
**TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 (AS AMENDED)**

**APPEAL AGAINST THE DECISION OF
EASTLEIGH BOROUGH COUNCIL TO REFUSE:**

**Application for residential development of 61
no. dwellings, with associated public open
space, landscaping and amenity areas with
access off Satchell Lane**

Land off Satchell Lane, Hamble-le-Rice

**PROOF OF EVIDENCE ON FIVE YEAR
HOUSING LAND SUPPLY AND
AFFORDABLE HOUSING NEED**

Prepared by:

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Foreman Homes Ltd

PINS Ref: APP/W1715/W/22/3292580

LPA REF: F/20/89488

WBP REF: 8399

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Woolf Bond Planning
Chartered Town Planning Consultants

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DOCUMENTS

- WB1** Qualifications and Experience: Mr G Ritchie
- WB2** Taylor Wimpey Half Year Results 2022
- WB3** Taylor Wimpey Half Year Results 2019
- WB4** Title plan and extract of land registry title for parcel ref HP2760 – North side of Winchester St, Botley
- WB5** Extract of land registry title for parcel ref HP62566 – Woodhouse Lane,
- WB6** Extract of Committee report on application O/20/89498 to Horton Heath Planning Committee December 2020
- WB7** Foreman Homes – Site Deliverability Note (Oct 2022)

QUALIFICATIONS AND EXPERIENCE

Steven Brown will say:

I hold a Bachelor of Science and Post Graduate Diploma in Town and Country Planning and I am a Member of the Royal Town Planning Institute.

I am a Principal of Woolf Bond Planning LLP – Chartered Town Planning Consultants and I have been engaged in town planning with 20 years' experience as a private consultant acting for major house builders, development companies, estates and private individuals. National house builder clients include Barratt David Wilson Homes, Bargate Homes, Barwood, Bellway, City & Country, Crest Nicholson, Croudace, Foreman Homes, Miller Homes, Persimmon, Redrow Homes and Taylor Wimpey, as well as strategic land promoters, Fairfax and CEG.

I have visited the appeal site and its surroundings and have examined the relevant plans and documents for the purpose of these appeals.

The evidence which I have prepared and provide for these appeals in this proof of evidence, is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

1. INTRODUCTION

Scope of Proof of Evidence

- 1.1. This Proof of Evidence has been prepared by Mr Steven Brown (BSc Hons DipTP MRTPI) on behalf of Foreman Homes Ltd (the “Appellant”) in relation to their appeal against Eastleigh Borough Council’s refusal of the detailed planning application for “residential development of 61 no. dwellings, with associated public open space, landscaping and amenity areas with access off Satchell Lane”. The analysis of site deliverability includes contributions from Mr Graham Ritchie¹ (BSc Hons DipTP MRTPI).
- 1.2. As discussed and agreed at the Case Management Conference (“CMC”) held on 14 September 2022, housing land supply matters are to be considered at a Round Table Session (“RTS”).
- 1.3. This Proof sets out consideration of the following:
 - a) The five year housing land supply position in Eastleigh Borough for the period 1st July 2022 to 30th June 2027; and
 - b) The extent of need and supply with respect of provision of affordable housing in Eastleigh Borough.
- 1.4. At the outset, there is disagreement between the Council and the Appellant as to whether the Council is able to demonstrate a five year supply of deliverable housing land at 1st July 2022.
- 1.5. The Council contends that it has a 5.1 year supply, representing a marginal surplus of 116 dwellings (against a minimum requirement). This is disputed by the Appellant.
- 1.6. My view is that the Council has a maximum supply 3.67 years, representing a shortfall of 1,019 dwellings.
- 1.7. The Council’s position is set out in their Report titled “Calculation of Five-Year Housing Land Supply” (Aug 2022) (**CD5.6**).

