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## HOUSING LAND SUPPLY ANALYSIS

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LAND TO THE SOUTH OF ROMSEY AVENUE,  
FAREHAM

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Prepared on behalf of:

**Foreman Homes Ltd**

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**PINS Ref: APP/A1720/W/21/3271412**

**LPA REF: P/18/1073/FP**

**WBP REF: 7671**

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**Woolf Bond Planning**  
Chartered Town Planning Consultants

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## 1. INTRODUCTION

### Scope of Assessment

- 1.1. This Paper has been prepared on behalf of Foreman Homes Ltd (the “Appellant”) in relation to their appeal against Fareham Borough Council’s refusal on the outline planning application for residential development of 225 dwellings, bird conservation area and area of public open space with all matters reserved except for access on land to the south of Romsey Avenue, Fareham.
- 1.2. The Paper sets out our consideration of the five year housing land supply position in Fareham Borough Council for the period 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2025.
- 1.3. At the outset, it is common ground that the Council is unable to demonstrate a five year supply of deliverable housing land (**CDD.1** and **CDD.2** refer). Even on the Council’s most optimistic analysis, there is a shortfall of 924 dwellings and a supply of only 3.57 years, which shortfall is agreed as being significant.
- 1.4. Given the lack of a five year supply of deliverable housing land, the presumption in favour of sustainable development at paragraph 11(d) of the NPPF is engaged. This lack of supply also engages the assessment criteria at Policy DSP40 of the Local Plan Part 2 which allows for development beyond the settlement boundaries subject to the scheme(s) satisfying the criteria set out in the Policy.
- 1.5. Our Paper addresses the five year housing land supply position as well as the weight to be attached to the significantly greater shortfall compared to that contended by the Authority that we have identified in the determination of the Appeal Scheme.
- 1.6. In considering the five-year housing land supply position, the overarching Statement of Case sets out the relevant planning policy context. This includes in relation to the Development Plan, which policies most important for determining the Appeal are out of date on account of the Council not being able to demonstrate a five year supply of deliverable housing land.

- 1.7. However, and is so far as it is applicable to the assessment of ‘delivery’ our Paper does set out and address the content of relevant material considerations, including the National Planning Policy Framework (“NPPF” or the “Framework”), National Planning Policy Guidance (“NPPG”), relevant case law and associated appeal decisions.
- 1.8. Informed by that background, we then assess the housing requirement and deliverability of the Council’s identified components of supply and thereafter set out our conclusion in relation to the five-year housing land supply position where we conclude that the Council is unable to demonstrate a five-year supply of deliverable sites.

### **Summary of Findings**

- 1.9. Although the Council acknowledges that it cannot demonstrate a five year supply of deliverable housing land for the period 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2025 with a supply of 3.57 years and a shortfall of 924 dwellings (**CDD.2**), it is our position that the extent of the deficit is significantly greater with a supply of only **0.98 years**. This amounts to a **deficit of 2,448 dwellings**.
- 1.10. Our assessment of the five year housing land supply position differs from the Council’s, primarily due to the application of the definition of what constitutes a deliverable site from the 2019 NPPF, taking account the clarification provided by numerous appeal decisions.
- 1.11. The Council’s case on housing land supply is set out in their Five Year Housing Land Supply Update for the Planning Committee of 17<sup>th</sup> February 2021 (**CDH.12**), including the refinements detailed in their Supplementary Appeal Statement with respect of land at Newgate Lane East, Fareham (**CDD.2**)<sup>1</sup>. It includes a reliance upon sites which were neither allocated nor had a planning permission at the base date for the assessment (31<sup>st</sup> December 2020) or are unsupported as a result of optimistic assumptions on delivery rates which are not supported by the necessary clear evidence (which also had to be available at 31<sup>st</sup> December 2020).

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<sup>1</sup> Including the re-classification of sites between sources as detailed in FBC.8 – Respective positions on Deliverable Housing Supply within the Council’s submissions to the land at Newgate Lane East, Fareham appeal (**CDH.30**).

- 1.12. The Council's updated five year housing land supply position reported to Planning Committee (**CDH.12**) identifies a 3,048 dwelling requirement (including a 20% buffer) and a revised deliverable supply of 2,550 dwellings. This results in a claimed 4.2 years supply, equivalent to a deficit of 498 dwellings.
- 1.13. However, and as set out in **CDJ.4**, **CDH.29** and **CDD2.2**, the Council's position for this appeal is a supply of only 3.57 years and a deficit of 924 dwellings.
- 1.14. Even on the Council's approach, which we say is not supported by the NPPF and or the accompanying NPPG, they are only purporting to show a deficit of 498 dwellings against the minimum requirement.
- 1.15. It is our position for the five year period from 1<sup>st</sup> January 2021 until 31<sup>st</sup> December 2025, based upon the correct application of the guidance on deliverable sites, there is a deliverable supply of 600 dwellings, which represents a shortfall of 2,448 dwellings and a supply of only 0.98 years.
- 1.16. Having assessed the housing land supply based upon the requirements set out in the NPPF, PPG and the approach adopted in numerous appeal decisions, although we concur that the Council is not able to demonstrate a five year supply of deliverable housing land, thus engaging the presumption in favour of sustainable development at paragraph 11(d) of the NPPF, the extent of the shortfall is significantly greater than that acknowledged by the Authority.
- 1.17. Consequently, as acknowledged by the Council, the presumption in favour of sustainable development is engaged as a result of the significant shortfall in supply. This is on account of the Local Plan policies being 'out of date'; which matters are addressed the overarching Planning Statement of Case.

## 2. THE PLANNING POLICY CONTEXT

### Development Plan Context and Section 38(6)

- 2.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise. This represents the s.38(6) ‘balance’.
- 2.2. In the context of considering the Appeal Scheme<sup>2</sup>, The Development Plan for Fareham Borough comprises the following:
- Local Plan Part 1: Core Strategy (“CS”) (August 2011)
  - Local Plan Part 2: Development Sites & Policies (“DSP”) (June 2015)
  - Local Plan Part 3: Welborne Plan (“WP”) (June 2015)
- 2.3. Applicable policy considerations are set out in the overarching Planning Statement of Case and we do not seek to expand upon that here, save to reiterate that the Core Strategy was adopted in 2011 and the overarching spatial strategy was not directed to meeting current development needs (see Hopkins Homes (**CDK.4**)).
- 2.4. In addition, the settlement boundaries identified in Policy CS14 pre-date publication of even the 2012 NPPF and represent a restraint to sustainable growth that is the converse to the requirement to boost sustainably the supply of housing land as well as the presumption in favour of sustainable development.

### National Planning Policy Framework

- 2.5. The National Planning Policy Framework (NPPF) was published in July 2018; and subsequently refined in February 2019. It is a material consideration of particular standing in the determination of planning applications.

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<sup>2</sup> Thus ignoring Neighbourhood Plans for those parts of the Borough not relevant to the determination of the Appeal Scheme

- 2.6. The content of the NPPF as it relates to the consideration of five year housing land supply matters is set out below.

#### Decision Taking

- 2.7. In setting out the presumption in favour of sustainable development, paragraph 11 of the NPPF adds, in relation to decision-making at 11(c), that this means approving development proposals that accord with the development plan. It adds at paragraph 11(d) that where there are no relevant development plan policies or the policies which are most important for determining the application are out of date (including where the LPA cannot demonstrate a five year supply of deliverable housing land (as in the case in Fareham), permission should be granted unless (i) policies in the NPPF provide a clear reason for refusing the development; or (ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits.
- 2.8. Including based upon the conclusions of my overarching updated Planning Statement of Case and my conclusions in relation to the lack of a five year supply of deliverable housing land, we are of the view that the policies for the supply of housing are out of date.

#### Delivering a Sufficient Supply of Homes

- 2.9. Paragraph 59 sets out the Government's objective of significantly boosting the supply of homes.
- 2.10. Paragraph 67 sets out the need to provide a five year supply of deliverable sites for housing. It also requires sites for years 6-10 and beyond. The definition of what constitutes a 'deliverable' site is set out in the glossary in Annex 2 on page 66 of the NPPF and we have used this definition, alongside that set out in the PPG (ID 68-007-20190722), to inform my assessment of the Council's five year housing land supply position.
- 2.11. Paragraph 73 states that LPAs should maintain a minimum of five years' worth of housing, including an appropriate buffer of 5, 10 or 20% depending on the specific circumstances.

- 2.12. Based upon the Housing Delivery Test published in January 2021 (see footnote 39 of the NPPF), the Council is a 20% Authority.

### 3. ASSESSING THE FIVE YEAR HOUSING LAND SUPPLY POSITION IN FAREHAM BOROUGH

#### General

- 3.1. As set out in section 1, the role and purpose of this Paper is to assess the five year housing land supply position and to conclude in relation to the extent of any shortfall.
- 3.2. Our assessment of the five year housing land supply position has been informed by the following tasks:
- (i) **identifying the requirement** to be met in the five year period (including in relation to the method to be applied in addressing any shortfall as well as the appropriate buffer to be applied),
  - (ii) **assessing the deliverability** of the identified components of supply; and
  - (iii) **concluding** on matters by subtracting (ii) from (i) to identify whether there is or is not a five year supply of deliverable housing land.
- 3.3. The Council's Five Year Housing Land Supply position as at 1<sup>st</sup> January 2021 was published by the Council in February 2021 (**CDH.12**) and covers the five year period 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2025.
- 3.4. However, and pursuant to the Inspector's conclusions in the Newgate Lane North and South Appeal (**CDJ.4**), the information in their assessment was refined through the Council's submissions for an appeal on land at Newgate Lane East, Fareham. The Council's refinements are set out in:
- a) Document FBC.8 – the respective positions of the parties for the Newgate Lane East appeal which includes a reclassification of some sites between the various sources of contended Deliverable supply (**CDH.30**); and
  - b) The Council's Supplementary Statement for the Appeal on land at Newgate Lane East (**CDH.29**).
- 3.5. The approach set out in these documents has informed the Council's position as set out in **CDD.2**.

## **NPPF and PPG**

- 3.6. Paragraph 73 of the NPPF requires LPAs to demonstrate a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old. The requirement should also allow for the application of a 5, 10 or 20% buffer associated with the Housing Delivery Test ("HDT").
- 3.7. For the purpose of this Appeal, the HDT results state that Fareham Borough is a 20% buffer Authority.
- 3.8. The PPG expands upon the definition of a deliverable site (ID 68-007-20190722), which references the definition at Annex 2 of the NPPF.

### **(i) Identifying the Housing Requirement**

#### General

- 3.9. Based upon the information available, the five year period to be used for the purpose of calculating the five year housing land supply position is 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2025. The Council's assessment indicates that the Local Housing Need figure is for 508 dwellings annually.
- 3.10. The information reported to the Planning Committee (**CDH.17**) was valid when the report was prepared, however, as updated affordability ratios were released on 25<sup>th</sup> March 2021, the approach is inconsistent with that detailed in the PPG (ID ref 2a-004-20201216).
- 3.11. The appellants approach (consistent with the PPG (ID ref 2a-004-20201216) is illustrated by the calculations below.
- 3.12. The PPG outlines a 4 staged process.
- 3.13. The first stage is consideration of the annual average household growth derived from the 2014 based household projections. For an assessment concerning an appraisal at 1<sup>st</sup> January 2021, this would be the 10 year period 2021-31.

3.14. Table 1 below provides the household growth figures and annual average growth for this time frame.

*Table 1: Household Growth Figures*

	2021	2031	Total	Annual average
<b>Figures</b>	50,729	54,584	3,855	385.5

3.15. The PPG then indicates (Step 2) that the **“The most recent median workplace-based affordability ratios, published by the Office for National Statistics at a local authority level, should be used”** to inform the affordability assessment.

3.16. The most recent median workplace-based affordability ratios were published on 25<sup>th</sup> March 2021” and this indicates that ratio was 10.44.

$$\text{Adjustment factor} = \left( \frac{\text{Local affordability ratio} - 4}{4} \right) \times 0.25 + 1$$

3.17. Applying the above formula to the 10.44 affordability ratio results in an adjustment factor for Fareham Borough of 1.4025.

