APPEAL BY PERSIMMON HOMES

LAND SOUTH OF MALLARDS ROAD,
BURSLEDON, HAMPSHIRE

PINS REF: APP/W/16/3156702
LPA REF: O/15/76491

APPELLANT'S CLOSING SUBMISSIONS

Introduction

1. The starting point for the determination of this appeal, as with all others, is the development plan. The development plan in Eastleigh comprises saved policies of the Eastleigh Borough Local Plan Review (2001 to 2011)("the Local Plan") that was adopted in May 2006 (as well as the Hampshire Minerals and Waste Plan 2013).

2. There is no dispute that the appeal scheme falls within an area covered by saved policies 1.CO and 3.CO and is in breach of those policies. It is self-evident that the appeal scheme does not fall within any of the categories of development permitted by policy 1.CO. It is similarly self-evident that the

appeal scheme will diminish the local gap in a physical sense (2.81ha of land will be the subject of residential development).

refers to policies from draft local plan - agree extremely ~~tilted~~ weight

3. The fact that the appeal scheme is in conflict with 2 of the saved policies of the Local Plan is far from determinative of this appeal.

4. There are important material considerations which clearly justify the grant of planning permission.

5. Foremost amongst those material considerations is the content of national policy advice.

The Proper Balancing Exercise

6. Paragraph 14 of the Framework contains the presumption in favour of sustainable development. As a matter of generality, it is engaged in all housing cases in accordance with the first sentence of §49 of the Framework ("Housing applications should be considered in the context of the presumption in favour of sustainable development").

7. The presumption in favour of sustainable development means that proposals which accord with the development plan are to be approved without delay, and where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless harm significantly and demonstrably outweighs benefits ("the tilted balance"), or specific policies in the Framework restrict development.

8. It is the position of both main parties to this appeal that;

(i) the tilted balance is engaged in this case, and,

(ii) there are no specific policies of the Framework indicating that development should be restricted.

9. Whilst the precise route for reaching that point is different, the factual context relied upon by the parties for ending up at the tilted balance is not in dispute.

10. The Local Plan contains no housing requirement at all. Policy 70H contained that requirement (5,608 dwellings between 2001 and 2011 as a baseline, 395 as a reserve). The requirement was derived from the Hampshire County Structure Plan 1996-2011 (Review). The Structure Plan ceased to exist in 2009, and so did policy 70H.

11. Policies that were saved, to provide for housing, were directed at that defunct housing requirement (defunct because neither Structure Plan nor policy 70H existed beyond 2009, and defunct because the old development requirement bears no resemblance to up to date housing needs).

12. They include policy 81H. That policy identifies sites as reserve housing sites, "in accordance with policy H4 of the Hampshire County Structure Plan 1996-2011 (Review)". Policy 81H is very clearly directed at meeting the housing land requirement contained in the old Structure Plan (and the expired policy 70H of the Local Plan). There can be no doubt that it is out of date (accepted by CW(XX)).

13. There is no dispute that it is a relevant policy in the context of this appeal (it is recorded as such in the SoCG, §5.6, and was accepted by CW(XX) to be relevant). The reason for its relevance is clear. A central issue in this appeal is the adequacy of housing land supply in the Borough. The sole concern of policy 81H is the adequacy of housing land supply in the Borough. On that basis it is relevant. It is also out of date, and accordingly the tilted balance is engaged.

14. We note, in any event, that a finding to the effect that the tilted balance was not engaged in this case would be a bizarre outcome given the acceptance by

all parties that the Local Plan contains no requirement at all (let alone an up to date requirement) for the provision of land for housing. The core planning principles (in the Framework) include requirements to;

- keep development plans up to date (core principle 1), and,
- make every effort to identify and meet housing needs (core principle 3).

Self-evidently, a Local Plan that contains no requirement at all for the provision of housing[1] should not be found up to date.