¹ Qualifications and experience at **WB1**

- 1.8. The respective positions are set out in the Five Year Housing Land Supply Statement of Common Ground (“SoCG”) (**CD13.5**).
- 1.9. As to the Policy context, although the Council adopted its Local Plan on 25th April 2022, paragraph 2 of the Inspector’s Report (**CD5.1**) confirms it was examined for consistency with the 2012 edition of the NPPF². Consequently, where differences have arisen in the subsequent versions of the NPPF (currently July 2021 edition), these will not be reflected in the Local Plan. Therefore, and as noted in paragraph 219 of the current NPPF, consideration of the consistency of the Local Plan policies with the latest edition is essential.
- 1.10. In this regard, the definition of what sources of supply can be regarded as ‘deliverable’ for the purposes of a five year supply has significantly changed between the 2012 and subsequent versions of the NPPF. It is a result of these differences that the Council’s contended housing land supply position is disputed.
- 1.11. On the basis of my assessment, the lack of a five year supply of deliverable housing land engages the presumption in favour of sustainable development at paragraph 11(d) of the NPPF.
- 1.12. This Proof addresses the five year housing land supply position as well as the weight to be attached to the delivery of housing from the Appeal Scheme. It also considers the need for affordable housing; and the weight to be given to the delivery of affordable housing from the Appeal Scheme.
- 1.13. In considering the five-year housing land supply position, the analysis sets out the position 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. It also sets out and addresses 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.

² Reflecting paragraph 220 of the current NPPF as the Eastleigh Local Plan was submitted for Examination on 31st October 2018 (see cover of Inspector’s Report – **CD5.1**). This is therefore before the 24th January 2019 date specified in paragraph 220.

- 1.14. Informed by that background, the housing requirement and deliverability of the Council's identified components of supply is assessed and thereafter I set out my conclusion in relation to the five-year housing land supply position; where I conclude that the Council is not able to demonstrate a five year supply of deliverable sites.
- 1.15. This Proof also considers the need for affordable housing within the Borough. It notes that there remains a significant need for additional affordable housing in the Borough which the appeal scheme can contribute towards resolving.

Summary of Findings

- 1.16. Although the Council contends that it can demonstrate a five year supply of deliverable housing land for the period 1st July 2022 to 30th June 2027 with a purported supply of 5.1 years and a marginal surplus of 116 dwellings (**CD5.6**), it is my opinion that the Council is not able to show a five year supply of deliverable housing land, with a supply of only **3.67 years**. This amounts to a **deficit of 1,019 dwellings**.
- 1.17. As noted, my 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 2021 NPPF, taking account the clarification provided by numerous appeal decisions.
- 1.18. The Council's case on housing land supply is set out in their "Calculation of Five-Year Housing Land Supply" statement published in August 2022 (**CD5.6**). It includes reliance upon delivery from sites which were neither allocated nor had a planning permission at the base date for the assessment (30th June 2022) 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 30th June 2022).
- 1.19. The respective positions are shown in the table 1 below.

Table 1 – The Respective Five Year Housing Land Supply Positions

	Council	Appellant
Requirement 1/7/2022 to 30/6/2027	3,827	3,827
Assessed deliverable supply	3,943	2,808
Extent of shortfall/surplus	116	-1,019
No. of years supply	5.15yrs	3.67yrs

- 1.20. Having assessed the housing land supply based upon the requirements set out in the NPPF, PPG and the approach adopted in numerous appeal decisions, I conclude 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.
- 1.21. Consequently, 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 in the overarching Planning Proof of Evidence prepared by Mr Brown.
- 1.22. In the alternative, in a scenario where the Borough Council was able to show a five year supply of deliverable housing land, the decision maker would need to undertake the 38(6) balance (instead of the 'tilted' balance) and weigh the development plan conflict against the material considerations. In that scenario, the development plan conflict would be the location of the Site beyond the settlement boundary in a recently adopted Local Plan (which does not plan for the full identified housing need), and the limited landscape harm that would be occasioned to the existing landscape character. The benefits include the economic and social benefits associated with the delivery of housing, in a sustainable location.