3.18. When the annual average household ratio is adjusted to take account of the latest affordability adjustment factor results in annual needs for 540.7<sup>3</sup> dwellings for a 2021 based assessment.

3.19. The Council in their updated Statement for an appeal on land east of Newgate Lane (CDH.29) then applies a hybrid approach to determining the requirement<sup>4</sup>. This hybrid approach only applies the outputs of the affordability ratios issued on 25<sup>th</sup> March 2021 from 1<sup>st</sup> April 2021 (with the earlier ratio informing the adjustment for the period 1<sup>st</sup> January to 31<sup>st</sup> March 2021). However, the Standard Method outlined in the PPG is clear that **“the most recent workplace-based affordability ratios, published by the Office for National Statistics at a local authority level, should be used.”** This therefore applies for the whole period of the assessment. Consequently, the output of Step 2 in the calculation is 540.7dpa.

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<sup>3</sup> 385.5 x 1.4025

<sup>4</sup> Paragraph 5.4

- 3.20. Within Step 3 of the process outlined in the PPG (ID ref 2a-004-20201216), a 40% cap is applied to the higher of either the household projections or the most recently approved annual housing requirement of the local plan.
- 3.21. The most recently adopted plan for Fareham Borough was their Core Strategy (Part 1 Local Plan) (adopted August 2011). Policy CS2 of this document required the delivery of 3,729 dwellings in the Borough from 2006 to 2026 (excluding the Strategic Development Allocation (SDA) on land north of Fareham). This therefore equates to 186.45dpa.
- 3.22. However, this would not be regarded as the Local Plan figure for the Borough as the Part 1 Local Plan figure excluded the contribution that was expected to be delivered by the North of Fareham SDA. The expected contribution from the SDA in the period 2006-26 (consistent with the timeframe of the part 1 Local Plan) is confirmed through Table 10.1 (associated with policy WEL14) of the Welborne Local Plan (Part 3 Local Plan). This table indicates that from 2006 to 2026, 2,860 dwellings were expected to have been completed. Including these within the 3,729 dwellings expected outside of the SDA means that 6,589 dwellings were anticipated in the Borough from 2006 to 2026 (equating to 329.45dpa).
- 3.23. Pursuant to Step 3, as the average household growth forecast in Fareham Borough 2021 – 31 of 385.5 is higher than 329.45, the 40% cap is applied to the projections figure. The capped requirement for Fareham Borough arising from Step 3 is therefore 539.7dpa<sup>5</sup>.
- 3.24. As Fareham Borough is not one of the top 20 cities and urban centres detailed in Step 4, no further adjustment is necessary. The output of the Local Housing Need figure is therefore 539.7dpa.
- 3.25. This minimum requirement when adjusted to include a 20% buffer pursuant to paragraph 73 of the NPPF<sup>6</sup> would result in a minimum annual need for the five year assessment in January 2021 of 647.64<sup>7</sup>.

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<sup>5</sup> 385.5 x 1.4

<sup>6</sup> As a result of the HDT results issued on 19<sup>th</sup> January 2021

<sup>7</sup> 539.7 x 1.2

- 3.26. Pursuant to the above, a 647.64 dwelling annual requirement should be used for assessing the availability of a five year supply from 1<sup>st</sup> January 2021 through to 31<sup>st</sup> December 2025. This therefore equates to 3,238<sup>8</sup> for the full five year period.
- 3.27. This requirement for 3,238 dwellings within the five years from 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2025 contrasts with the figure of 3,234 detailed in the table following paragraph 5.9 of the Council's Supplementary Statement for the Newgate Lane East appeal, issued in June 2021 (**CDH.29**). However, and for expediency, so as not to waster inquiry time and resources, we have agreed the 3,234 (rounded) requirement figure.
- 3.28. The 3,234 requirement figure is agreed as per the Five Year Housing Land Supply SoCG (**CDD.2**).

**(ii) Assessing the Deliverability of the Identified Components of Supply**

General

- 3.29. The NPPF Glossary definition of deliverable sites indicates that these are those that:

**Deliverable: 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. In particular:**

**a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).**

**b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.**

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<sup>8</sup> 647.64 x 5

3.30. Paragraph 19 of the Council’s Update for the 17<sup>th</sup> February 2021 (**CDH.12**) refers to the Secretary of State’s consent to judgement (CO/917/2020) in a case relating to an appeal within East Northamptonshire and the implications of this for determining whether a site is deliverable. The East Northamptonshire consent order was issued on 7<sup>th</sup> May 2020 (**CDH.17**).

3.31. Paragraph B of the East Northamptonshire consent order states:

**He concedes that he erred in his interpretation of the definition of deliverable within the glossary of the National Planning Policy Framework (“NPPF”) as a ‘closed list’. It is not. The proper interpretation of the definition is that any site which can be shown to 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’ will meet the definition; and that the examples given in categories (a) and (b) are not exhaustive of all the categories of site which are capable of meeting that definition. Whether a site does or does not meet the definition is a matter of planning judgment on the evidence available**

3.32. Since the East Northants consent to judgement, a further consent order by the Secretary of State has been issued with respect of an appeal decision within Bedford Borough (CO/164/2020) issued on 2<sup>nd</sup> July 2020 (**CDH.18**). Paragraph 5 states as follows:

**“The First Defendant also accepts that Ground 2 is arguable, and the Inspector misinterpreted paragraph 74 of the NPPF 2019, because he has made no comment on the differences between the 2019 and 2012 test, the ‘appropriate buffer’, and any effect of the 5YHLS.”**

3.33. It is therefore consequently clear that there has been a clear change in the definition of deliverable sites between the 2012 and 2019 editions of the NPPF which was acknowledged in the Bedford Borough Consent Order.

3.34. Further reference to the extent of evidence required to demonstrate deliverability is set out at paragraphs 20 and 21 of the recent Sonning Common appeal decision (**CDJ.15**) which ‘clear evidence’ must be something cogent, as opposed to simply mere assertions.

3.35. Paragraphs 20 and 21 state in full as follows:

**“I have also had regard to the PPG advice published on 22 July 2019 on ‘Housing supply and delivery’ including the section that provides guidance on ‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:**

***“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions.”***

**This advice indicates to me the expectation that ‘clear evidence’ must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.**

**Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute ‘clear evidence’. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.”**

3.36. Furthermore, in considering the detailed evidence with respect of the contended inclusion of sites, the Secretary of State in paragraphs 20 to 23 of his decision of 15<sup>th</sup> July 2020 allowing residential development off Audlem Road/Broad Lane, Nantwich (APP/R0660/A/13/2197532) (CDJ.9). These state:

**20. The Secretary of State considers that the Inspector’s assessment of housing supply at IR400-409 is now out of date given the new information that has been submitted by parties since the end of the Inquiry.**

**21. The Secretary of State has reviewed the information submitted by the parties, in particular the sites where deliverability is in dispute between the appellant and the Council. The Secretary of State agrees with the appellant that some of the sites identified by the Council, at the time the evidence was submitted, may not meet the definition of deliverability within the Framework. He considers that, on the basis of the evidence before him, the following should be removed from the supply: sites with outline planning permission which had no reserved matters applications and no evidence of a written agreement; a site where there is no application and the written agreement indicates an application submission date of August 2019 which has not been forthcoming,**

with no other evidence of progress; and a site where the agent in control of the site disputes deliverability. He has therefore deducted 301 dwellings from the supply of housing figures.

22. The Secretary of State also considers that there are further sites where the evidence on deliverability is marginal but justifies their inclusion within a range of the housing supply figures. This group includes sites where the Council has a written agreement with an agent or developer and this indicates progress is being made, or where there is outline planning permission or the site is on a brownfield register and the Secretary of State is satisfied that there is additional information that indicates a realistic prospect that housing will be delivered on the site within 5 years. The Secretary of State considers that in total the number of dwellings within this category is 2,234.

23. Applying these deductions to the Council's claimed deliverable supply figure of 17,733, the Secretary of State is satisfied therefore, on the basis of the information before him, that the Council has a 5 year deliverable supply of between 15,198 dwellings and 17,432 dwellings. As the Secretary of State also considers that the Council has a total 5 year requirement of 13,211 dwellings, he is satisfied that the Council is able to demonstrate a supply of housing sites within the range of 5.7 years to 6.6 years. The Secretary of State has considered the Inspector's comments in IR423-425, and considers that in the light of his conclusion that there is a 5 year housing land supply, the presumption in favour of sustainable development does not apply in this case.

- 3.37. This reinforces the importance of clear evidence to support the contended deliverability of sites/sources within the supply. This is also noted that this appeal decision post-dates the two consent orders referred to above.
- 3.38. Therefore, having regard to the contents of the two consent orders together with the subsequent decision of the Secretary of State in the Nantwich appeal, for any site not included within the first category of sources detailed in the NPPF Glossary, it is essential that this is substantiated by the necessary evidence as outlined in the PPG (ID ref 68-007-20190722). This emphasises the importance of evidence to justify any assumptions on the deliverability of sites within the supply. This section of the PPG in considering "What constitutes a 'deliverable' housing site in the context of plan-making and decision-taking?" states:

**In order to demonstrate 5 years' worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be**

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**deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:**

- **have outline planning permission for major development;**
- **are allocated in a development plan;**
- **have a grant of permission in principle; or**
- **are identified on a brownfield register.**

**Such evidence, to demonstrate deliverability, may include:**

- **current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;**
- **firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;**
- **firm progress with site assessment work; or**
- **clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.**

**Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites.**

3.39. Furthermore, it is essential that in including any sites/sources within the supply, it is essential to assess whether there is a realistic prospect that housing will be delivered on the site within 5 years. For this, it is clear from the PPG that for any site not included in the first category (A) of the NPPF Glossary for deliverable sites must be accompanied by clear and robust evidence to show deliverability. This is therefore the clear conclusion of the two consent orders (**CDH.17 and CDH.18**) together with the subsequent Nantwich appeal decision (**CDJ.9**). It is within this context that the Council’s contended deliverable housing land supply will be appraised.

#### Context

3.40. The inclusion of several of those sites with a resolution to grant which are also provisional allocations in a Regulation 19 version of the Borough’s Local Plan (November 2020) and the subsequent Revised Publication Draft Local Plan (June 2021) is not considered to provide clear certainty over the suitability of a site. This is

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due to the irrelevance of such early allocation status in the preparation of a development plan as indicated in paragraph 48 of the NPPF and the extent that the document could change through the subsequent stages including submission and examination. Even a plan submitted for examination and therefore further through the preparation process is only afforded limited weight as indicated in paragraph 16 of the decision by the Secretary of State allowing the redevelopment of the Oxford Brookes University Campus at Wheatley on 23<sup>rd</sup> April 2020 (PINS ref APP/Q3115/W/19/323087) (**CDJ.10**).

- 3.41. Whilst the Council is undertaking consultation on a Revised Draft Submission Plan<sup>9</sup>, it is not expected to be submitted for examination until the autumn with adoption anticipated by the authority in autumn/winter 2022<sup>10</sup>. Therefore, consistent with the conclusions of the Secretary of State in the Wheatley appeal decision, limited weight can be given to any draft allocation and therefore it cannot support the inclusion of a site within deliverable supply pursuant to the NPPF and PPG.
- 3.42. The Council has included a for 20 dwellings which was not approved until 20<sup>th</sup> January 2021 through a prior approval<sup>11</sup>. In order for this to be included in the Council's deliverable supply, it essential that the other elements that impact upon the availability of land are also updated to ensure they are at a consistent base date i.e. removing any permissions which had expired, or those dwellings completed between the current base date (1<sup>st</sup> January 2021) and the approval of this application (P/20/1483/PC) on 20<sup>th</sup> January 2021. Without these amendments, a holistic assessment of both housing need and supply cannot be made – this is essential for a robust assessment to be made as acknowledged in paragraph 21 of the Waterbeach appeal decision (**CDJ.11**).
- 3.43. The authority has also included the contribution of 38 dwellings on land south west of Sovereign Crescent in application P/18/0484/FP. At the base date for the assessment (1<sup>st</sup> January 2021), the scheme only had a resolution to grant permission, with the approval not issued until 8<sup>th</sup> July 2021. Reflecting the approach of the Waterbeach appeal decision, for this site to be included within the authority's deliverable supply, the base date must be revised to ensure it is on or after the decision date. This will requiring corresponding adjustments to the Brough's housing need and more

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<sup>9</sup> Consultation on a Revised Publication Local Plan pursuant to regulation 19 is taking place from 18<sup>th</sup> June until 30<sup>th</sup> July 2021.

