budget for the local plan and update the HRA as necessary. These revisions can be the subject of consultation in tandem with the Main Modifications consultation. It would also be helpful for an update to be made to the Statement of Common Ground with Natural England to clarify and confirm their position once this work has been completed.

Early Review of the Plan

6. The Partnership for South Hampshire (PfSH) is currently undertaking work to understand the housing need and supply in the sub region. The Statement of Common Ground between the Council and PfSH (FBC003) indicates a predicted shortfall in the region of 13,000 homes across the sub region to 2036. This figure may change as the authorities concerned make progress with their individual local plans. This work includes the identification of a number of Strategic Development Opportunity Areas and different development scenarios to address this shortfall. I understand the timeframe for this work has slipped and it is now hoped to be available in Summer 2023.
7. The Local Plan includes a contribution of 900 homes towards unmet need for neighbouring authorities. Following Portsmouth City Council's request under the Duty to Cooperate, 800 dwellings will go towards meeting their unmet need.
8. Whilst it is clear that there is likely to be a significant unmet housing need in the sub region, until the PfSH work is completed, there is uncertainty regarding the quantum of unmet need, how this would be met and what the implications may be for Fareham. In these circumstances, I consider that the Council's approach, making a limited contribution to the unmet need of neighbouring authorities in the sub region, but addressing the needs of Portsmouth, is appropriate and justified.
9. Considering the relatively short timescales for the PfSH work to be completed, I consider it necessary for the Council to include a commitment in the Plan, that an early review would be undertaken in the event that the work concludes the borough should make an additional contribution to sub regional unmet need. This could take the form of an addition to the supporting text in paragraph 4.5 of the Plan.

Development Strategy – Strategic Policy DS3 Landscape

10. Policy DS3 sets out that development in Areas of Special Landscape Quality (ASLQ) identified on the Policies Map, shall only be permitted where the landscape will be protected and enhanced. The Policy then goes on to explain that development in the countryside should recognise the intrinsic character and beauty of the countryside having regard to certain specified criteria.
11. The supporting text explains that ASLQ have been identified as the most valued landscapes in the borough in line with paragraph 174a) of the National Planning Policy Framework (the Framework). I note that the Fareham Borough Local Plan Review 2000, sought to protect six areas of distinctive landscape as Areas of Special Landscape Character in Policy C9. The Fareham Core Strategy adopted in 2011 however does not include any

such local landscape designations, relying on countryside policies applying to all development outside the urban area.

12. The 2017 Fareham Landscape Assessment¹ (DS001) reviewed landscape policy and designations. It recognised that local landscape designations can be helpful in providing a clearly defined picture of areas of greater or lesser landscape value to help guide strategic planning decisions about where new development could be located. However, the Assessment went on to say that this could be misleading in terms of actual suitability for development. It went on to recommend that a holistic, criteria-based policy approach be adopted in the local plan review that applied across the whole countryside, rather than an approach based on local landscape designations.
13. The Assessment suggests that development proposals should demonstrate that the specific development criteria contained in the Sensitivity Assessment for each landscape area have been satisfied, with no residual adverse effects on landscape character and quality, visual amenity, settlement character and green infrastructure.
14. The Council have chosen not to follow this recommendation. Paragraph 3.50 of the local plan provides justification for this, referring to two recent appeal decisions for residential development in the Lower Meon Valley. The respective Inspectors identified the sites as being within a valued landscape. It seems to me that the two decisions demonstrate a case-by-case assessment using specific criteria to determine the suitability of the individual sites for development. This is the approach recommended in the 2017 Landscape Assessment.
15. Turning to the areas proposed to be designated, the Technical Review of Areas of Special Landscape Quality and Strategic Gaps (DS003) provides an assessment of the areas outside the urban area to determine whether they form a valued landscape. It uses the criteria set out in the Guidelines for Landscape and Visual Impact Assessment (GLVIA3). Areas are scored in terms of whether they are a high, good, fair or a partial match to the criteria. Generally, areas that scored high or good overall have then been put forward for designation.
16. A shortcoming of the evidence base is that it is difficult to understand how the scoring has been used to decide which areas of the borough should be taken forward for designation. In the Detailed Analysis of Areas of Special Landscape Quality (FBC073), provided at my request after the hearing sessions, it is unclear how the overall match ratings have been determined based on the individual criteria assessed. Furthermore, the Technical Review does not explain why areas scoring 'good', were proposed to be designated alongside areas scoring 'high'. There is a risk that areas scoring 'good' are