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 Scheme³, The Development Plan for Eastleigh Borough comprises the following:
- Eastleigh Borough Local Plan 2016 – 2036 (April 2022)
- 2.3. Applicable policy considerations are set out in my overarching Planning Proof of Evidence and I do not seek to expand upon that here, save to reiterate that the Local Plan whilst adopted in April 2022 was examined for consistency with the 2012 version of the NPPF. Consequently, as acknowledged in the current NPPF, as there are differences in the current NPPF compared to the 2012 edition, less weight can be attributed to the policies of the Local Plan. This is especially important with respect of the refined definition of deliverable sites.
- 2.4. Although the Local Plan was adopted on 25th April 2022, as confirmed in paragraph 2 of the Inspector's Report into its Examination (March 2022) (**CD5.1**), it was assessed for consistency with the 2012 version of the NPPF, rather than the latest edition (2021).
- 2.5. Adopted Local Plan (Policy S2) requires the delivery of a minimum of 14,580 dwellings over the plan period (2016-36). As there is no specific phasing in the document, this equates to 729dpa. This compares the requirement for at least 675dpa within the Borough when the requirement was assessed pursuant to the 2021 NPPF (paragraph 74).

³ Thus ignoring Neighbourhood Plans for those parts of the Borough not relevant to the determination of the Appeal Scheme

- 2.6. The adopted Local Plan indicates that at 1st April 2019, the expected delivery of homes was to be:

Table 2 – Expected sources of Supply as stated in the Local Plan

Source	Dwellings	%
Completions 1 st April 2016 – 31 st March 2019	2,572	21.5%
Sites with planning permission or resolution to grant	7,187	60.1%
Windfall development	1,475	12.3%
Allocations	732	6.1%
Total	11,966	100%

- 2.7. It is important to note here that the total anticipated supply of 11,966 dwellings is insufficient to address the 14,580 minimum housing target set in the Plan.
- 2.8. The accepted shortfall is at least 2,614 dwellings.
- 2.9. The reason why insufficient land has been earmarked to address the housing requirements is that a Strategic Growth Option which had envisaged 5,300 dwellings on sites north of Bishopstoke and north-east of Fair Oak (1,000 and 4,300 homes respectively) was removed from the Plan following its examination by the Inspector⁴. This was due to the unjustified nature of the proposals.
- 2.10. Whilst a significant proportion of the expected supply is from sites with either planning permission or a resolution to grant, whether they are deliverable within the next five years would need to be appraised pursuant to the revised definition of deliverable⁵.
- 2.11. This is especially important with respect of sites with outline permission or a resolution to grant. The revised definition of deliverable also raises doubts over the inclusion of allocations within supply during the next five years.
- 2.12. Local Plan Policy S3 indicates that around 5,960 dwellings will be developed on strategic sites with planning permission.
- 2.13. The sites comprise as follows:

⁴ See paragraphs 44-50 of the Inspector’s Report (**CD5.1**)

⁵ See paragraph 51 of appeal decision of land at Castlethorpe Rd, Hanslope (PINS ref APP/Y0435/W/18/3214365 & APP/Y0435/W/18/3214564) (**CD8.7**)

- South of Chestnut Avenue, Eastleigh at Stoneham Park – 1,150 dwellings
- West of Horton Heath (Policy HH1) – 1,500 dwellings
- West of Woodhouse Lane, Hedge End (Policy HE1) – 605 dwellings
- North and east of Boorley Green and Botley – 1,400 dwellings
- North-west of Boorley Green – 680 dwellings
- Pembers Hill Farm – 250 dwellings
- North-east of Winchester Street (Uplands Farm) (Policy BO2) – 375 dwellings

2.14. Whilst insufficient land was allocated in the Local Plan to address the Borough's housing need, paragraph 4.12 of the document recognises the Council's commitment to commence an update of the Plan within 1 year of its adoption.

National Planning Policy Framework

2.15. The National Planning Policy Framework (NPPF) was published in July 2018; refined in February 2019 with further amendments in July 2021. It is a material consideration of particular standing in the determination of planning applications.

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

Decision Taking

2.17. 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.

2.18. 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 – this applies in Eastleigh Borough as outlined in this statement), 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.