15. Not only do the parties agree that the tilted balance is engaged, they also agree that it is determinative of this appeal. Although CW (correctly) makes the point that the tilted balance does not displace the statutory presumption in favour of the development plan (§5.7 of his proof), he also accepted (in XX) that;

(i) the Framework (including §14 is an important material consideration), and,

(ii) if that tilted balance fell in favour of the appeal scheme, a planning consent should follow.

16. Whilst there is a plethora of other appeal decisions before this inquiry, none proceeds on the basis that notwithstanding the tilted balance falling in favour of a scheme, an appeal should be dismissed in any event.

1 because the requirement on which it was based had clearly become out of date (based, as it was on the Structure Plan) and not saved. Suffice to say, it would be an extremely surprising outcome if it was found that the tilted balance was not engaged in the absence of policy 70H having been saved, and yet had that policy been saved, the tilted balance would have been engaged.

17. It is the Appellant's case that the harm occasioned by the appeal scheme falls well short of significantly and demonstrably outweighing benefits. We address the scheme benefits next.

Benefits of the Scheme

(a) The provision of Market Housing

17. It is common ground that Eastleigh has suffered from a persistent under-supply of housing (hence the application of a 20% buffer).

18. Applying the agreed annual requirement of 630dpa to performance from 2011 (the end of the Local Plan's period and start of the emerging Local Plan's period) to 2016 shows that there has been under-delivery in every single year (ranging from a 172 unit deficit to a 485 unit deficit). The overall shortfall in housing delivery from 1 April 2011 to 31 December 2016 was 1,614 dwellings (against a base requirement of 630dpa[2]).

19. The proper way to address that shortfall is through the allocation of sites in an adopted local plan. Already 6 years into the current development plan period, there is still no local plan[3]. There is not even a draft local plan. The projected timetable in the last-published local development scheme (September 2016, EBC2.12) has gone out of the window in the course of the last 9 months (and there is no new local development scheme), with the prospect of an up to date adopted local plan still 2 years away.

20. The requirement of §47 of the Framework to boost significantly the supply of housing by ensuring that local plans meet full objectively assessed needs for housing, is simply not being met in Eastleigh[4].

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2 Of course, the requirement increases year on year as a result of adding the ever-accumulating shortfall.

3 and notwithstanding the requirements of the 2009 saving direction letter which told the Council to get on with the prompt replacement of saved policies.

4 We are already 6 years into the current local plan period, and will be 8 years into that period by the time Eastleigh achieve an adopted local plan.

21. Until approximately 1 month ago the Council itself accepted that it was unable to demonstrate 5 years worth of housing land supply. Its April Position Statement (EBC2.23) suggested 4.73 years supply. Within a month it had revised its position in a May Position Statement (EBC2.24) and now contends for 5.22 years worth of supply (revised to 5.21 years in the Housing Supply Statement of Common Ground).

22. Neither assessment is correct. The Appellant takes issue with the deliverability of units (either the number or the principle) in respect of 7 sites, each of which is assumed by the Council to make a significant contribution to the supply of dwellings over the next 5 years.

23. Before addressing each of those sites we note some of the general principles to be applied in establishing the level of deliverable housing land. Those principles require assessments to be robust and based on up to date and sound evidence (PPG §33 Ref ID: 3-033-20150327). Whilst planning permission or development plan allocation is not a pre-requisite, the onus is upon LPA's to provide robust, up to date evidence to support deliverability. Their judgments should be clear and transparent (PPG §31 Ref ID: 3-031-20140306).

24. With those general principles in mind, we summarise the position in respect of the 7 disputed sites as follows.

(i) Site 7

25. The dispute on site 7 turns on delivery rates. The Council assumes the delivery of 180 units per year on this site. It relies on an e-mail from a planning agent (WYG) for the 3 developers involved in the site (NI's APPJ). There is no reason to take that e-mail at face value. The level of delivery it assumes is clearly optimistic by reference to;

- local delivery rates on comparable sites (as opposed to incomparable sites with significant numbers of flats)[5],
- the annual results of national housebuilders,
- the report of NLP directed specifically at the delivery performance of housing sites (SP's App 26),
- the fact that there will be 3 housebuilders competing for business from the same site.