¹ Part 3 p24-26

elevated to a valued landscape without sufficient evidence to justify their designation.

17. The Technical Review results in large areas of the borough becoming ASLQ. These areas have varying degrees of landscape quality. Case law has confirmed that a valued landscape is a landscape that is more than mere countryside but is landscape that has physical attributes which take it 'out of ordinary'.² The identification of landscape value needs to be applied proportionately ensuring that the identification of a valued landscape is not overused³.
18. In summary, the evidence base does not support the designation of ASLQ. I suggest there are two ways forward to address this matter. Firstly, to delete the designation from the Plan and rely on Policy DS3 as a whole countryside policy which provides criteria against which individual planning applications can be assessed. Paragraph 3.49 of the Plan indicates that the areas proposed to be designated do not form an exhaustive list and that the policy provides an indication of how landscape value can be argued for any part of the borough. Such an assessment on a case-by-case basis would be an appropriate way forward. However, the wording of the Policy lacks clarity in this regard and would need to be reviewed. The second way forward would be for a clear and robust paper to be prepared which revisits the areas of ASLQ and addresses the matters I have raised above.

Housing Need and supply

19. Following my request at the hearing sessions, the Council has prepared a further Topic Paper (FBC087) to set out the affordable housing need and supply over the plan period, using the methodology set out in Planning Practice Guidance.
20. The Council have also provided a Windfall Analysis Update (FBC078) to include data from additional years 2019/20 and 2020/21 in the assessment. This results in a slightly revised figure of an annual average of 50 dwellings on small sites and 52 dwellings on larger sites.
21. A Housing Supply Topic Paper (FBC088) has been prepared to further update the Council's supply position. The stepped trajectory outlined in Policy H1 has been amended to 210 dwellings per annum in the first 2 years and 653 dwellings per annum for the remainder of the plan period. The Topic Paper explains the implications of this amendment for the five-year housing land supply and Housing Delivery Test.
22. The above documents form new evidence which should be the subject of a focused consultation for a period of 3 weeks with those representors who have commented on this policy area and or attended the hearing session on

² Hewitt, R (on the application of) v Oldham Metropolitan Borough Council & Anor [2020] EWHC 3405 (Admin)

³ Landscape Institute Technical Guidance Note 2/21 p43

this matter. Once these representations have been received, I will advise further on this matter.