<sup>10</sup> As indicated in the Local Development Scheme (June 2021)

<sup>11</sup> On land at Wates House, Wallington Hill – P/20/1483/PC

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importantly the elements of supply (to exclude any dwellings completed in the intervening period alongside the removal of permissions which have expired).

- 3.44. Additionally, the Council has also included a contribution of 24 for the delivery of homes on a site adjoining 79 Greenaway Lane, Warsash (P/18/0107/OA). At the base date for the assessment, this site likewise only had an outline permission. A reserved matters application for plots 1-6 was not submitted until 25<sup>th</sup> January and was then approved on 21<sup>st</sup> April 2021. Consistent with the Waterbeach appeal decision, this site can only be included where a holistic appraisal of both housing need and supply is undertaken, ensuring any homes completed are deducted alongside removal of allowances from sites where permission has lapsed/expired.
- 3.45. In the Council’s Supplementary Statement for the Newgate Lane East appeal (**CDD.2**), the authority adjusts the allowance to the site adjoining 77 Greenaway Lane to 30 dwellings, rather than the 24 dwellings previously allowed as the contribution from the site. The appellant disagrees that the 79 Greenaway Lane site should be included within the supply as contributing 30 dwellings. This is because the site already was assumed to deliver 30 dwellings (through applications P/18/0884/FP and P/18/0107/OA). Therefore no further contribution can be achieved from the site.
- 3.46. In addition to the inclusion of 663 dwellings in sites with a resolution to grant<sup>12</sup>, the appellant also notes that there are other sites/sources relied upon by the authority whose deliverability has not been substantiated by the evidence envisaged and expected by the PPG – the importance of which is emphasised in the Nantwich appeal decision.

### **Analysis of Deliverability**

- 3.47. We have reviewed the various components of supply relied upon by the Council in their Housing Supply Update (Feb 2021) (**CDH.12**) alongside the update in their Supplementary Statement to the Newgate Lane East appeal (**CDH.29**) and disagree with their analysis of deliverability.
- 3.48. Our site assessment is set out below.

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<sup>12</sup> As indicated in CDD.2

**Outstanding Outline Planning Permissions – exclude 269 dwellings.**

**Land east of Southampton Road (Reside), Titchfield (P/18/0068/OA)**

- 3.49. Outline planning permission was granted for up to 105 dwellings on 16<sup>th</sup> July 2020. The site therefore falls within the second category of potentially deliverable sites.
- 3.50. A reserved matters application (P/20/1584/RM) for 95 dwellings was received by the authority on 18<sup>th</sup> December 2020 but not validated until 17<sup>th</sup> March 2021. The validation of the reserved matters application is after the base date for the land supply assessment.
- 3.51. Notwithstanding the validation was after the base date, there is no information indicating the timetable for the authority to determine the application and more importantly when it could be implemented. This is relevant as the Highway Authority's response to the reserved matters application (20<sup>th</sup> April 2021) indicates that they have a holding objecting to the layout as proposed. Whilst a revised layout was submitted on 2<sup>nd</sup> July 2021, the County Highways authority has not confirmed that this is acceptable.
- 3.52. Taking account of the outstanding highway objections, to reflect the guidance in the NPPF and PPG, robust evidence must be provided to demonstrate that the site is deliverable. As this has not been provided, the site must therefore be omitted from the Council's contended supply.
- 3.53. Although the site now has outline permission, there is no evidence to indicate when the necessary reserved matters application will be approved given the objections of the Highway Authority. There is consequently no certainty when implementation of the scheme will occur.

FBC = 105 dwellings  
Appellant = 0 dwellings  
Difference = 105 dwellings

**Land south of Funtley Road, Funtley (P/18/0067/FP)**

- 3.54. Outline planning permission was granted for up to 55 dwellings on 2<sup>nd</sup> September 2020. The site therefore falls within the second category of potentially deliverable sites.

- 3.55. It is noted that a further outline application for up to 125 dwellings has been submitted on the site (P/20/1168/OA) which was validated on 6<sup>th</sup> October 2020. This is awaiting determination and there is no indication of when the Council might determine this subsequent application.
- 3.56. There have however been no subsequent applications for the submission of reserved matters. Consequently, to reflect the guidance in the NPPF and PPG, robust evidence must be provided to demonstrate that the site is deliverable. As this has not be provided, the site must therefore be omitted from the Council's contended supply.
- 3.57. Although the site has outline permission, there is no evidence to indicate when the necessary reserved matters application will be submitted alongside with the time required to determine and implement any permission.

FBC = 55 dwellings  
Appellant = 0 dwellings  
Difference = 55 dwellings

**Land to the east of Brook Lane and south of Brookside Drive, Warsash (P/16/1049/OA).**

- 3.58. This site had outline permission for up to 85 dwellings granted on appeal on 17<sup>th</sup> May 2018 (PINS ref APP/A1720/W/17/3177435).
- 3.59. A reserved matters application for 85 dwellings (P/19/0313/RM) was validated on 25<sup>th</sup> March 2019.
- 3.60. On 1<sup>st</sup> May 2019, Natural England ("NE") provided a response to the reserved matters application. Within their response, they state that further information is required to determine impacts on designated sites, particularly:

**"A Habitats Regulations Assessment with a calculation of the nutrient budget for the development and the identification of mitigation, where appropriate."**

- 3.61. Although NE requested further information, this has yet to be submitted, over 2 years later. The lack of submission of the necessary further information is re-stated in Natural England's commentary on the application from 23<sup>rd</sup> March 2021 (over 3 months ago).

- 3.62. With the lack of detail of when the information required by NE will be submitted, it is not considered that there is any certainty when the reserved matters application might be determined. In this context, having regard to the PPG and the Nantwich appeal (CDJ.10) decision, this uncertainty for addressing the concerns raised by NE means that it is not considered deliverable. It is demonstrably the case that the site cannot be said to be deliverable at the base date.

FBC = 85 dwellings  
Appellant = 0 dwellings  
Difference = 85 dwellings

**East & west of 79 Greenaway Lane, Warsash (P/18/0107/OA)**

- 3.63. Outline planning permission was granted for up to 30 dwellings on 8<sup>th</sup> May 2020. The site therefore falls within the second category of potentially deliverable sites. The site also has detailed permission on part of it for the erection of 6 dwellings (application P/18/0884/FP) – this results in a net contribution of 24 dwellings.
- 3.64. An application for reserved matters (P/21/0133/RM) for plots 1-6 was validated on 25<sup>th</sup> January 2021 and approved on 21<sup>st</sup> April 2021 (both after the base date). There was however no evidence at the base date detailing when a reserved matters application might be forthcoming together with a timeline for its determination. There is likewise no evidence with the reserved matters application for the remainder of the site might be submitted, determined alongside its subsequent implementations.
- 3.65. Additionally, whilst plots 1-6 have a reserved matters consent, this duplicates the contribution within the supply from detailed permission P/18/0884/FP (as this relates to the same area of land). Consequently, the reserved matters do not demonstrate that the remaining 24 dwellings approved in outline application P/18/0107/OA are deliverable.
- 3.66. Consequently, contrary to the approach envisaged by the NPPF and PPG, there is no available robust evidence demonstrating that the site is deliverable. It must therefore be omitted from the Council's contended supply.

FBC = 24 dwellings  
Appellant = 0 dwellings  
Difference = 24 dwellings

Resolution to Grant Planning Permission Large (except Welborne) – exclude all 663 dwellings.

**Land at Brook Lane, Warsash (P/17/0845/OA)**

- 3.67. The Council considers this to be a deliverable site as it had a resolution to grant for the erection of 180 dwellings, albeit that the contribution towards the supply is only 174 dwellings.
- 3.68. The outline planning application for up to 180 dwellings was validated on 17<sup>th</sup> July 2017. The Council's Planning Committee resolved to approve it on 10<sup>th</sup> October 2018.
- 3.69. This resolution to grant reflected their earlier decision at the Committee meeting on 24<sup>th</sup> January 2018. Nevertheless, planning permission has yet to be granted for the scheme over two and a half years after the most recent committee resolution.
- 3.70. The Committee Report of 10<sup>th</sup> October 2018 recognised that the site is not allocated for development within the existing Local Plan.
- 3.71. A review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the Brook Lane, Warsash application site is not included within this land source category.
- 3.72. Consequently, to reflect the guidance in the NPPF and PPG, robust evidence must be provided to demonstrate that the site is deliverable. However, as the Council's Planning Register does not provide evidence as envisaged by the PPG (ID ref 68-007-20190722), particularly as there is no clarity regarding the timetable to grant outline planning permission together with the subsequent submission, approval and implementation of the essential reserved matters to enable construction of the dwellings, none of the 174 dwellings contended by the authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 174 dwellings  
Appellant = 0 dwellings  
Difference = 174 dwellings

**Land east of Brook Lane (South), Warsash (P/17/0752/OA)**

- 3.73. The Council also considers this to be a deliverable site as it had a resolution to grant for the erection of up to 140 dwellings albeit that the contribution towards the supply is only 110 dwellings. This outline application for up to 140 dwellings was validated on 30<sup>th</sup> June 2017 and the Council's Planning Committee resolved to approve it on 10<sup>th</sup> October 2018. This resolution to grant reflected their earlier decision at the Committee meeting on 24<sup>th</sup> January 2018. Outline planning permission was not however issued until 17<sup>th</sup> February 2021, over three years after the most recent committee resolution.
- 3.74. The Committee Report of 10<sup>th</sup> October 2018 recognised that the site is not allocated for development within the existing Local Plan. A review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the Brook Lane (South), Warsash application site is not included within this land source category.
- 3.75. Following approval of the outline planning permission on 17<sup>th</sup> February 2021 (after the base date of 31<sup>st</sup> December 2020), the necessary reserved matters application (P/21/0300/RM) for erection of phase 1 of the permission (78 dwellings) was not submitted until 19<sup>th</sup> February 2021. The County Highways Authority in their response of 12<sup>th</sup> April 2021 has indicated that they have a holding objection with respect of the layout proposed. Whilst further information was submitted on 7<sup>th</sup> July 2021, the County Highways have yet to confirm it is accepted.
- 3.76. Consequently, there no indication of when a reserved matters approval for phase 1 might be forthcoming. There is also not information with respect of the timing of submission of reserved matters for the remainder of the site.
- 3.77. To reflect the guidance in the NPPF and PPG, robust evidence must be provided to demonstrate that the site is deliverable. However, as the Council's Planning Register does not provide evidence as envisaged by the PPG (ID ref 68-007-20190722), particularly as there is no clarity regarding the timetable to grant outline planning permission (notwithstanding it has subsequently issued on 17<sup>th</sup> February 2021) together with the subsequent submission, approval and implementation of the essential reserved matters to enable construction of the dwellings, none of the 110

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dwellings contended by the Authority are considered deliverable<sup>13</sup>. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 110 dwellings  
Appellant = 0 dwellings  
Difference = 110 dwellings

**Land to the east of Brook Lane and west of Lockwood Road, Warsash (P/17/0998/OA)**

- 3.78. This site had a resolution to grant for the erection of up to 157 dwellings. This outline application for up to 157 dwellings was validated on 22<sup>nd</sup> August 2017 and the Council's Planning Committee resolved to approve it on 10<sup>th</sup> October 2018. This resolution to grant reflected their earlier decision at the Committee meeting on 23<sup>rd</sup> May 2018. Nevertheless, planning permission has yet to be granted for the scheme over two years after the most recent committee resolution.
- 3.79. The Committee Report of 10<sup>th</sup> October 2018 recognised that the site is not allocated for development within the existing Local Plan. A review of the Council's current brownfield register (as of 15<sup>th</sup> December 2021) indicates that the land to the east of Brook Lane and west of Lockwood Road, Warsash application site is not included within this land source category.
- 3.80. Consequently, to reflect the guidance in the NPPF and PPG, robust evidence must be provided to demonstrate that the site is deliverable. However, as the Council's Planning Register does not provide evidence as envisaged by the PPG (ID ref 68-007-20190722), particularly as there is no clarity regarding the timetable to grant outline planning permission together with the subsequent submission, approval and implementation of the essential reserved matters to enable construction of the dwellings, none of the 157 dwellings contended by the authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 157 dwellings  
Appellant = 0 dwellings  
Difference = 157 dwellings

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<sup>13</sup> Whilst it is noted that a reserved matters application was subsequently submitted after the outline permission was issued, as indicated the County Highways currently has an unresolved holding objection to the scheme.