26. Given the need for robustness, it is imperative that a "sense-check" is performed of delivery rates advanced by developers' agents. Application of that sense-check shows that SP's assessed delivery rate of 120dpa is to be preferred.

(ii) Site 20

27. Development of this site represents a step into the unknown. So far there is one developer involved (Highwood). It has no experience in bringing forward a site of this scale (overall, the site will accommodate 1,100 dwellings). The Council (and presumably Highwood) have no experience of a scheme in which the Council purchase dwellings for market rent. In any event, simply knowing the identity of the purchaser does not increase the ability of a single developer to deliver the housing. The addition of other (thus far, unknown) developers is not guaranteed to speed up delivery; it could further complicate matters.

28. In addition, the construction programme is extremely tight. Necessary infrastructure works are programmed to end just before the occupation of dwellings whose occupation rests on the completion of those infrastructure

5 See SP's supplementary proof at §2.23-2.24 and Appendix 4). It is telling that when Mr Ireland considers national housebuilders' delivery rates (at §6.38 of his proof) he strips out Crest Nicholson because they, "construct a higher proportion of flats than the other housebuilders". Yet when giving examples of local delivery rates, he includes schemes with significant flatted elements (e.g. Alver Village and the Bakers Quarter in Table 28 of his proof of evidence).

works. There is no room for slippage in the delivery of any of the infrastructure works.

29. Accordingly, SP's robust assessment has the completion of dwellings starting in Autumn 2018 (as opposed to April 2018), and a delivery rate of 100dpa (as opposed to 120 and then 150 as assumed by the Council)[6].

(iii) Site 30

30. As in the case of Site 7, the Council proceeds on the basis of a delivery rate given to them by a planning agent (Terence O'Rourke) suggesting that the scheme will deliver 150 units per year.

31. That level of delivery is not borne out by independent evidence to be found in comparable local delivery rates, national housebuilders' average delivery rates, and NLP's study.

32. In light of the need for robustness, SP's 120dpa is to be preferred.

(iv) Site 42

33. This site is in the hands of a single developer who predicts the completion of 70 dpa. For the reasons we have already canvassed, that delivery rate is thought to be highly optimistic. In line with the objective evidence, SP has applied a delivery rate of 40 dpa.

34. In addition, there remains an issue as to when completions are likely to commence. First completions in Autumn 2018 is optimistic (there is still no section 106 notwithstanding the fact that the developer had anticipated its completion in April this year), and accordingly, SP has reduced completions in 2018/19 to 3 (from 40).

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6 With currently only one developer associated with the site, even 100dpa is a challenging rate of delivery.

(v) Sites 49 and 51

35. These 2 sites are in the same boat. No allocation, no planning permission, no developer and absolutely no certainty of delivering housing within the next 5 years.

36. The County Council's letter of 18 May 2017 (within NI's App UU) confirms that viability of both schemes is yet to be established (at numbered paragraph 5). Both schemes will have to overcome significant infrastructure and planning constraints (summarised SPs supplementary proof, App 1). Both are likely to be the subject of objection when any planning application is eventually made (both were the subject of significant objection when proposed to be allocated in the last (unsound) draft Local Plan).

37. These sites have been excised from the Council's housing land supply before by an Inspector (Botley Road §15, SP App 17). The evidence to this Inquiry confirms the continuing need to discount those sites.

(vi) Site 50

38. Matters have moved on with regard to this site insofar as planning application has been made. However, there is no clear evidence on which to conclude that a permission will be forthcoming. Given that residual doubt, and the need for a robust assessment, SP maintains his contention that Site 50 should be removed from the calculation of supply.