Welborne

23. The proposed Garden Village at Welborne makes a significant contribution to housing supply over the plan period, 3610 dwellings. There was considerable discussion at the hearing sessions about the delivery and build rate assumptions for this site. Commencement has been delayed due to several factors, most notably the funding required for improvements to Junction 10 of the M27. This is now available with these works programmed for 2023.
24. The Council's Trajectory suggests the site will start to deliver housing in 2023/24. This assumption is supported by evidence from the site promoter. The site received outline planning permission in September 2021. I am advised that a lot of technical work has been completed with the Design Code and strategic enabling infrastructure reserved matters applications due to be submitted to the Council in May 2022. Infrastructure enabling works once approved are anticipated to start in Summer 2022. There is no certainty however that this programme will be achieved.
25. I heard evidence that the selection of housebuilders for the initial phases of the development was also expected in May 2022 with reserved matters applications in Summer/August 2022 and first occupations in early 2024 (within the 2023/24 monitoring year). There is no evidence that housebuilders will be appointed at the time envisaged and even if they were, submission of reserved matters applications by Summer 2022 is very optimistic.
26. A number of representors have referred to the Lichfields 'Start to Finish' Report which suggests an average lead in time from outline permission to first completions of 2.3 years. That would suggest first completions towards the early part of 2024, which would tie in with the site promoters estimates. Though this is of course dependant on the development proceeding as anticipated.
27. Whilst I accept that efforts to bring the site forward are now gathering pace, given the above, I consider completions in 2023/24 to be overly ambitious. The site should be pushed back a year in the trajectory.
28. Build out rates from the site provide for lower completions in the first 2 years to allow the site to become established with a peak delivery of 300 dwellings from 2029/30 onwards. The Council commissioned a report on the delivery trajectory for Welborne in 2017 (FBC050) which concluded that 250 dwellings per year was realistic, with a possible increase to 275 dwellings if evidence was available to support that figure. A similar figure of 258 dwellings per annum is confirmed in the Welborne Position Statement (FBC082) provided by the site promotor following the hearing session.

29. The above would suggest a delivery rate of 300 as indicated in the trajectory is overly optimistic. I take account of the site promoters intention to take a facilitation role and provide enabling infrastructure, increasing the potential number of outlets and therefore delivery. However, based on the current evidence, a peak delivery rate of 260 dwellings would be more realistic. The housing trajectory should be amended accordingly.

Site Allocations

BL1 Broad Location for Housing Growth (BLHG)

30. The BLHG is identified as having the potential to provide up to 620 homes in years 10-16 of the plan period alongside the renewal and redevelopment of the town centre for a mix of commercial, leisure and retail uses. The Council intend to prepare a Fareham Town Centre Masterplan Supplementary Planning Document (SPD) which will set out how the broad location can come forward.

31. The submitted Position Statement (FBC042) addresses the matters of availability, suitability and economic viability as required by paragraph 68 of the Framework. Fareham Town Centre includes a range of existing land uses including retail, car parking, Council Offices, Police Station, Health Centre, library and open space. The Council has freehold ownership of around 77% of the site area, with much of the land and buildings let to other parties. Other land is in public ownership such as the library and Police Station and these uses could potentially be reprovided in a different form or location. The Council advises the initial discussions with public bodies and leaseholders have been met with support and willingness to engage further.

32. In terms of capacity, the Position Statement suggests that up to 1650 dwellings could be provided in the BLHG. This is a high-level capacity figure and is without the benefit of detailed masterplanning and consideration of a wide range of influencing factors. Nevertheless, it does demonstrate the potential for the delivery of 620 dwellings.

33. I recognise that the town centre forms a highly sustainable location and would provide a suitable location for housing development. The level of Council land ownership in the BLHG, the initial discussions with other landowners and lessees, together with the positive soft market testing indicated in the Position Statement, leads me to the conclusion that there is a realistic prospect of 620 dwellings being achieved in the town centre in the latter years of the plan. If for some reason this does not occur, the delivery of housing in the town centre could be reconsidered in the local plan review.

34. Turning to the wording of the Policy BL1, it includes a number of introductory paragraphs. The first two paragraphs, whilst these are helpful to explain the Council's intentions for the area and provide background, are not policy requirements against which development proposals would be assessed. In

the interests of effectiveness and consistency with other policies in the Plan, they should be removed from the Policy itself, but retained in the document as an introduction to the Policy. Other minor wording changes may be required for readability.

Housing Allocation FTC3 Fareham Station East

35. FTC3 Fareham Station East, forms a mixed-use allocation with an indicative yield for 120 dwellings. The site is in multiple ownership and existing land uses include a private car park, commercial/industrial premises, mobile catering outlet and Fareham Fire Station. I note that the site was allocated for development in the adopted Local Plan Part 2, Development Sites and Policies 2015, but has as yet failed to come forward.