**Land south west of Sovereign Crescent, Locks Heath (P18/0484/FP)**

- 3.81. This site had a resolution to grant for the erection of 38 dwellings. This detailed application for 38 dwellings was validated on 4<sup>th</sup> May 2018 and the Council's Planning Committee resolved to approve it on 12<sup>th</sup> September 2018. Nevertheless, planning permission was not issued until 8<sup>th</sup> July 2021.
- 3.82. The site was not listed in the Council's current brownfield register (as of 15<sup>th</sup> February 2021) and therefore a resolution to grant permission on an site outside of the categories listed as deliverable in the NPPF is not considered to be appropriate, especially as there was no further evidence to substantiate its deliverability as envisaged by the PPG (ID ref 68-007-20190722).
- 3.83. Whilst it now has permission, as previously indicated for the site to be included as a deliverable source, corresponding adjustments to the Borough's housing need and supply are also necessary to ensure completions from 1<sup>st</sup> January until 8<sup>th</sup> July 2021 are omitted. This would reflect the approach in the Waterbeach appeal decision.
- 3.84. None of the 38 dwellings relied upon by the Council are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 38 dwellings  
Appellant = 0 dwellings  
Difference = 38 dwellings

**Land to the west of Seafield Road & Moraunt Drive, Porchester (P/18/0654/FP)**

- 3.85. This detailed application for 48 dwellings was validated on 13<sup>th</sup> June 2018 and the Council's Planning Committee resolved to approve on 12<sup>th</sup> December 2018. However, planning permission was not issued until 7<sup>th</sup> May 2021.
- 3.86. The Committee Report on 12<sup>th</sup> December 2018 recognised that the site was not allocated for development within the existing Local Plan. A review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the land west of Seafield Road & Moraunt Drive, Porchester application site is not included within this land source category.

- 3.87. Consequently, and to reflect the guidance in the NPPF and PPG, robust evidence must be provided to demonstrate that the site is deliverable. However, as the Council's Planning Register does not provide evidence as envisaged by the PPG (ID ref 68-007-20190722), particularly as there is no clarity at the base date regarding the timetable to planning permission together with the subsequent implementation, none of the 48 dwellings contended by the authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal together those of the Inspector in the Waterbeach decision.
- 3.88. For the Council to include this site which does not meet any of the deliverable land type categories at the base date, the authority will need to revise this, although this can only occur if all elements of supply are adjusted to ensure they take account of the latest status, as indicated in the Waterbeach appeal decision.

FBC = 48 dwellings  
Appellant = 0 dwellings  
Difference = 48 dwellings

**Land adjacent to 125 Greenaway Lane (P/19/0402/OA)**

- 3.89. This outline application for up to 100 dwellings was validated on 12<sup>th</sup> April 2019 and the Council's Planning Committee resolved to approve on 16<sup>th</sup> December 2020. Whilst permission was granted on 22<sup>nd</sup> April 2021, this was after the base date. Furthermore, there is no indication of when the necessary reserved matters application would be forthcoming, including its subsequent determination and implementation.
- 3.90. The Committee Report on 16<sup>th</sup> December 2020 recognised that the site is not allocated for development within the existing Local Plan. A review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the land adjacent to 125 Greenway Lane application site is not included within this land source category.
- 3.91. Consequently, to reflect the guidance in the NPPF and PPG, robust evidence must be provided to demonstrate that the site is deliverable. However, as the Council's Planning Register does not provide evidence as envisaged by the PPG (ID ref 68-007-20190722), particularly as at the base date, there was no clarity regarding the timetable to grant outline planning permission together with the subsequent submission, approval and implementation of the essential reserved matters to enable construction of the dwellings, none of the 100 dwellings contended by the authority are considered

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deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 100 dwellings  
Appellant = 0 dwellings  
Difference = 100 dwellings

Welborne (Local Plan Part 3) – exclude all 390 dwellings

### **Welborne (LP3)**

#### General

- 3.92. This site is allocated for residential development in LP3, policy WEL3 for approximately 6,000 dwellings, to be phased for delivery by 2036. The Welborne Plan was adopted in June 2015.
- 3.101. Whilst the former South East Plan (“SEP”) identified the need for the Fareham SDA to deliver 10,000 dwellings in the period 2006 to 2026, the subsequent Fareham Core Strategy identified that the SDA should provide between 6,500 to 7,500 dwellings in the period to 2031 (Policy CS13), with 5,350 to be met in the period to 2026.
- 3.102. The housing trajectory at Appendix 3 to the adopted Core Strategy relied upon completions at Welborne from 2014, with a total of 4,800 dwellings by 2025 (the end of the current 5 year supply period). However, and to date, no dwellings have been delivered at the SDA. This represents a significant under delivery in planned levels of housing.
- 3.103. The Local Plan Part 3 (The Welborne Plan) included a phasing plan and Table 11.2 suggested only 2,860 completions will be achieved in the period to March 2026. This is some 2,490 dwellings below the assumed 5,350 completions envisaged in the Core Strategy. In the Welborne Plan, first completions were envisaged in 2016/17 and a total of 2,860 March 2026 (3 months after the end of the current 5 year period).
- 3.104. Paragraph 10.31 of the Local Plan Part 3 states that the trajectory for Welborne has been informed by the Welborne Build-out Rates Study, with Table 11 of that document (supported by paragraphs 6.6 to 6.38) setting out different levels of anticipated annual completions depending upon the number of developer outlets and marketing suites.

3.105. The Council’s continuously revised trajectories for Welborne are summarised in the following table which emphasises the continual delays in commencement of development on the site:

Document	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	Total
<b>CS: Local Plan Part 1 (Adopted Aug 2011)</b>	50	200	300	400	550	550	550	550	550	550	550	550	5,350
<b>Local Plan Part 3, Table 10.1 (Adopted June 2015)</b>	0	0	120	180	200	320	340	340	340	340	340	340	2,860
<b>Nov 2016 AMR with respect of Apr 2016</b>	0	0	0	0	0	250	350	-	-	-	-	-	600
<b>Welborne Background Paper Oct 2017</b>	0	0	0	0	0	0	140	200	250	250	250	250	1,340
<b>Dec 2017 Position (completions to 31<sup>st</sup> Mar 17 and commitments to 31<sup>st</sup> Oct 17)</b>	0	0	0	0	0	0	140	200	-	-	-	-	340
<b>Sep 2018 Position</b>	0	0	0	0	0	0	140	200	250	-	-	-	590
<b>Apr 2019 position</b>							30	180	240	240	-	-	690
<b>Apr 2020 position</b>									30	180	240	-	450
<b>Jan 2021 position<sup>14</sup></b>									30	180	240	180	630
<b>Apr 2021 position<sup>15</sup></b>										30	180	240	450

3.106. Given the absence of a planning permission for any part of the site, all of the previous trajectories have failed to materialise and have been shown to represent over optimistic assumptions – which remains the case with the reliance on 630 completions for the current five year period, with first completions during 2022 i.e within the next 21 months when compared to the trajectory in the Updated report to Planning Committee (CDH.12).

<sup>14</sup> Forecasts relates to calendar not monitoring years (Apr- Mar). Therefore 30 dwellings are envisaged for completion during 2022 which is 3 months earlier than that detailed in the table associated with paragraph 8.10.7 of the January 2021 Planning Committee Report.

<sup>15</sup> Updated forecasts for monitoring not calendar year from HDT Action Plan (June 2021)

- 3.107. The Council's Supplementary Statement to the Newgate Lane East appeal (**CDH.29**) refers to the revised trajectory in the HDT Action Plan, which results in a reduced contribution from Welborne<sup>16</sup> of 390 dwellings. This is consequently the figure appraised in this statement.
- 3.108. Although an outline application (P17/0266/OA) for the new community of Welborne including up to 6,000 dwellings was validated on 6<sup>th</sup> March 2017, it has yet to receive a planning permission. This is notwithstanding the resolutions of the Council's Planning Committee at their meetings of 16<sup>th</sup> October 2019 (**CDH.19**) and 27<sup>th</sup> January 2021 (**CDH.20**).
- 3.109. We have previously expressed strong reservations about relying upon Welborne to contribute towards the Council's respective five year housing land supply positions as Welborne has repeatedly failed to deliver at the Council's predicted rates and there are significant constraints which affect its delivery. The clear trend is therefore of significantly reduced housing provision and continual delays in delivery.
- 3.110. The most recent Welborne delivery strategy set out in the Background Paper: Updating the Welborne Plan (October 2017) (**CDH.21**) assumed determination of the outline planning application in 2017/18. However, the outline application remains to be determined, notwithstanding that the Council's Planning Committee initially resolved to approve it on 16<sup>th</sup> October 2019 subject to a section 106 (**CDH.19**). The October 2019 Committee resolution was however over 18 months later than the expected date of determination in the Background Paper.
- 3.111. The application was reported to a further Planning Committee on 27<sup>th</sup> January 2021 (**CDH.20**). This was as a result of further discussions between the applicant, the Council and the Highways Authority as detailed in paragraph 1.3.
- 3.112. The October 2019 Committee resolution included as the first planning condition.
- a) ***The development granted permission by this decision for the J10 and A32 improvement works shall be begun not later than three years from the date of permission.***
  - b) ***The first application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of 5 years from the***

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<sup>16</sup> Paragraph 5.6

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**date of this permission. All subsequent reserved matters pursuant to this outline shall be submitted no later than 30 years from the date of this permission.**

- c) **The development of any reserved matters related to this Outline planning application shall be begun before the expiration of three years from the date of approval of that reserved matters.**

3.113. This longer timeframe for the submission of reserved matters raises doubts that these will be submitted, approved and implemented so that dwellings arise on the site by 31<sup>st</sup> December 2025.

3.114. Furthermore, both the October 2019 and January 2021 Committee resolutions included the following as a condition<sup>17</sup> on the proposal.

**No development shall take place other than that related to the delivery of Junction 10 until details of the sources of all the funding necessary to carry out the Junction 10 works has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.**

3.115. The October 2019 Committee Report indicated the provisional timeframe for the implementation of the application. Of particular relevance was paragraph 8.10.10<sup>18</sup> concerning the first phase – the first 5 years from 2019-24, derived from the Infrastructure Delivery Plan submitted with the application (March 2019). This indicates the following as the first sequence of delivery.

*The first development will mostly be focused to the north of Knowle Road. Sequence one is to provide the following:*

- *Approximately 690 homes;*
- *Commencement of the village centre including:*
  - o *Village Centre Community Building*
  - o *Health Outreach facility using the Village Centre retail outlets*
- *Commencement of the eastern employment area;*
  - *Construction of the new Junction 10;*
  - *Construction of the new A32 Northern Roundabout;*
  - *Alterations to the Knowle Road Roundabout;*
  - *Undergrounding of overhead power lines;*
  - *Provision of onsite drainage;*
  - *Diversion of water mains (if required for detailed layout);*
  - *Provision of children's play areas within neighbourhoods;*
  - *Delivery of strategic planting;*

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<sup>17</sup> Draft Condition 52 in October 2019 and draft condition 56 in January 2021

<sup>18</sup> This is repeated as paragraph 8.10.11 of the January 2021 Committee Report

- Delivery of Dashwood SANG;
- Provision of the northern segment of the main Central Park;
- First Primary School playing fields. (It is noted that the school is shown in sequence 2 but as described elsewhere in this report the detailed delivery of the school has been the subject of ongoing discussion with the Local Education Authority and is now likely to be delivered earlier than sequence 2).