Conclusions on 5 Year Supply

39. The results of SP's analysis leads to a reduction in the 5 year supply of almost 950 units (as summarised in his supplementary proof, App 1), a total number of deliverable dwellings amounting to 4,985 (as opposed to 5,932), and a level of supply amounting to 4.38 years, well short of the requirements of §47 of the Framework.

40. The appeal scheme will deliver 80 units (52 market, 28 affordable). There is no constraint to their delivery, and it is anticipated that they will be delivered within the next 5 years. Those dwellings will make a valuable contribution to the housing land supply in the Borough. That contribution represents a significant benefit.

(b) The Provision of Affordable Housing

41. The Council's record of affordable housing delivery is damning (as per the conclusion of the Inspector in the Boorley Green appeal, §12.22, SP App19). In a recent appeal decision, which described affordable housing delivery as poor, the Inspector recorded that against a net need of 373 affordable homes per year from 2011, 268 had been provided to 2014/15 (an average of 67 per year). SP's evidence (table 6.1, p25 of his Proof) shows that in the period from 2011 to 2016, 378 (net) new affordable homes had been completed (an average of about 76 per year).

42. Unsurprisingly, the need for affordable housing in Eastleigh has only increased in the meantime. Recent assessment by PUSH (JF App 7) shows net need at 453 affordable dwellings per year (assuming 30% affordability threshold endorsed by the last Local Plan Inspector, EBC 3.5 at §32).

43. Accordingly, with affordability problems in Eastleigh becoming even more acute, the provision of 28 affordable units on the appeal site comprises a significant benefit.

(c) Economic Benefits

44. Construction of 80 homes on the appeal site will generate jobs (60 direct jobs for each year of construction, together with additional "indirect and induced" jobs, estimated at 91).

45. New residents will contribute to the local economy through expenditure.

46. The delivery of dwellings will generate New Homes Bonus (circa £500,000).

(d) Other Benefits

47. Publicly accessible open space on site (where there is currently none) will be available to the wider community. Benefits that accrue from off-site highways improvements (to which the appeal scheme makes a contribution) will be available to all road users, not just residents of the scheme.

Harm

48. There are 2 allegations of harm advanced by the Council in its remaining reasons for refusal. First, the Council alleges that harm will be caused to the separate identities of Bursledon and Hamble (rfr1). Secondly, the Council alleges harm will be caused to "the intrinsic character of the landscape and area" (rfr2).

49. We address each of those allegations of harm in turn.

Harm to the Separate Identities of Bursledon and Hamble

50. Whilst not accepted (for the reasons set out below), the allegation of harm at least reflects the central aim of policy 3.CO of the Local Plan. The local gap policy in Eastleigh (and for that matter, the strategic gap policy) is squarely directed at the protection of separate identities of settlements that are at risk of coalescence.

51. CW accepts that the policy's aim is, "to protect the individual identity of smaller settlements at risk of coalescence" (§7.3 of his proof, and confirmed in XX). He is right to do so. That aim appears from the outset of gap policy development in Eastleigh; from the report on the early Structure Plan in the 1990's (CD2.2, §3.109), to the Structure Plan (CD2.3, §46), to the explanatory text to 3.CO of the Local Plan itself (CD3.9, §1.6), and more recently in sub-regional reviews of gaps by PUSH (CD2.4, §2.3).

52. Self-evidently, the appeal scheme causes no coalescence of Bursledon and Hamble or, for that matter, Netley (which goes unmentioned in the Council's reason for refusal). The measurements in BD's HDA6, and PA's Fig 4 both show significant existing gaps between those settlements. They also show that;

(i) significant gaps will remain between those settlements after development of the appeal scheme, and,

(ii) in any event, the resulting gap between settlements when measured from the appeal site to Hamble or Netley will be greater than that between existing or other proposed built development in Bursledon and either Hamble or Netley (e.g. the distance between Old Bursledon and Hamble is well under a kilometre, a significantly shorter distance than that between the appeal scheme and Hamble which is over a kilometre. Likewise, the distance between the Berry Farm development and Netley is about 750m, shorter than that between the appeal scheme and Netley).