36. I was informed at the hearing that discussions are ongoing to secure the relocation of the Fire Station, though there is no certainty that a new site can be found. There is a possibility the Fire Station would remain on the site but in a remodelled or refurbished form. The Council indicated at the hearing that they had been in contact with all the landowners concerned during plan preparation. However, no evidence has been provided that they are all supportive of the scheme. It is therefore unclear how the site could be delivered given existing uses and ownership constraints.

37. Given the above, I do not consider that there is a realistic prospect of the site becoming available to allow 120 dwellings in years 10-16 of the plan period. Accordingly, the site should be deleted from the Plan and the dwellings removed from the Council's anticipated supply.

Housing Allocation FTC4 Fareham Station West

38. FTC4 Fareham Station West is allocated for 94 dwellings. It forms operational railway land and is occupied by several existing businesses. Like FTC3 above, it was allocated for residential development in the adopted Local Plan Part 2, but no progress has been made to secure its redevelopment.

39. I was informed at the hearing that Network Rail, the landowner, is currently considering the options for this site. This does not however give a clear indication of whether the site is available. Equally there is no evidence regarding the relocation of existing businesses on the site.

40. There are therefore significant uncertainties about the site's delivery. Whilst the Council anticipate the site coming forward in the latter part of the plan period, I am unable to find that the site meets the definition of 'developable' in Annex 2 of the Framework. On this basis, 94 dwellings should be removed from the Council's anticipated supply.

HA42 Land South of Cams Alders

41. This irregular shaped site located to the south of Cams Alders Sports Ground includes part of a Site of Importance for Nature Conservation (SINC). The development of the site for around 60 Sheltered Housing units has the potential to negatively impact on this area. I note that the Policy criteria requires a buffer between the development and the SINC and also the retention of trees on the site perimeter. However, having viewed the site, I do not consider this goes far enough to ensure that the proposal complies with Policy NE1, which aims to protect and enhance sites of nature conservation value. In the interest of effectiveness, I ask the Council to draft a further site-specific requirement, referring to Policy NE1 and the need for the proposal to demonstrate that there would be no significant effects on the SINC and that if there are such effects, that appropriate mitigation can be secured.

HA51 Redoubt Court, Fort Fareham Road

42. This site, proposed for affordable housing, comprises existing dwellings and part of an area of public open space running east west along Longfield Avenue. This section of open space is important to the character and appearance of the area. It also lies within the setting of Fort Fareham Scheduled Monument, and its associated SINC. The loss of part of this open space area would have a negative impact on visual amenity.

43. I note that there is residential development further west on Longfield Avenue that is sited close to the road, however there are also open undeveloped areas immediately next to the road with housing set further back.

44. Whilst I acknowledge the need for affordable housing in the borough, this should not be at the expense of the quality of the local environment. Taking a balanced view, I ask the Council to add a requirement to Policy HA51 that the development should provide a landscaped buffer to the southern boundary with Longfield Avenue as well as to the south eastern boundary as specified in requirement c). I recognise that this may impact on the capacity of the site and the Council may wish to review this.

Housing Allocation Policy HA55 Land south of Longfield Avenue.

45. This site is allocated for a mixed-use scheme including an indicative capacity of 1250 dwellings. It is located within the Strategic Gap between Fareham and Stubbington.

46. On the basis of my site visit, and all have I read and heard, together with consideration of the purpose of the Strategic Gap and the requirements of Policy DS2 (Development in Strategic Gaps), I am satisfied that the principle of the allocation is soundly based.