3.116. The Infrastructure Delivery Plan submitted with the application (**CDH.22**) envisaged the construction of all the elements in the first sequence within the five years after the documents' preparation.

3.117. This is optimistic as insufficient time was included for the determination of the outline application, together with the subsequent submission, determination and implementation of reserved matters to enable the dwellings to be completed within 2 years of the documents' preparation. This, notwithstanding that the 2019 Committee Report includes a number of pre-commencement conditions<sup>19</sup> which also need to be discharged before construction work can commence.

3.118. Furthermore the Supplementary Planning Statement submitted on the application (**CDH.23**) details the best case scenario for the implementation of the scheme, assuming any funding issues can be resolved. This is within Table 3 which followed paragraph 2.18. This is repeated below.

Signing of the Section 106 Agreement	Unknown
Submission Approval of Strategic Scale Documents (Strategic Design Code, Street Manual and Housing Strategy)	c. 4 months
M27 J10 Funding Secured	Unknown
Submission of Neighbourhood Design Code and Phase 1 Reserved Matters	Once funding secured, and Condition 52 discharged. C. 4 months from submission to determination.
Works related to Strategic Services and Utilities (subject to planning)	Once funding secured, and Condition 52 discharged. C. 18 month process.
Works on Pre-occupation obligations (Dashwood, etc.)	Once funding secured, and Condition 52 discharged. C. 12 month process due to ecology constraints.
Commencement of Phase 1	Only once above actions completed, so estimate of 18 months from funding secured.
First Occupation	Two years from the point of funding allocation

<sup>19</sup> i.e. conditions 14-16, 19, 24

3.119. Within paragraph 8.10.7 of the January 2021 Committee Report, it references the applicant’s December 2020 Supplementary Planning Statement<sup>20</sup>. This provides a refined trajectory for the site. This is shown below and whilst initial impressions are that it reflects the annual rates contended within the Council’s latest land supply assessment, it is clear that the authority expectations are even more optimistic. Taking account the commentary in Table 3 of the Supplementary Planning Statement, the first occupation and therefore completion was not likely for at least 2 years after funding was forthcoming.

Year	Dwellings per year	Cumulative dwellings
2020-2021	0	0
2021-2022	0	0
2022-2023	30	30
2023-2024	180	210
2024-2025	240	450
2025-2026	240	690
2026-2027	240	930
2027-2028	240	1,210
2028-2029	300	1,510
2029-2030	300	1,810

3.120. The Supplementary Planning Statement (paragraph 3.1) is clear that alongside the developers’ contribution of £40m, it is anticipated that the remainder of the M27 junction 10 infrastructure works would be funded through an “anticipated HIF allocation of £30m”. However, no evidence has been provided that regarding if and when this HIF contribution could be confirmed. Therefore, the optimistic 2 year lead in until the first occupation cannot be expected in the short term. Even should funding be confirmed at around April 2021, the developers most optimistic assumptions would not expect any completions until April 2023 at the earliest. This is therefore at least a year later than that detailed in both the table following paragraph 8.10.7 of the January 2021 Committee Report (**CDH.20**) and the Council’s February 2021 land supply update (**CDH.12**).

3.121. As previously detailed, these projections are considered overly optimistic, and it fails to include sufficient time for the determination of the outline permission (which is still awaiting the signing of the essential S106) together with the subsequent submission, determination and implementation of the necessary reserved matters. Furthermore, as

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<sup>20</sup> This is however clearly a best case scenario as detailed in paragraph 2.26 of the Supplementary Planning Statement for the application (**CDH.23**)

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detailed above, the Council's forecast do not even reflect the evidence which had been provided to the authority through the supplementary planning statement.

- 3.122. Furthermore, as the outline permission has yet to be approved with its associated legal agreement, the finalised obligations for the delivery or funding of infrastructure improvements are not known. This further indicates that the expectations in the Infrastructure Delivery Plan were optimistic. The January 2021 Report included the same first condition agreed by members at the earlier October 2019 Committee.
- 3.123. Although the Council's assessment envisages first completions during 2022, there is no indication of when the legal agreement required to comply with the Committee's decisions in either October 2019 or January 2021 will be signed. Consequently, there can be no certainty that any completions will be achievable within 5 years. This is especially unlikely due to the extended period for the submission of reserved matters from that envisaged in the Welborne Delivery Plan.

Appeal Inspectors' consideration of Welborne Delivery expectations

- 3.124. Since the preparation of the Core Strategy, a number of planning appeal Inspectors have considered the realism and robustness of the Council's forecasts of delivery at Welborne. This includes the Navigator Inspector in (January 2015) within paragraphs 51 to 57 of the appeal decision (CDJ.7).
- 3.125. Paragraph 57 concludes by deleting 500 dwellings from the Council's supply, stating:

**"I conclude that the Council has failed to show a realistic prospect that development at Welborne is likely to contribute to the 5-year supply. The site therefore cannot be regarded as deliverable at this stage, in terms of the NPPF requirement. This reduces the Council's claimed supply by 500, to a maximum of 1,426 units."**

(My emphasis added)

- 3.126. Whilst an outline planning application was subsequently submitted (as explained above), the Cranleigh Road Inspector (August 2017) (CDJ.6) came to a similar conclusion regarding the lack of any delivery within 5 years.
- 3.127. Paragraph 24 of the Cranleigh Road appeal decision states in relation to the Inspector's assessment of the anticipated level of completions at Welborne as follows:

**“LP 3 allocates some 371ha of mainly greenfield land at Welbourne to deliver some 6,000 dwellings and the lpa includes some 425 units within the 5-year supply in years 4 and 5. The delivery of Welbourne is a major undertaking and already the delivery of units has been pushed back in the programme. At one time the lpa considered that the delivery of dwellings would commence in 2016 with 120 units being completed by the end of the first quarter in 2017. Whilst I accept that significant pre-planning work has been carried out, a delivery partner will not be appointed until the beginning of 2018, major planning applications will have to be prepared and already, albeit as a precaution, the lpa is contemplating the use of compulsory purchase powers. Whilst I acknowledge the lpa’s commitment to the delivery of Welbourne, on the evidence before me, it would appear that the potential to deliver a significant number of units towards the end of the 5-year period is optimistic.”**

- 3.128. The Inspector’s assessment effectively discounted the site from providing any material completions in the five year period.

The Outline Planning Application (March 2017)

- 3.129. The outline planning application for development of the Welborne allocation for a new community, to include up to 6,000 new dwellings (associated development and infrastructure provision) was submitted by Buckland Development Ltd on 3 March 2017 (LPA Ref: P/17/0266/OA). As indicated above, Fareham Borough Council resolved to approve the application in October 2019, subject to the signing of the S106 (**CDH.19**). This decision was re-affirmed at the Planning Committee on 21<sup>st</sup> January 2021 (**CDH.20**).
- 3.130. We have considered the documents submitted in support of the application and are of the view that the content further endorses our view that there will be no completions within the current five year period to 31<sup>st</sup> December 2025.
- 3.131. The accompanying sequencing plans show all of the housing to be developed on the Buckland land, with the Benge family land (along with other land ownerships) required to provide the motorway junction and district centre (**CDH.24**). In addition, there are a number of references in the submitted Infrastructure Delivery Plan (IDP) (**CDH.22**) to the improvements to the motorway junction being LEP/DfT funded. However, section 4 (pg35) shows that the works may be delivered by the enabling developer. There is

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no certainty here that all of the junction works can be implemented as part of the application.

3.132. In the time that has lapsed pursuant to Fareham Borough Council's October 2019 resolution to grant outline planning permission for Welborne (CDH.20), a report has been considered by Hampshire County Council with respect to their role as the scheme promoter for the delivery of the improvement to Junction 10 of the M27 (**CDH.25**) (14 Jan 2020).

3.133. The report considered by Hampshire County Council provides a summary of the issues associated with the delivery of the essential improvements to junction 10 of the M27 to deliver Welborne.

3.134. Paragraphs 10-15 state as follows:

**10. The County Council and its Strategic Partner (Atkins) have produced a significant number of around 155 design drawings and supporting documents for the M27 Junction 10 improvement, which formed a detailed part of the outline Planning Application for Welborne Garden Village submitted to Fareham Borough Council by Buckland Development Limited. In October 2019, Fareham Borough Council resolved to grant Planning Permission for the Scheme, subject to the signing of a Section 106 Agreement. This is a critical milestone for the Scheme.**

**11. The ability to commence the Welborne development is critically aligned to the junction works. Importantly, the Borough Council has imposed a planning condition requiring the submission and approval of details of all the sources of funding necessary to carry out the Junction 10 works, prior to the commencement of any other work on site other than those related to the delivery of the Junction. The condition will provide confidence that the delivery of the Junction 10 works is fully achievable. Fundamentally, until this condition is met and there is certainty that funding is fully allocated, the development cannot commence; hence the need to identify gap funding is absolutely critical. Furthermore, in line with Highways England and Hampshire County Council advice, the Borough Council by condition requires the Junction 10 improvement works to be completed and open for use prior to the occupation of 1,160 dwellings at Welborne (or before a specified amount of employment/retail floorspace is provided).**

**12. The County Council has made excellent progress on the Scheme development and design to a point which now needs input from a delivery body. Previous assumptions were that the**

Highways England Smart Motorways Project (SMP) would deliver the parts of the Scheme which interfaced directly with the M27 following instructions from the former Secretary of State Chris Grayling, who previously advised that Highways England would be best placed to deliver the Scheme. It is now apparent that, due to extended timescales throughout the planning process, the delivery of the Junction 10 Scheme will need to follow the completion of the Smart Motorways Project, hence engagement now needs to take place with different branches within Highways England's Third Parties or Major Projects teams, and involving different processes.

13. It is now critical to understand the role of Highways England going forward, and particularly which party will become the delivery body, as this will inform the design process going forward. There are several different approaches to the construction and delivery of the underpass, all of which have a significant bearing on time and cost. For instance, the underpass could be constructed via a conventional approach over 12 months using traffic management and diversionary running. This approach was the preferred way forward when the works were to be completed in parallel with Smart Motorways. Alternative underpass construction approaches are now likely to be more appropriate and could involve jack box or slide box solutions, which involve building a box offline and pushing into place over a long weekend closure. This method would save significant amounts of time and network disruption and would also provide significant cost savings. For this reason, it has become the preferred possible approach, as the Scheme will follow the Smart Motorways Project. The approach to delivery will impact upon the detailed design going forward, hence it would be imprudent to proceed further with the design until a delivery body has been confirmed. Highways England is best placed to progress the delivery of the motorway elements of the Scheme as well as having a fundamental statutory role as the approving Highway Authority over the design and delivery processes for the motorway elements.

14. Highways England Technical Approval and Departure Review processes are ongoing. However, further engagement is now required to seek to understand the optimum way through the Highways England governance processes, which are not directly geared up for schemes being progressed by other parties. Highways England has only recently suggested that its Product Control Framework (PCF) process may be most appropriate. To follow this rigidly from the outset will now involve time-consuming, retrospective document control and approval, which will involve programme delays. Depending upon whether Highways England takes on the Scheme delivery and directly related completion of the Scheme design, the process may need

to be applied more rigidly. If another party is to be the delivery body, then potentially a trimmed down version of the process could be applied. Appropriate elements of the required documentation will need to be completed up to a logical point, and to reflect the stage of design that the Scheme is at, given this could be helpful as part of a hand over to another party taking forward the Scheme delivery. While it is anticipated that this will be substantially complete by the end of February, it is possible that a few elements may not be completed within this timeframe, but no additional elements will be commissioned.