53. Accordingly, in simple, 'map' terms, there is no coalescence.

54. Whether or not there is any risk of perceived coalescence or loss of settlement identity falls to be considered by reference to 2 factors.

55. First, there may be perceived coalescence or a loss of separate identity if some significant intervisibility between settlements is generated by a development. If, from a particular point in the landscape, I am able to see both settlements, it may be that their separate identity becomes blurred.

56. There is no intervisibility between Bursledon and Hamble at the moment. There will be none post-appeal scheme. Similarly, there is no intervisibility between Bursledon and Netley at the moment, and the appeal scheme will not cause that position to change.

57. Even if one considers Hamble or Netley to comprise the development that actually sits within the gap at Hound roundabout (i.e. the school and ribbon of housing), development of the appeal scheme gives rise to no intervisibility where currently there is none.

58. Secondly, there may be a perceived loss of separate identity experienced by those moving through the area. PA's drivetime analysis provides no support for such a finding in this case. For example, he measures a 2 minutes drive from Hamble to the south west corner of the appeal site. The appeal site's frontage to Hamble Lane is 60m. In terms of any difference in travel time between the 2 settlements (or for that matter, Netley and Bursledon), introduction of the appeal scheme makes no perceptible difference.

59. The sense of leaving Bursledon (heading south) before arriving at Hamble or Netley will be neither lost nor diminished as a result of the appeal proposals. Similarly the sense of arrival in Bursledon (having left Hamble or Netley 2 minutes or more beforehand) will be neither lost nor diminished. PA accepted that there would be no doubt in the mind of the traveller that he or she had left one settlement before arriving at another.

60. Application of any sensible means of assessment (e.g. by map, by reference to intervisibility, by reference to the perception of those moving through the area) generates the same result. The appeal scheme gives rise to neither coalescence nor the loss of separate settlement identity.

61. We invite the Inspector to accept BD's conclusion to that effect. They accord with the findings of the Local Plan Inspector who considered the Local Plan (before its adoption in 2006). Her report endorsed the suitability of the site for development in both gap and character/appearance terms (JF App 1).

62. Four other points fall to be made.

63. First, it is trite to say that each case must be considered on its own merits. However, the Council devotes considerable attention to a site near Netley (Grange Road). None of the evidence before an appeal in respect of that site is before this inquiry (we have enough of our own). By reference to the materials to hand (the decision letter and map), it is clearly a very different site to the appeal site; larger, more prominent, with significantly more development adjacent to it falling outside of the settlement boundary (plus, a footpath running through it). Findings of harm associated with the development of that site do not provide any material assistance in judging the level of harm associated with the appeal site's development.

64. Secondly, the Council alleges (variously) that the appeal scheme will create a weak urban edge, in effect, joining up with Hamble Lane Farm, and generate pressure for further development to the south of the appeal site. 3 points are made in response;

(i) there is no reason why development of the appeal site should result in a weak urban edge. The new settlement edge (the southern boundary of the appeal site) will follow an existing feature and can be considerably strengthened as necessary (consistent with the recommendation in the draft review of gaps circulated by the Council in the course of the inquiry, p69),

(ii) even if there is a perception of 'joining up' with Hamble Lane Farm, there will still be no coalescence, no intervisibility between settlements, and no loss of the existing sense of arrival at or departure from Bursledon,

(iii) the Council's reasons for refusal contains no allegation of precedent. Gladman may well have approached the owner of Hamble Lane Farm (along with the owners of lots of other farms), but that does not mean that there will be development. The Council will retain control through the development management process over any proposal, and will (should)

assess on a proper basis the merits of any scheme (including its impact on the gap). If unacceptable, there will be a refusal. There has been no cogent explanation of how our scheme might undermine that process.