Delivering a Sufficient Supply of Homes

- 2.19. Paragraph 60 sets out the Government's objective of significantly boosting the supply of homes.
- 2.20. Paragraph 68 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 this definition has been used, alongside that set out in the PPG⁶, to inform the assessment of the Council's five year housing land supply position.
- 2.21. Paragraph 74 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.
- 2.22. Based upon the Housing Delivery Test published on 14th January 2022 (see footnote 41 of the NPPF), the Council is a 5% Authority.

⁶ See Housing Supply and Delivery section (ID 68-007-20190722)

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

General

- 3.1. The 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.
- 3.2. The Council's Five Year Housing Land Supply position as at 1st July 2022 was published by the Council in August 2022 (**CD5.6**) and covers the five year period 1st July 2022 to 30th June 2027.
- 3.3. The areas of agreement and disagreement in relation to the five year housing land supply position are set out in **CD13.5**.

NPPF and PPG

- 3.4. Paragraph 74 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").
- 3.5. For the purpose of this Appeal, the HDT results state that Eastleigh Borough is a 5% buffer Authority.

3.6. The PPG expands upon the definition of a deliverable site⁷, which references the definition at Annex 2 of the NPPF.

(i) Identifying the Housing Requirement

General

3.7. As set out in **CD13.5**, the agreed minimum requirement for the current five year period is 3,234 dwellings.

3.8. The starting point to calculating the five year requirement is the minimum **729 dwelling annual requirement** derived from policy S2 of the Eastleigh Borough Local Plan (April 2022). This equates to 3,645 dwellings requirement.

3.9. As a result of the Housing Delivery Test (“HDT”) results published in January 2022, it is agreed that it is appropriate to apply a 5% buffer to the requirement.

3.10. This results in an agreed minimum five year requirement of **3,827 dwellings for the five year period 1st July 2022 to 30th June 2027**. This equates to 765.4 dwellings per annum.

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

General

3.11. 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

⁷ See Housing Supply and Delivery section (ID 68-007-20190722)

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.

3.12. Paragraph 4.26 of the Council's Five Year Supply Assessment (**CD5.6**) 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 7th May 2020 (**CD15.8**).

3.13. 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

3.14. 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 2nd July 2020 (**CD15.9**).

3.15. 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."

- 3.16. There has been a clear change in the definition of deliverable sites between the 2012 and 2019 editions of the NPPF⁸ which was acknowledged in the Bedford Borough Consent Order.
- 3.17. This difference in the definition of 'deliverable' was also highlighted in the appeal decision for land off Castlethope Road, Hanslope⁹ allowed on 26th September 2019¹⁰ (CD8.7). The Hanslope appeal was determined against the 2019 rather than the 2012 edition of the NPPF.
- 3.18. As with the 2021 version of the NPPF, the 2019 version includes a refined different definition of deliverability compared to the earlier 2012 version. This is shown in paragraph 51 of the Hanslope appeal decision which states:

“There is no definition in the Framework as to what constitutes ‘clear evidence’, but its application now is stricter than the tests in place before the current version of the Framework was published. This introduces a material difference to the assessment of housing land availability done under the examination of *Plan:MK* as that exercise was based on the previous version of the Framework. However, in the context of a section 78 appeal, there has to be a reasonable limit to the amount of information that can be forthcoming concerning the development of many sites elsewhere in the borough, and so an element of proportionality has to be applied to the evidence. Furthermore, the nature of the housing market, and the fact that many of the sites are under the control of parties not involved in the appeal, means any such evidence can never be expected to be watertight or irrefutable, and must always be accepted with some flexibility and uncertainty.”

- 3.19. Therefore, whilst the Inspector examining the Eastleigh Borough Local Plan may have concluded that a five year supply of housing land could be demonstrated within the Eastleigh Borough at that time, as acknowledged in the Hanslope appeal decision, due to the refined definition in the current NPPF, a different conclusion can be reached when the evidence is reviewed having regard to the revised definition.