15. The approach to delivery now needs to be understood to inform the way forward. Possible options for delivery could be:

- Highways England funds and delivers all of the Scheme as part of its RIS or Major Projects portfolio;
- Highways England and Hampshire County Council deliver all of the Scheme in some form of partnership arrangement or Joint Venture, with Highways England delivering the parts of the Scheme which will ultimately form part of its network – (this approach would mean the County Council potentially continuing as Scheme Promoter, but appropriate financial management arrangements would be essential to ensure the County Council does not take on any liabilities for work on the motorway);
- Hampshire County Council delivers all of the Scheme, with Highways England in an advisory/approval role on the basis that no financial liability would be accepted by the County Council; and
- other third party/ies (most likely Buckland Development Ltd) deliver some or all of the Scheme and underwrite the financial risks. (our emphasis underlined)

3.135. The report also details the arrangements for funding the essential motorway junction improvements as the initial stages for delivery of Welborne. Paragraphs 27 to 32 state as follows:

**27 The current delivery funding allocations are as follows:**

- £14.9million has been allocated from the Solent LEP Local Growth (LGF) Funding retained by DfT (of this amount £4.65million has already been advanced from DfT directly to Hampshire County Council for Scheme development work). Whilst there is a theoretical possibility that DfT may require repayment of the advance funding, this is very unlikely and mitigated by the County Council proposal to complete the technical work in an orderly way and to make provision for it to be handed onto a different Scheme Promoter. The remaining £10.25million needs to be spent by March 2021 on the motorway elements of the Scheme. (The LEP may now

consider reallocating this funding on the assumption that it cannot be spent prior to March 2021 but haven't done so as yet);

- £14.15million has been allocated from the Solent LEP Local Growth Funding which needs to be spent by March 2021 on the motorway elements of the Scheme (The LEP may now consider reallocating this funding on the assumption that it now cannot be spent prior to March 2021 but haven't done so as yet);
- £10million has been allocated from the Housing and Infrastructure Marginal Viability Fund, which can be spent in 2021/22/23 upon delivery of any part of the Scheme to facilitate housing growth. Discussions with MCHLG have advised that the allocated £10million could be increased to £16million; and
- £20million has been identified through Fareham Borough Council's Viability work as an appropriate contribution to be secured via Section 106 as capped from the developer. This can be spent any-time on any part of the Scheme.

28. The programme delays outlined previously mean that it will no longer be possible to incur capital expenditure on the Scheme prior to March 2021. This means that the remaining allocated Solent LEP Local Growth Funding of £24.4million, which needs to be spent by March 2021 in order to comply with the grant conditions set by Government, is likely to be reallocated and will no longer be available towards the Scheme delivery.

29. Based on the above, there currently remains an allocation of just £30million which can be spent on the Scheme beyond March 2021. This means there is now an increased delivery funding gap of around £55-70million.

30. Alternative funding sources to cover the increased gap in delivery funding, together with an under-writer of the associated financial risks, will need to be found before the Scheme can progress further towards the submission of the full business case and delivery stage.

31. The County Council notes that the Borough Council states in its report on the Planning Application that it will work with the applicant in order to secure the additional required funding from external sources, noting that the applicant has capped their offer of a contribution at £20million throughout the application process while the final estimated cost has increased, and the funding gap grown larger. The Borough Council report goes on to state that it may be the case that the applicant has to consider contributing more to the cost of the junction, in order for it to be delivered, so as to enable the remainder of the development to be constructed. The implications of any increase in contribution by the developer may affect the levels of affordable housing provided during

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subsequent viability reviews of the Scheme to be secured in the legal agreement.

32. The Fareham Borough Council Planning Authority has resolved that a contribution of £20million is fairly and reasonably related in scale and kind to the development (notably having regard to the significant wider public benefit that an improved Junction 10 brings to the Solent region). Neither the County Council nor Highways England agree with this interpretation and would see the provision of a new motorway junction to be necessitated by the development and related road improvements as required to mitigate the traffic impact of Welborne. The County Council would, however, accept that advancing the provision of the new motorway junction would have wider advantages to the local areas, not least during an extended construction period for Welborne. (Our emphasis underlined)

3.136. The Report to Hampshire County Council identifies a number of significant factors which must be addressed to enable delivery of any part of the Welborne development; with paragraph 33 stating as follows:

It is apparent that there are a number of fundamental matters which require urgent resolution before Scheme development can proceed much further, including the following:

- there is now a significant increase in gap funding required to deliver the Scheme to around £55–70million, based upon the assumption that the Solent LEP is likely to reallocate the Local Growth Funding which needs to be spent prior to March 2021, hence new major funding sources are required to deliver the Scheme;
- the Scheme delivery funding will need to be fully underwritten to provide sufficient confidence for a delivery body to step forward to take the Scheme forward to delivery. Without a delivery body in place, critical next steps on the design, which will be informed by the approach to delivery, cannot be taken. Clarification is required as soon as possible regarding the role of Highways England in the delivery of some or all of the Scheme; and
- ongoing engagement is required with both the Smart Motorways Project team and the Technical Approval team within Highways England to better understand the governance of the Scheme and extended approval process timescales going forward, and also to ensure a switch to an adjusted Smart Motorways Project design takes place, which incorporates Junction 10 based on the assumption that Junction 10 will now follow Smart Motorways. Until these matters have been addressed, the progression of the Scheme is at an impasse, and consequently the County Council needs to review its continuing role as Scheme promoter and not commission additional design work if there is no resolution.

- 3.137. The Report for Hampshire County Council identifies a **very significant funding shortfall** towards the delivery of the M27 Junction 10 improvements, which as highlighted above must be delivered in advance of any dwellings at Welborne.
- 3.138. With the clear uncertainty over funding the improvements, it cannot be considered that the Welborne proposal has any realistic chance of delivery any dwellings within the next 5 years. Accordingly, it is our position that Welborne must be excluded from the forecast delivery trajectory for the current five year period.
- 3.139. The January 2021 Committee Report (**CDH.20**) (paragraphs 8.17.5-8.17.16) details the arrangements and scope of works associated with the improvements to M27 junction 10. This is however a repeated of that detailed in the same paragraphs of the October 2019 Report (**CDH.19**). Since the Hampshire County Council Report of January 2020 (**CDH.25**) confirmed that they were not prepared to undertake further work on the junction improvements, they have been asked to further consider their position, especially taking account of the January 2021 Planning Committee Report.
- 3.140. This further review occurred on 9<sup>th</sup> February 2021 where the Cabinet of the County Council (**CDH.26**) agreed:

**2. That the County Council re-iterates its support for the Welborne Garden Village development, as a critical part of the Local Planning Authority’s long-term plans for the area, and the wider sub regional strategy for southern Hampshire, providing much needed homes, commercial floorspace and jobs;**

**3. That on the basis of the County Council’s established policy and approach to involvement in the M27 Junction 10 (Welborne) Improvement Scheme the County Council is currently unable to take on the role of the Delivery Body for the M27 Junction 10 Improvement Scheme given the current high level of financial risk and uncertainty for which the Scheme Delivery Body would be responsible, should those financial risks and uncertainties be resolved to the County Councils satisfaction this can be further considered**

**4. To approve further scheme development work, provided full external funding is made available to enable work to be undertaken on the next stages of the scheme development process, the preparation of draft orders and a procurement strategy for early contractor involvement;**

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**5. That unless full external funding is made available by the end of March 2021, the County Council steps back from its role of Scheme Promoter following the completion of Stage 3 of the Highways England approval process, which is the only currently funded aspect of scheme development work, and**

**6. That on the basis of its established policy position, given the existing financial implications, and the terms of the funding, the County Council could not agree to sign a Housing Infrastructure Funding (HIF) agreement in relation to the Welborne development, and, in the event that those financial implications are resolved, it would be most appropriate for the landowner or the local planning and housing authority to be that signatory;**

**7. That the County Council, consistent with its support reaffirmed in 2 above, should continue to explore ways in which it could use its experience, professional and technical capacity to support the delivery of the M27 Junction 10 Improvement Scheme, provided any arrangements are consistent with established County Council policy for involvement at Welborne, including in particular a stipulation that there are no financial liabilities for the County Council from involvement in the scheme and effective partnership working arrangements are in place, including with Highways England as the strategic Highway authority responsible for the M27. (Our underlining)**

3.141. Following the County Council's decision on 9<sup>th</sup> February 2021, there has been further discussions with respect of the funding arrangements for the motorway junction improvements essential to deliver Welborne. These are due to be considered at the County Council's Cabinet meeting on 13<sup>th</sup> July 2021 (CDH.27), where the recommendation is:

**2. That the Cabinet agrees:**

**2.1 To re-affirm its support for the development of the Welborne Garden Village, which is expected to make a significant contribution to the local economy, employment and housing supply in south-east Hampshire;**

**2.2 That the County Council is prepared to become the Scheme Delivery Body for the M27 Junction 10 improvement scheme subject to: confirmation of the full funding package of £41.25 million Housing Infrastructure Grant; £40 million Section 106 developer contribution; an additional £10 million Section 106 contingency funding; and £750,000 Capacity Funding from Homes England to continue the development work;**

**2.3 That the County Council decision to become the Scheme Delivery Body for the M27 J10 scheme is conditional upon completion of a satisfactory Memorandum of Understanding with**

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**Highways England in relation to any design alterations and programme interruptions or prolongation arising from decisions or actions by Highways England, and is also conditional upon a Section 6 Agreement to formalise Highways England’s commitment to the progression of the scheme through the approval and delivery processes;**

**2.4 That provision be made for the Local Transport Plan, Integrated Transport Block Grant funding to be earmarked against any cost overrun for the M27 J10 Improvement scheme, beyond the full funding package, established budget and contingency funding arrangements;**

**2.5 That the value of the M27 J10 Improvement scheme in the County Council Capital Programme be increased from a value of £4.65m to £97.55 million, to be funded from Housing Infrastructure Grant and developer funding, and that authority be delegated to the Director of Economy, Transport and Environment, in consultation with the Leader, the Director of Corporate Resources and the Head of Legal Services to complete appropriate, aligned funding agreements;**

**2.6 That authority be delegated to the Director of Economy, Transport and Environment, in consultation with the Head of Legal Services to make and advertise necessary Road Orders and secure any additional statutory or land owner consents required; and**

**2.7 That authority be delegated to the Director of Economy, Transport and Environment, in consultation with the Leader, the Director of Corporate Resources and the Head of Legal Services to commence a staged procurement process, involving Early Contractor Involvement and main works contract and to spend up to £97.55 million, subject to confirmation of funding, following the completion of satisfactory financial agreements and approval of a scheme Project Appraisal by the Executive Lead Member for Economy, Transport and Environment. (our underlining)**

3.142. Whilst the report to the County Council’s Cabinet indicates that the Memorandum with Highways England is in progress, there is no indication of when this could be signed. Furthermore, it is clear that whilst there is contingency within the cost of the project to deliver the motorway junction reconfiguration necessary for Welborne, there is no certainty that the authority will agree to the additional funding arrangements from the Integrated Transport Block grant.

3.143. On the basis of the foregoing, nothing suggests to me that the complexities relating to the delivery of Welborne are likely to be addressed in the short term sufficient to ensure delivery of any dwellings within the current five year period to December 2025.

3.144. This view is supported by the content of **CDH.28** where on average, lag times between submission of an outline application and first housing completions for sites of 2,000+ dwellings is 8 years.

#### Summary

3.145. There are a number of complex issues relating to the delivery of Welborne, including viability, infrastructure provision/funding – all of which remain outstanding and comprise substantial issues to be resolved before Welborne can be said to be deliverable.

3.146. Consequently, to reflect the guidance in the NPPF and PPG, robust evidence must be provided to demonstrate that the site is deliverable. However, as the Council's Planning Register does not provide evidence as envisaged by the PPG (ID ref 68-007-20190722), particularly as there is no clarity regarding the timetable to grant outline planning permission together with the subsequent submission, approval and implementation of the essential reserved matters to enable construction of the dwellings, none of the 630 dwellings contended by the authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 390 dwellings<sup>21</sup>  
Appellant = 0 dwellings  
Difference = 390 dwellings

Brownfield Register Sites – exclude all 321 dwellings
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#### **Warsash Maritime Academy**

3.93. Although a review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the land at Warsash Maritime Academy is included (ref 3088), it notes that it does not have permission.

3.94. Although the register suggests that it is deliverable, there is no evidence in the register or the Council's update on land supply to support this contention (having regard to the advice in the PPG - ID ref 68-007-20190722).