65. Thirdly, it appears to be suggested in the Council's case that the appeal site is particularly valuable in gap terms because there are views into it (as compared with land further south or to the west where hedgerows obstruct the view). Those views are fleeting ("glimpsed" according to the Council's witnesses) and consist of an urban fringe landscape (the housing on Mallard's Road cannot be missed, nor can the fencing, stabling structures, barn, and parking area on the appeal site). Again, the inquiry has seen no cogent evidence showing that development of dwellings on the appeal site will undermine the separate identity of Bursledon (the Council's witnesses fail to grapple with the issue).

66. Fourth, the Council obtains no support for its case from the "Settlement Gap Policy Review" provided to the Inspector and Appellant on the first day of the inquiry;

(i) it is an unpublished, unconsulted upon, unfinished draft and should attract negligible weight,
(ii) it contains no assessment of the appeal site's contribution to the gap,
(iii) in any event, it does not preclude development on the appeal site (in fact, it appears to raise the prospect of further development to the South of Bursledon, see p69), and,
(iv) by its own terms, it accepts that gap boundaries are likely to change further (§1.11).

67. The fact that the Council's cabinet has endorsed the gap review for use to defend its position at inquiries does not improve the weight attaching to that (draft) Review document. If anything, the Cabinet's resolution further undermines the process. It endorsed a revised gap plan (Fig 2 attached to the

Cabinet Report) which does not follow the recommendations of the Review (the deletion of the Northern part of the Airfield near Hamble appears in the Review, but disappears in the plan endorsed by Cabinet). There is no explanation for that change.

Harm to Landscape Character

68. Although the Council's second reason for refusal refers only to landscape character as opposed to visual amenity, BD's evidence addresses both issues. His analysis shows the site to be visually contained (there are very limited views from anywhere that could be described as the wider area). More local views (in effect, from Hamble Lane adjacent to the site, and Mallard's Road) are inevitably influenced by the existing (and relatively unmitigated) urban edge provided by the houses on Mallard's Road. Added to the clear signs of intensive horsiculture on the site means that views of the appeal site are clearly of land at the urban fringe. That fact does not change simply because it is possible to see some of the trees in Pilands Wood to the east.

69. The limited impact of the appeal scheme on visual amenity is borne out by BD's photomontages (agreed to be accurate, albeit unrendered). They show how development of the appeal site (including a well-considered landscaping scheme) can be assimilated without harm to visual amenity.

70. The same factors (existence and appearance of the settlement edge, and the intensive horsiculture on site) which lead to the site's urban fringe appearance, are equally relevant to the scheme's impact on landscape character.

71. The repeated observation that we propose built development where currently there is none (ignoring the fact that there are structures and barns on site), provides no answer to the question of whether or not landscape character suffers significant harm. The site, its surrounding and all of its characteristics must be considered. This is not a high quality landscape

(whether designated or not) that is unable to accommodate residential development in landscape character terms. It is a well contained, urban fringe site that enjoys a close relationship with existing residential development to its north. There is no reason in landscape character terms why development of the appeal site with 80 homes, planned open space, and a comprehensive landscaping scheme cannot successfully assimilate with existing built development of Bursledon.

The Balancing Exercise

72. The appeal scheme delivers significant benefits through the delivery of market housing, and affordable housing. Other benefits comprise new jobs, local spending, New Homes Bonus, and wider community benefits through on-site open space provision and off-site highways improvements.

73. There is no significant diminution of weight attaching to benefits if it is concluded that the Council's land supply has scraped over the 5 year mark. CW's own evidence is that, in those circumstances, the provision of new housing still carries significant weight (Proof §8.3).