⁸ There is no change between 2019 and 2021 version of NPPF

⁹ Where Milton Keynes' Local Plan (Plan:MK) was likewise examined under the 2012 NPPF and had been adopted on 20th March 2019

¹⁰ PINS ref APP/Y0435/W/18/3214365 & APP/Y0435/W/18/3214564 (CD8.7)

- 3.20. For the reasons outlined in this Proof of Evidence, my view is that there is a very clear shortfall in supply as a result of the changed definition in deliverable housing land.
- 3.21. The refined definition of a deliverable site within the current NPPF, together with the advice in the accompanying PPG on the quality and robustness of evidence¹¹ indicates that the approach of the authority and its expectations of deliverability are not justified.
- 3.22. In addition to the appeal decision referenced at Hanslope, other appeals have considered the implications of the additional guidance on how deliverability of sources/sites is to be appraised, including the nature and depth of evidence required pursuant to the versions of the NPPF issued since 2018.
- 3.23. One example is the appeal decision relating to land at Little Sparrows, Sonning Common allowed on 25th June 2021 (CD8.8)¹². The nature and depth of evidence was assessed in paragraphs 20 and 21 of the decision which state:

20 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.

21. 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

¹¹ See Housing Supply and Delivery section (ID 68-007-20190722)

¹² PINS ref APP/Q3115/W/20/3265861.

their own site and consequentially remove the need for other sites to come forward.

- 3.24. Taking account of the guidance in the 2021 NPPF and the conclusions of appeal Inspectors (including those at Hanslope and Sonning Common), the specific sites and sources where the contended delivery is not justified must be omitted especially as 'clear evidence' must be something cogent, as opposed to simply mere assertions.
- 3.25. 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 15th July 2020 allowing residential development off Audlem Road/Broad Lane, Nantwich (APP/R0660/A/13/2197532) (**CD8.9**). They 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.

- 3.26. 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.
- 3.27. Therefore, having regard to the contents of the two consent orders (**CD15.8** and **CD15.9**) together with the subsequent decision of the Secretary of State in the Nantwich appeal (**CD8.9**), 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 PPG¹³.
- 3.28. 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 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.**

¹³ See Housing Supply and Delivery section (ID 68-007-20190722)

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.

- 3.29. 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.
- 3.30. 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.
- 3.31. This approach is the clear conclusion from the two consent orders (**CD15.8** and **CD15.9**) together with the subsequent Nantwich appeal decision determined by the Secretary of State (**CD8.9**).
- 3.32. As explained, the need for robust evidence is reflected in the conclusions of Inspectors in other appeals including those at Hanslope (**CD8.7**) and Sonning Common (**CD8.8**). It is within this context that the Council’s housing land supply position is to be appraised.

Overview of sources

- 3.33. The Council’s assessment of housing land supply for the period 2022-27 is set out in Table 3 of its Housing Land Supply Paper. This suggests a deliverable supply of 3,943 dwellings at 1st July 2022. This is derived from the sources as shown in Table 3 below.

Table 3 - Sources of supply relied upon by the Council for period Jul 2022-Jun 2027

Source	Dwellings
Net outstanding permissions for small sites (<10 units) (discounted by 4% for lapses)	165
Net outstanding planning permissions for large sites (10+ units)	2,565
Sites with a resolution to grant permission	863
Housing for older people (C2) (Equivalent no. of dwellings)	105
Sites in Adopted Local Plan	35
Sites in Eastleigh Borough Council's Housing Programme	48
Windfall sites (for years 3 - 5)	162
Total	3,943

- 3.34. Whilst the appendices to the Council's documents do not provide annual forecasts for completions on small sites, the Local Plan (Table following paragraph 4.14) indicates that a small site allowance of 39dpa is to be applied from April 2019 through to March 2036.
- 3.35. The updated information on housing monitoring indicates that the annual average small site completion rate 2011-21 is 55dpa. We have therefore applied this to the pool of small sites permissions within the table to provide an overall forecast for each year. Table 4 below refers.