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<sup>21</sup> Reduced from 630 dwellings in the Council's Supplementary Statement of Newgate Lane East appeal (paragraph 5.6)

3.95. This is of particular importance as there is no clarity regarding the timetable for the submission, approval and implementation of any future application on the site.

3.96. Therefore, none of the 100 dwellings contended by the Authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 100 dwellings  
Appellant = 0 dwellings  
Difference = 100 dwellings

#### **22-27a Stubbington Green**

3.97. Although a review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the land at 22-27a Stubbington Green is included (ref 3206), it notes that it does not have permission.

3.98. Although the register suggests that it is deliverable, there is no evidence in the register or the Council's update on land supply to support this contention (having regard to the advice in the PPG - ID ref 68-007-20190722). The register suggests that the site has a pending detailed application under reference P/18/1410/FP. This application for the change of the first floor from sports club (Class D2) to 9 flats was validated on 14<sup>th</sup> December 2018 and not approved until 27<sup>th</sup> May 2021 (after the base date). As there was no clarity at the base date regarding the timing of a favourable determination, this site should not be regarded as deliverable.

3.99. Therefore, none of the 9 dwellings contended by the Authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 9 dwellings  
Appellant = 0 dwellings  
Difference = 9 dwellings

#### **Rest of 3-33 West Street**

3.100. Although a review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the land at 3-33 West Street, Porchester is included (ref 203), it notes that it does not have permission.

3.101. Although the register suggests that it is deliverable, there is no evidence in the register or the Council's update on land supply to support this contention (having regard to the advice in the PPG - ID ref 68-007-20190722). The register suggests that the site has a pending outline application under reference P/19/1040/OA. Whilst this application for 26 apartments was validated on 26<sup>th</sup> September 2019, it was not approved until 1<sup>st</sup> June 2021. Consequently, as the base date there was no clarity regarding the timetable for the approval of this outline application. Notwithstanding the recent outline approval for the site, there is no information of the timing of the essential reserved matters which would then enable implementation of any approval on the site.

3.102. Therefore, none of the 10 dwellings contended by the Authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 10 dwellings  
Appellant = 0 dwellings  
Difference = 10 dwellings

#### **Locks Heath District Centre**

3.103. Although a review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the Locks Heath District Centre is included (ref 3227), it notes that it does not have permission.

3.104. Although the register suggests that it is deliverable, there is no evidence in the register or the Council's update on land supply to support this contention (having regard to the advice in the PPG - ID ref 68-007-20190722).

3.105. This is of particular importance as there is no clarity regarding the timetable for the submission, approval and implementation of any future application on the site.

3.106. Therefore, none of the 35 dwellings contended by the Authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 35 dwellings  
Appellant = 0 dwellings  
Difference = 35 dwellings

### **Former Filling Station, Locks Heath Centre**

- 3.107. Although a review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the former filling station, Locks Heath Centre is included (ref 3235), it notes that it does not have permission.
- 3.108. Although the register suggests that it is deliverable, there is no evidence in the register or the Council's update on land supply to support this contention (having regard to the advice in the PPG - ID ref 68-007-20190722).
- 3.109. This is of particular importance as there is no clarity regarding the timetable for the submission, approval and implementation of any future application on the site.
- 3.110. Therefore, none of the 100 dwellings contended by the Authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 30 dwellings  
Appellant = 0 dwellings  
Difference = 30 dwellings

### **Hammond Ind Est (P/20/1597/FP)**

- 3.111. Although a review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the land at Hammond Industrial Park is included (ref 93), it notes that it does not have permission.
- 3.112. Although the register suggests that it is deliverable, there is no evidence in the register or the Council's update on land supply to support this contention (having regard to the advice in the PPG - ID ref 68-007-20190722). Furthermore, although the brownfield register does not indicate that there are any applications on the site, the Council's land supply update does – by referring to application P/20/1597/FP. This is a detailed application for the demolition of existing buildings and the erection of a care home. This care home application was validated on 22<sup>nd</sup> December 2020 and there is no information on if and when the proposal could be approved.
- 3.113. Consequently, none of the 36 dwellings contended by the Council are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 36 dwellings  
Appellant = 0 dwellings  
Difference = 36 dwellings

### **Assheton Court**

- 3.114. Although a review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that Assheton Court is included (ref 3244), it notes that it does not have permission.
- 3.115. Although the register suggests that it is deliverable, there is no evidence in the register or the Council's update on land supply to support this contention (having regard to the advice in the PPG - ID ref 68-007-20190722).
- 3.116. This is of particular importance as there is no clarity regarding the timetable for the submission, approval and implementation of any future application on the site.
- 3.117. Therefore, none of the 27 dwellings contended by the Council are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 27 dwellings  
Appellant = 0 dwellings  
Difference = 27 dwellings

### **68 Titchfield Park Road (P/20/1137/FP)**

- 3.118. Although a review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that 68 Titchfield Park Road is included (ref 3228), it notes that it does not have permission.
- 3.119. Although the register suggests that it is deliverable, there is no evidence in the register or the Council's update on land supply to support this contention (having regard to the advice in the PPG - ID ref 68-007-20190722). Furthermore, although the brownfield register does not indicate that there are any applications on the site, the Council's land supply update does – by referring to application P/20/1137/FP. This is a detailed application for the conversion and extension of former care home to provide six 1 bed flats and three 2 bed flats. Application P/20/1137/FP was validated on 2<sup>nd</sup> October 2020 and not approved until 26<sup>th</sup> April 2021. Therefore at the base date for the

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assessment, there was a pending application and no information on if and when the proposal could be approved.

3.120. Therefore, none of the 9 dwellings contended by the Council are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 9 dwellings  
Appellant = 0 dwellings  
Difference = 9 dwellings

**Wates House, Wallington Hill (P/20/1483/PC)**

3.121. A review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the land at Wates House, Wallington Hill is not included, therefore there is no justification for including the site as a potentially deliverable source.

3.122. Whilst the Council refers to a planning application for justification to support the sites deliverability status, the relevant scheme was not approved until 20<sup>th</sup> January 2021. This is after the base date for the assessment and consequently as it does not relate to any of the potentially deliverable sources outlined in the NPPF it must be omitted.

3.123. Application P/20/1483/PC for the prior approval change of use of offices (B1) to residential use was submitted on 30<sup>th</sup> November 2020 and approved on 25<sup>th</sup> January 2021. It is therefore after the base date for the assessment. For this site to be included, all the elements of both need and supply must also be updated to ensure a holistic and consistent assessment as endorsed in paragraph 21 of the Waterbeach appeal decision (**CDH.20**).

3.124. Therefore, none of the 20 dwellings contended by the Council are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 20 dwellings  
Appellant = 0 dwellings  
Difference = 20 dwellings

**Fareham Magistrates Court (P/18/1261/OA)**

3.125. Although a review of the Council's current brownfield register (as of 15<sup>th</sup> February 2021) indicates that the land at Fareham Magistrates Court is included (ref 3070), it

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notes that it does not have permission. The register notes that there is a pending outline application for the site.

3.126. The pending outline application at the Magistrates Court is for redevelopment of the site and the erection of 45 apartments. This application (P/18/1261/OA) was validated on 5<sup>th</sup> November 2018 and the Council's Planning Committee resolved to approve on 16<sup>th</sup> December 2020. A planning permission has yet to be granted for the scheme some two months after the committee resolution.

3.127. However, there is no timetable which details when this pending outline application might be determined. With no timetable for determination of the current outline application, together with the subsequent reserved matters scheme, there is no evidence to demonstrate that it would be deliverable within 5 years. Therefore, having regard to the advice in the PPG (ID ref 68-007-20190722) it is not considered deliverable.

3.128. Therefore, none of the 45 dwellings contended by the authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 45 dwellings  
Appellant = 0 dwellings  
Difference = 45 dwellings

Local Plan Adopted Housing Allocations (except Welborne (LPP3)) – exclude all 103 dwellings
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**Wynton Way, Fareham (LP2 H3)**

3.129. This site is allocated for residential development in LP2, site ref H3 for 10 dwellings.

3.130. However, there is no record in the Council's Planning Register of a pending application on the site, nor is any other evidence envisaged in the PPG - ID ref 68-007-20190722).

3.131. Consequently, there is no clarity regarding the timetable for the submission, approval and implementation of any future application on the site.

3.132. Although the site is allocated for 10 dwellings, the Council assumes that 13 dwellings are deliverable on the site. There is no explanation of how the revision in site capacity has been derived.

3.133. Therefore, none of the 13 dwellings contended by the authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 13 dwellings  
Appellant = 0 dwellings  
Difference = 13 dwellings

**Land off Church Road, Warsash (LP2 H8)**

3.134. This site allocated for residential development in LP2, site ref H8 for 20 dwellings.

3.135. However, there is no record in the Council's Planning Register of a pending application on the site, nor is any other evidence envisaged in the PPG - ID ref 68-007-20190722). It is acknowledged that an application for 24 dwellings on the site was submitted in March 2006 (P/06/0837/OA). This was however refused with the subsequent appeal dismissed.

3.136. Consequently, there is no clarity regarding the timetable for the submission, approval and implementation of any future application on the site.

3.137. Therefore, none of the 20 dwellings contended by the Council are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 20 dwellings  
Appellant = 0 dwellings  
Difference = 20 dwellings

**Heath Road, Locks Heath – Hampshire County Council (LP2 H11) (P/17/1366/OA)**

3.138. This site is allocated for residential development in LP2, site ref H11 for 70 dwellings.

3.139. This outline application for 70 dwellings was validated on 10<sup>th</sup> November 2017 and the Council's Planning Committee resolved to approve it on 21<sup>st</sup> February 2018.

Nevertheless, planning permission has yet to be granted for the scheme more than three years after the committee resolution.

3.140. Although the Committee Report of 21<sup>st</sup> February 2018 recognised that the site was allocated for development within the existing Local Plan 2, the NPPF is clear that for a site within the second category of potentially deliverable land, this must be supported by further evidence.

3.141. However, as the Council’s Planning Register does not provide evidence as envisaged by the PPG (ID ref 68-007-20190722), particularly as there is no clarity regarding the timetable to grant outline planning permission together with the subsequent submission, approval and implementation of the essential reserved matters to enable construction of the dwellings, none of the 70 dwellings contended by the authority are considered deliverable. This is therefore consistent with the conclusions of the Secretary of State in the Nantwich appeal.

FBC = 70 dwellings  
Appellant = 0 dwellings  
Difference = 70 dwellings

**Summary of Site Assessment**

3.147. On the basis of our analysis of deliverability, we have deducted a total of 1,710 dwellings from the Council’s revised and re-categorised assessment of supply. This is summarised by source in Table 2 below.

*Table 2: Summary of Site Assessment*

<b>Supply source</b>	<b>Council<sup>22</sup></b>	<b>WBP</b>	<b>Difference</b>
Outstanding Planning Permissions – Small (104 dwellings) (10% discount)	69	69	0
Outstanding Full Planning Permissions – Large (5+ dwellings)	402	402	0
Outstanding Outline Planning Permissions – Large (5+ dwellings)	260	27	233
Resolution to Grant Planning Permission – Large (5+ dwellings) (exc Welborne)	663	0	663
Welborne (LPP3)	390	0	390
Brownfield Register Sites	321	0	321
Local Plan Adopted Housing Allocations (exc Welborne)	103	0	103
Windfall	102	102	0
<b>Total</b>	<b>2,310</b>	<b>600</b>	<b>1,710</b>

<sup>22</sup> Supplementary Statement to Newgate Lane East appeal (CDH.29)

3.148. Having assessed the deliverability of the components of supply in the context of the approach set out above, we arrive at the conclusion that the Council's delivery assumptions are overly optimistic and do not satisfy the deliverability test set out in the NPPF (as amplified in the PPG and the consideration of the term 'deliverable' in a number of appeal decisions and the clarity provided in the Consents to Judgements).

#### Analysis

3.149. In setting out our analysis of housing site delivery, we wish to highlight two related points as follows

- i. Firstly, and as confirmed in paragraph 73 of the NPPF, the maintenance of a 5 year supply is only a minimum requirement and provision above this reflects the Government's objectives in paragraph 59 of significantly boosting the supply of housing.
- ii. Secondly, is recognition that the Council's housing land supply must only include deliverable sites, as now defined in the NPPF (2019) taking account of the confirmation in the consent Orders and the Nantwich appeal decision.