74. Even if the Council's housing land supply is accepted (at 5.21 years or 5.03 years based on NI's alternative calculations);

(i) there is still a pressing need for affordable housing to which the appeal scheme contributes,

(ii) the appeal scheme will still deliver market housing in an area that has seen a persistent under-supply, faces increasing affordability issues, benefits from no up to date Local Plan (and will not for another 2 years), and, even on the Council's case has just managed to get over the 5 year mark in the last few weeks after years of falling short, and,

(iii) the need for housing in Eastleigh is growing. The housing land supply assessment has been undertaken in this case on the basis of a requirement of 630dpa. The Council is preparing its emerging local plan on the basis of a requirement of 650dpa. Even at that level, there will be under-provision against objectively assessed need across the housing market area (CD3.13, §39).

75. That growing requirement undermines the Council's attempt to paint a rosy picture of its direction of travel. That direction of travel is going to mean a greater need for housing provision. The only way to make proper provision of the growing level of need is through an up to date Local Plan (as required by national policy). Whilst the Council may have implemented a developer guarantee scheme (which may or may not have led to the delivery of any actual houses) and established its own development company (which, thus far, as led to the delivery of no actual houses), an up to date Local Plan remains a distant prospect in Eastleigh. Whatever the direction of travel, its pace is painfully slow.

76. Harm caused by the appeal scheme is limited.

77. There is no breach of policies 18.CO and 59.BE at all.

78. Third party concerns in respect of the scheme's impact on the highway network, air quality, and ecological interests are not supported by any technical analysis, or any objection from relevant statutory consultees. They have all been addressed comprehensively by the Appellant's consultant team.

79. The gap suffers no tangible harm. Landscape character and visual amenity suffer no tangible harm.

80. Accordingly, whilst there is conflict with policies 1.CO and 3.CO (as set out above), that conflict carries limited weight in the planning balance because;

(i) there is no tangible harm caused to the objectives of those policies,
(ii) there is a pressing need for both market and affordable housing,
(iii) there is a national policy imperative to boost significantly the supply of land for new housing,
(iv) the Council will not have an adopted up to date Local Plan in place in order to address that imperative for another 2 years.

81. In addition, the Council has accepted (and continues to accept) that land in the existing gaps (as designated in the 2006 Local Plan) requires release in order to meet the need for housing. The Council and Planning Inspectors have granted planning permissions in both strategic and local gaps in light of that need. In its work on the emerging plan, the Council continues to recognise the need for the release of land from existing gaps to meet up to date housing needs.

82. That is not surprising;

(i) the existing gap boundaries were drawn against the backdrop of very different development requirements derived from the now defunct Structure Plan,

(ii) those gap boundaries (and countryside boundaries) follow settlement boundaries, that were tightly drawn around settlements (catering as they did, for those out of date development needs)[7]. Gaps cover 50% of the countryside in the Borough adding another layer of restriction (beyond 1.CO) to development in those areas,

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7 For recent reference by the Council to the tightly drawn boundaries, see CD3.9, 2nd page of its App3.

(iii) as noted above, the requirement for housing in Eastleigh is growing.

83. All of those factors mean that the weight given to conflict with policies 1.CO and 3.CO is limited.

84. Harm, including conflict with policies 1.CO and 3.CO does not outweigh, let alone significantly and demonstrably outweigh the benefits to be delivered by the scheme (whether housing land supply is 4.38 years or 5.21 years or anywhere in between). Accordingly, application of the presumption in favour of sustainable development means that planning permission should be granted.

85. We note for completeness, our position, if contrary to the evidence of both Council and the Appellant, it is concluded that the tilted balance is not engaged in this case. All of the factors relied upon by the Appellant in that tilted balance are of relevance (they are material considerations) in deciding whether conflict with the policies 1.CO and 3.CO are overcome (so as to justify the grant of planning permission). Benefits delivered by the scheme summarised at §72 above, together with all of the matters summarised at §'s 80-82 above are important material considerations that outweigh that conflict, and in those circumstances, the grant of consent is justified.

Ian Ponter

23 June 2017