47. The submitted Policies Map retains the whole site within the Strategic Gap. Whilst there is agreement that the development can meet the requirements of Policy DS2, there is disagreement between the Council and the site promoter exactly where the Strategic Gap boundary should be drawn.
48. Policy HA55 requires the preparation of a Council led Masterplan and Design Code to agree the quantity, layout and nature of housing and other land uses for the site. The Statement of Common Ground between the Council and the site promoter (FBC063) includes a Masterplan along with a Masterplanning Principles document. It is intended that the Masterplan replace the Indicative Framework Plan in the submitted Plan and the Masterplanning Principles document be included as an Appendix.
49. Whilst the Masterplan is indicative, it provides greater certainty and clarity of which parts of the site are to be developed and which would be retained for open space, green infrastructure and environmental mitigation. Retaining the Strategic Gap designation over those parts of the site which are to remain undeveloped is justified. However, its retention over areas indicated for development, is in my view contradictory and unnecessary. The fact that the site is allocated for development, demonstrates it is acceptable in the Strategic Gap, complying with Policy DS2. For the whole site to remain subject to this policy designation serves no purpose and is ineffective. Furthermore, it also results in an inconsistency between the Policies Map and the Masterplan and with other land removed from the Strategic Gap and allocated for development eg HA10 and HA54.
50. The Strategic Gap boundary shown on the Policies Map and the illustrative site plan included in Policy HA55, should therefore be amended in line with the Masterplan.

HA50 Land North of Henry Cort Drive

51. This allocation together with land to the south is designated as being within a Strategic Gap. Following discussion at the hearing sessions, the Council have advised that the Gap boundary in this location could be moved north to Henry Cort Drive, thereby excluding the land to be used for the replacement community facilities. However, this would still retain the allocation site within the Gap.
52. In line with my comments regarding HA55 above, the act of allocating this site for housing, indicates it is acceptable in terms of its impact on the Strategic Gap. Its designation no longer serves a purpose and is unjustified. The designation should therefore be removed from the allocation site. The Policies Map and the indicative plan that accompanies the policy itself should also be revised accordingly.

Policies

Policy NE2 Biodiversity Net Gain (BNG)

53. This Policy seeks to halt the loss of biodiversity and provide net gains in line with the recently assented Environment Act 2021. The requirement of the policy for development of one or more dwellings to provide 10% net gain is consistent with the Act.
54. The Act includes a transition period of 2 years allowing time for further guidance to be prepared and the development industry to adjust to this new requirement. The Policy in effect 'jumps the gun'. In the absence of evidence to support this approach, it is unjustified. The Policy requirement for BNG to be provided for the lifetime of a development is also unjustified as it goes further than the Act and is inconsistent with the supporting text which refers to a minimum period of 30 years.
55. I heard arguments at the hearing session that there is no longer a need for this policy in the Plan as this matter is now covered by other legislation. This is an accepted principle with which I agree.
56. The Council explained at the hearing sessions that the Policy and supporting text seek to set out the Council's expectations for the determination of planning applications and refer to the preparation of a Supplementary Planning Document. I accept that in line with paragraph 174 d) of the Framework, there is justification for a policy in the Plan to seek BNG in new developments. In order to be effective, the wording of the Policy should be modified on this basis.

The Way Forward

57. I appreciate that this letter covers a number of issues which the Council will need time to digest and that some of the findings may be a disappointment. I would be grateful if the Council could respond to this letter when in a position to do so.
58. I acknowledge that the deletion of Sites FTC3 and FTC4 as well as amendments to the trajectory for Welborne may have implications for housing delivery over the plan period, the stepped trajectory and the 5-year housing land supply. I ask the Council to prepare a revised and updated Housing Trajectory and Housing Supply Topic Paper, so that the implications of these amendments can be understood.
59. When the above has been prepared, I ask the Council to arrange a focused consultation on the Affordable Housing Background Paper (FBC087), the revised Housing Supply Topic Paper (FBC088) and the Windfall Analysis Update (FBC078). Once representations have been received, I will consider the way forward, and advise the Council accordingly.

60.I am aware that the Council has started work on a Schedule of Main Modifications to the plan. This can continue to be prepared.

61.On receipt of this letter, please could the Council upload it into the Examination Library. I am not seeking any comments on the content of this letter from other parties. If the Council has any queries about the content of this letter, please contact me through the Programme Officer.

Yours sincerely,

Helen Hockenhull

Inspector