3.150. As confirmed in the appeal decisions at Woolpit (**CDJ.12**) and Longdene (**CDJ.13**) the conclusions emphasise the importance of considering the evidence of deliverability of sites known (published) at the base date for assessing the robustness of housing land supply.

3.151. For the purpose of this appeal in Fareham, the base date is 1<sup>st</sup> January 2021 (as acknowledged in the Council's Position Statement (**CDH.12**)).

3.152. The importance of the base date for evidence also reflects the requirements of the NPPF (paragraph 73) to "update annually a supply of specific deliverable sites".

3.153. As highlighted in the Woolpit decision, the reliance on inferences of developer's intentions for delivery after the base date, without confirmatory evidence published by the Authority is inconsistent with this requirement. Paragraph 70 states as follows:

**“Furthermore, the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published. The site at Union Road, Onehouse is one amongst others, which was only an allocation at the time the AMR was published. Although planning permission was granted 17 August 2018<sup>14</sup> it does not alter the fact that the site was only subject to an allocation at the cut-off date but the Council did not have any clear evidence that it would provide housing within 5 years.”** (Our emphasis underlined)

3.154. This position reflects that taken by the Inspector at paragraph 39 of the Longdene appeal decision:

**“I share some of the appellant’s concerns about the implications of changes in the *Framework* to the definition of ‘deliverable’ in assessing housing land supply, along with the requirement for ‘clear evidence’ required by the *Guidance*. The onus is on WBC, for sites with outline permission or allocated in a development plan, to provide clear evidence to demonstrate that housing completions will begin on site within 5 years. I am not convinced that the evidence adduced by WBC is sufficient to demonstrate deliverability for all the sites with outline planning permission. However, I do not discount sites where reserved matters applications were subsequently submitted, but which were shown to be deliverable at the base date by reason of progress made towards the submission of an application or with site assessment work.”** (emphasis underlined)

3.155. As indicated earlier in this Statement, although the Council in their updated land supply assessment refer to the Consent Order from East Northamptonshire (**CDH.18**) to justify their increased allowance for deliverable sites, no evidence is included within their assessment to substantiate this position. We have reviewed the Council’s planning register to ascertain what evidence is readily available to justify the inclusion of the range of sources assumed.

3.156. However, and as indicated above, the appellant does not consider that the authority has adequately justified the inclusion of a number of sites/sources. The failure to provide the evidence of deliverability, rather than just developability as defined in the

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NPPF results in the appellant discounting a significant element of the Council's contended supply.

- 3.157. Our discounting of sites/sources without the requisite supporting evidence is reflective of the decision of the Secretary of State in the Nantwich appeal (**CDJ.9**) referred to above (which post-dates the East Northamptonshire Consent Order).
- 3.158. We have reviewed progress on sites relied upon by the Council in their Position Statement since the 1<sup>st</sup> January 2021 cut-off date. This is to consider the signing of the necessary S106 agreements to allow the inclusion of planning permissions, alongside updates for the other sources of supply could change the extent of any deficit (nevertheless still a shortfall in my view). However, and without corresponding updates on the other elements of the calculations i.e. extent of any permissions that have lapsed or have been fully or partially implemented in the intervening period<sup>23</sup>, results in an incomplete review.
- 3.159. The importance of ensuring any appraisal of land supply (alongside the requirement) includes ALL relevant factors has been acknowledged in appeal decisions.
- 3.160. The Waterbeach decision (**CDJ.11**) is a long established decision that clearly establishes this fundamental principle, as confirmed in paragraphs 20-22 of the decision:

**20. The issue between the parties is whether the 5-year supply requirement should use a base date of 1 April 2013 or 1 April 2014. As a general rule I accept the Council's submission that a more recent base date is to be preferred but only where I can be confident that it captures information on actual progress over the previous year<sup>6</sup>. In this case I am concerned that I only have a partial data set rather than a full set of the figures for the full year, April 2013-March 2014. Amongst other things the "*March AMR update*" [Document 13] says the figure for housing completions records "*...predicted completions to 31/3/2014. These predicted completions are based on the housing trajectory in the plan where there is no better information and otherwise on what developers have told us are their actual completions and planned completions to 31/3/2014. This information was gathered between October 2013 and January 2014 for major sites and others down to sites of 9 homes*" [my emphasis].**

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<sup>23</sup> i.e. to omit any completions since 1<sup>st</sup> January 2021

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**In other words it is only for part of the accounting year and otherwise based on a prediction.**

21. **In cross-examination Mr Hyde referred to other ways in which the data set was incomplete by reference to Figure 4.7 of the February 2014 AMR. In particular the table records planning permissions granted for windfall sites between 1 April and 31 December 2013 rather than for the full year. These commitments have the effect of increasing the supply side but the flip side is that no account has been taken of any planning permissions that lapsed after 31 March 2013.**
22. **The base date of 1 April 2013 ensures the housing land supply requirement figure is based on known completions because the actual level of historic completions is published in the 2012-13 AMR. This is the most up-to-date figure of known completions and anything else is conjecture. Moreover the Appellant refers to Mr Roberts’s Appendix DR44 to show the principle that the further ahead the projection, the less accurate it becomes. The Council’s approach is therefore less robust since it projects further into the future. For these reasons I find the Appellant’s approach is the most robust and reliable. (Our underlining)**

3.161. This supports our view that any assessment of supply can only be made having regard to the clear evidence of delivery (including developer’s intentions) known at the base date i.e. 1<sup>st</sup> January 2021. This reflects the correct approach taken by the Longdene Inspector (see last sentence of paragraph 39 quote above).

3.162. In setting out our assessment we also rely upon the findings of the Inspector in an appeal decision dated 26 September 2019 relating to schemes for 50 and 51 dwellings respectively in Hanslope, Milton Keynes (**CDJ.14**).

3.163. That decision is helpful in setting out the approach be taken to the assessment of deliverability under the auspices of the 2019 NPPF even when considered against a recently adopted Local Plan.

3.164. We apply the above approach to our assessment of deliverability.

**(iii) The Respective Five Year Housing Land Supply Positions**

3.165. Informed by the above, our view of the Council’s supply position, when assessed against the obligations arising from the NPPF and associated guidance with respect of clear and robust evidence (acknowledged in the appeal decisions referenced above),

contends that the supply of deliverable housing land should be reduced by 1,950 dwellings in the five year period from April 2020 to March 2025.

3.166. Based upon the analysis we have undertaken, it is our position that the deliverable supply figure for the five year period is 600 dwellings.

3.167. The derivation of this compared to the assessment of the authority is illustrated in Table 3 below.

*Table 3 – Comparison of deliverable land supply sources in Update to Planning Committee on 17<sup>th</sup> February 2021 (1<sup>st</sup> Jan 2021-31<sup>st</sup> Dec 2025)*

Supply source	Council (CDH.12)	Revised Council <sup>24</sup>	WBP	Difference from CDH.12
Outstanding Planning Permissions – Small (104 dwellings) (10% discount)	69	69	69	0
Outstanding Full Planning Permissions – Large (5+ dwellings)	402	402	402	0
Outstanding Outline Planning Permissions – Large (5+ dwellings)	296	296	27	269
Resolution to Grant Planning Permission – Large (5+ dwellings) (exc Welborne)	742	742 <sup>25</sup>	0	742
Resolution to Grant Planning Permission – Large (5+ dwellings) (Welborne)	630	390	0	630
Brownfield Register Sites	276	276	0	276
Local Plan Adopted Housing Allocations	33	33	0	33
Windfall	102	102	102	0
<b>Total</b>	<b>2,550</b>	<b>2,310</b>	<b>600</b>	<b>1,950</b>

3.168. On the basis of the foregoing, Table 3 below provides a comparison between the housing land supply positions adopted by the Council and the Appellant as at 1<sup>st</sup> January 2021 for the five year period 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2025.

3.169. As set out in Table 4 below, we identify a total deficit of 2,634 dwellings which represents a supply of 0.93 years.

<sup>24</sup> Supplementary Statement to Newgate Lane East appeal (CDH.29)

<sup>25</sup> Paragraph 5.8 of the Council's Supplementary Statement for Newgate Lane East appeal indicates that this should be 663.

Table 4 – The Respective Five Year Housing Land Supply Positions

	<b>Council<sup>26</sup></b>	<b>Appellant</b>
Requirement 2021 to 2025	3,234	3,234
Assessed deliverable supply	2,310	600
Extent of shortfall/surplus	<b>-924</b>	<b>-2,634</b>
No. of years supply	<b>3.57yrs</b>	<b>0.93yrs</b>

3.170. Based on the foregoing, it is our professional opinion that the housing shortfall we have identified should be afforded very significant weight in the determination of this Appeal.

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<sup>26</sup> Supplementary Statement to Newgate Lane East appeal (CDH.29)

#### 4. SUMMARY AND CONCLUSION

- 4.1. It is common ground that the Council is unable to demonstrate a five year supply of deliverable housing land (**CDJ.4, CDH.29, CDD2.1 and CDD2.2** refer). Even on the Council's most optimistic analysis, there is a shortfall of 924 dwellings, which shortfall is agreed as being significant and results in a supply of only 3.57 years.
- 4.2. Given the lack of a five year supply of deliverable housing land, the presumption in favour of sustainable development at paragraph 11(d) of the NPPF is engaged. This lack of supply also engages the assessment criteria at Policy DSP40 of the Local Plan Part 2 which allows for development beyond the settlement boundaries subject to the scheme(s) satisfying the criteria set out in the Policy.
- 4.3. Although the Council acknowledges that it cannot demonstrate a five year supply of deliverable housing land for the period 1<sup>st</sup> January 2021 to 31<sup>st</sup> December 2025 with a supply of **3.47 years (CDD2.2)**, it is our position that the extent of the deficit is significantly greater with a supply of only **0.93 years**. This amounts to a **deficit of 2,634 dwellings**.
- 4.4. Our assessment of the five year housing land supply position differs from the Council's, primarily due to the application of the definition of what constitutes a deliverable site from the 2019 NPPF, taking account the clarification provided by numerous appeal decisions.
- 4.5. The Council's case on housing land supply includes a reliance upon sites which were neither allocated nor had a planning permission at the base date for the assessment (31<sup>st</sup> December 2020) or are unsupported as a result of optimistic assumptions on delivery rates which are not supported by the necessary clear evidence (which also had to be available at 31<sup>st</sup> December 2020).
- 4.6. Having assessed the housing land supply based upon the requirements set out in the NPPF, PPG and the approach adopted in numerous appeal decisions, although we concur that the Council is not able to demonstrate a five year supply of deliverable housing land, thus engaging the presumption in favour of sustainable development at paragraph 11(d) of the NPPF, the extent of the shortfall is significantly greater than that acknowledged by the Authority.

- 4.7. Consequently, and as acknowledged by the Council, the presumption in favour of sustainable development is engaged as a result of the significant shortfall in supply.
- 4.8. Considering the identified shortfall, paragraphs 5.1 to 5.4 of the HLS SoCG (**CDD.2**) set out the following agreed position:
- The agreed position between the Council and Appellant is that the Council is not able currently to demonstrate a five year supply of deliverable housing land for the period 1st January 2021 to 31st December 2025.
  - As such, it is common ground between the Council and Appellant that the Council is not meeting paragraph 59 of the NPPF, thus engaging the presumption in favour of sustainable development at paragraph 11(d) of the NPPF unless disapplied by virtue of paragraph 177.
  - Whilst the Council and Appellant disagree as to the extent of the shortfall, it is nevertheless agreed, on either position, that the shortfall is significant and the weight to be attached to the delivery of housing from the Appeal Scheme is significant. As such it is not considered necessary for the Inspector to conclude on the precise extent of the shortfall.
  - In the light of the agreement reached between the parties in relation to the significance of the five year housing land supply shortfall, neither party will call their respective witnesses to deal with housing land supply matters unless such evidence is requested by the Inspector. This will save time and resources and will enable a more efficient inquiry process.
- 4.9. The appeal is to be determined on this basis.

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