Table 4: Annual Sources of supply at 1st July 2022

	1/7/22-31/3/23	1/4/23-31/3/24	1/4/24-31/3/25	1/4/25-31/3/26	1/4/26-31/3/27	1/4/27-30/6/27	Total
Net outstanding permissions for small sites (<10 units) (discounted by 4% for lapses)	41	55	55	14	0	0	165
Net outstanding planning permissions for large sites (10+ units)	515	538	552	484	359	117	2,565
Sites with a resolution to grant permission	0	15	171	225	337	115	863
Housing for older people (C2) (Equivalent no. of dwellings)	45	0	0	60	0	0	105
Sites in Adopted Local Plan	0	0	0	0	15	20	35
Sites in Eastleigh Borough Council's Housing Programme	0	0	11	37	0	0	48
Windfall sites (for years 3 - 5)	0	0	38	55	55	14	162
Sub-Total	601	608	827	875	766	266	3,943

- 3.36. Although the land supply report states (paragraph 4.14) that “resolutions to grant” equate to a “permission in principle”, this is inconsistent with the NPPF Glossary definition of this term. It is for the Council to demonstrate why each source, especially those within the second category of potentially deliverable sites has been included within the supply.
- 3.37. The Council’s Calculation of Five Year Housing Land Supply Report¹⁴ includes sites in Eastleigh Borough Council’s Housing Programme as deliverable since it considers that there is clear evidence that dwellings will be completed within the next five years.
- 3.38. Whilst the Council references the East Northamptonshire consent order (**CD15.8**) to justify this, as noted above, this has been superseded by the Bedford Consent Order (**CD15.9** together with appeal decisions including that by the Secretary of State (Nantwich (**CD8.9**)).
- 3.39. As sites in the Council’s Housing Programme are not within any of the listed sources, the Council must provide clear robust evidence to justify their inclusion as deliverable sites. In the circumstances, this source of supply must be omitted.

Analysis of Deliverability

- 3.40. Mr Ritchie and I have reviewed the various components of supply relied upon by the Council in their Calculation of Five-Year Housing Supply Statement (August 2022) (**CD5.6**). We disagree with their analysis of deliverability.
- 3.41. Our site assessment is set out below.

Net Outstanding Permissions for small sites (1-9) units (discounted by 4% for lapses)

- 3.42. The Council expects 165 dwellings to be delivered within the five years from this source. We accept this position.
- 3.43. The respective positions in relation to this component of supply are as follows:

¹⁴ Paragraphs 4.25-4.28

EBC: 165 dwellings
WBP: 165 dwellings
Difference: 0 dwellings

Net outstanding planning permission for large sites (10 or more units)

3.44. The Council expects 2,565 dwellings to be delivered within the five years from this source.

3.45. For the reasons we explain, we dispute the contended delivery from several of the sites specified. We discount the supply by 408 dwellings.

3.46. The respective positions in relation to this component of supply are as follows:

EBC: 2,565 dwellings
WBP: 2,157 dwellings
Difference: 408 dwellings

3.47. Our site analysis is set out below.

Land to the north and east of Winchester Street, Botley (O/18/83698)

3.48. Outline planning permission was granted for up to 375 dwellings on 24th March 2022. The site therefore falls within the second category of potentially deliverable sites.

3.49. The notes in the Council's Calculation of Five-Year Supply Statement (August 2022) (**CD5.6**) (page 18) recognise that the site is in a number of ownerships, albeit that the County Council controls the majority. Although the Statement indicates that the County Council is in discussion with the other owners to agree the disposal arrangements following its assembly into a single lot (controlled by the County Council), there is no evidence (as envisaged by the PPG) to confirm when this might occur and more importantly the realism of this strategy.

3.50. An extract of the approved masterplan for the site is shown below. This indicates that the access into the residential development parcel is directly off Winchester Street, Botley (ref 1 and 2 on extract).



Copy of Illustrative Masterplan for Application O/18/836898

- 3.51. A review of the land register indicates (with respect to the southern access)¹⁵ that this is not within the control of the County Council and there is no indication of when this might occur. In the absence of this certainty, the site is not deliverable.
- 3.52. With uncertainty over the arrangements for the sites' disposal on the market, this will also impact upon the timing of any submission of reserved matters. Taking these factors into account, the deliverability of the site within the next five years is disputed.
- 3.53. Table 5 compares the expected delivery of the authority with that of the appellant for this site.

Table 5: Comparison of expected delivery of land north and east of Winchester Street, Botley

	1/7/22-31/3/23	1/4/23-31/3/24	1/4/24-31/3/25	1/4/25-31/3/26	1/4/26-31/3/27	1/4/27-30/6/27	Total
EBC	0	0	0	0	30	33	63
WBP	0	0	0	0	0	0	0

¹⁵ See tile plan and deeds information for land registry parcel ref HP2760 – land on the north side of Winchester Street, Botley (**WB4**)

- 3.54. Removing supply from land north and east of Winchester Road, Botley is consistent with the conclusions of Inspectors and the Secretary of State in other appeals¹⁶.

Land west of Woodhouse Lane, Hedge End (O/18/83634)

- 3.55. Hybrid planning application O/18/83634 was approved on 6th September 2019 following validation on 17th July 2018. The application consisted of:
- A) outline application for up to 605 residential dwellings, a local centre, pedestrian and cycle links, a pedestrian SINC crossing, drainage, public open space, landscaping, other supporting infrastructure and mitigation measures (including noise attenuation) associated with the development; and
 - B) Full application for 7 form entry secondary school with potential to expand to 9 form entry and associated sports provision, primary access roads and points of access.
- 3.56. Condition 2 of the decision required commencement of the school development within two years of approval i.e. by 6th September 2021.
- 3.57. Condition 19 requires that commencement of the residential development and other elements in the outline portion of the scheme must occur within either three years of the permission (i.e. by 6th September 2022) or within two years of the approval of the last reserved matter. Condition 20 requires the submission of reserved matters for at least the first phase of the residential development to occur within two years of the permission (also 6th September 2021).
- 3.58. A reserved matters application for the noise attenuation bund (RM/20/87347) was validated on 10th February 2020 and approved on 18th May 2020. A further reserved matters application for the community sports provision, public open space, landscaping and 2 no. public rights of way was validated on 1st December 2020 and approved on 11th March 2021. No reserved matters applications for dwellings have yet to be submitted.
- 3.59. The approved secondary school (Deer Park) has been constructed and received its initial intake of pupils in September 2021.

¹⁶ Nantwich (CD8.9) and Sonning Common (CD8.8)

- 3.60. Whilst applications for some elements covered by the outline approval have been approved, none have been received for residential development. The Council's statement (page 20) indicates that a reserved matters application for residential development is to be submitted in October 2022 with construction commencing in spring 2023, assuming permission is granted. The Council states that first completions are then expected in Quarter 4 2023/24.
- 3.61. Whilst this may be the expectations, no evidence has been provided to confirm firstly that this is the programme of the developer and secondly the extent that this is realistic both with respect of the timeframe and subsequent delivery rates. This is important as noted in the Sonning Common appeal (**CD8.8**) where the Inspector emphasised (paragraph 21) that:
- “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.”**
- 3.62. As no reserved matters application has been submitted, it is not known whether they will be approved nor what conditions may be imposed for which additional information will be required. This is further to whether the Council will determine the reserved matters application in the timeframe suggested.
- 3.63. The Council's "Calculation of Five-Year Supply" (August 2022) (**CD5.6**) states (page 20) that Taylor Wimpey has been selected as the developer.
- 3.64. A review of the land registry titles for land west of Woodhouse Lane indicates that the whole parcel is currently owned by the County Council¹⁷. There is consequently no information on when Taylor Wimpey may take control of the site prior to their commencing construction.

¹⁷ See title deeds for parcel ref HP62566 (**WB5**)

- 3.65. In addition to this, no evidence has been provided to justify the annual build rates assumed, especially as the latest results from Taylor Wimpey indicate that in the six months ending 3rd July 2022 (**WB2**), the company completed 6,790 dwellings from 233 outlets. This is an average of 29 homes per outlet in the six months or 58dpa. This can be compared to the pre-pandemic output as illustrated in their half year statement published on 31st July 2019 (**WB3**).
- 3.66. The 2019 statement indicates that in the six months ending 30th June 2019, the company completed 6,541 dwellings across 257 outlets. This is an average of 25.5 homes per outlet in the six months or 51dpa.
- 3.67. Taylor Wimpey's 2022 half year results (**WB2**) also state that over this period, net private sales were 0.9 homes per outlet per week. This is equivalent to 47dpa. In contrast the 2019 half year results state that net private sales were 1 home per outlet per week.
- 3.68. Whilst it is noted that the Taylor Wimpey's 2022 results may have been partly impacted upon external factors i.e Covid, this is not confirmed when performance is compared to that achieved pre-pandemic, as illustrated in the 2019 results.
- 3.69. As a further sense check, the appellant has reviewed other information to determine whether Taylor Wimpey's results and performance are unusual. This is through analysis of the data on lead in times and delivery rates having regard to the national research by Lichfields in Start to Finish – what factors affect the build out rates (2020) (**CD15.10**). This suggests that the site could commence delivery in summer 2023¹⁸ with an annual delivery rate of between 68 and 73dpa¹⁹.
- 3.70. For delivery from summer 2023, this assumes that there would be 1.7 years from the grant of detailed permission²⁰. As there is no pending reserved matters application for residential development in autumn 2022, it is completely unrealistic for completions to occur in nine months (summer 2023) and therefore a departure from the Lichfield's research is necessary.

¹⁸ Allowing the 5 year average within figure 4 for planning and delivery for sites of between 500 and 999 dwellings following the application's validation on 17th July 2018.

¹⁹ Reflecting rates for sites of between 500 and 999 dwellings in table 3.

²⁰ Based upon the various stages illustrated in figure 1

- 3.71. Figure 13 of the Lichfield’s research indicates that delivery rates are influenced by the number of outlets. This is reflected in the Council’s Calculation of Five Year Housing Land Supply Statement (2022) where it highlights sites with multiple developers²¹. However, with the selection of Taylor Wimpey as the developer partner, there is no evidence on the number of outlets on the site. This would therefore impact upon the rates achievable on the site, having regard to figure 13 of Lichfields research.
- 3.72. In the absence of certainty of timing of Taylor Wimpey’s acquisition of the site and their subsequent commencement of house building, it is not considered that the site is deliverable, especially as no reserved matters for residential development have been submitted.
- 3.73. As there is no evidence to support the Council’s contended lead in times and delivery rates, it is considered that their approach is unjustified and inconsistent with the NPPF.
- 3.74. Table 6 compares the Council’s delivery assumptions with our assessment.

Table 6: Comparison of expected delivery of land west of Woodhouse Lane, Hedge End

	1/7/22- 31/3/23	1/4/23- 31/3/24	1/4/24- 31/3/25	1/4/25- 31/3/26	1/4/26- 31/3/27	1/4/27- 30/6/27	Total
EBC	0	15	60	105	115	50	345
WBP	0	0	0	0	0	0	0

- 3.75. The approach we adopt in our discounting of 345 dwellings from this land west of Woodhouse Lane, Hedge End is consistent with the conclusions of Inspectors and the Secretary of State in other appeals²².
- 3.76. Our assessment acknowledges that the site is a Local Plan allocation, such that it falls within the second category of potentially deliverable sites as set out in the NPPF definition.

²¹ See land north and east of Boorley Green (page 17) where three developers are referenced – Bloor, Bovis and Linden with a maximum cumulative output of 150dpa expected

²² Nantwich and Sonning Common

Sites subject to resolution to granted planning permission

3.77. The Council expects 863 dwellings to be delivered within the five years from this source of supply.

3.78. For the reasons we explain, we dispute the contended delivery from several of the sites. Overall, we reduce this component of supply by 592 dwellings.

3.79. The respective positions in relation to this component of supply are as follows:

EBC: 863 dwellings
WBP: 271 dwellings
Difference: 592 dwellings

3.80. Our analysis has regard to the content at paragraph 4.14 of **CD5.6** (EBC's 5yr HLS Report), which states that "resolutions to grant" equate to a "permission in principle", this is inconsistent with the NPPF Glossary definition of this term. The NPPF definition of "permission in principle" is:

"A form of planning consent which establishes that a site is suitable for a specified amount of housing-led development in principle. Following a grant of permission in principle, the site must receive a grant of technical details consent before development can proceed."

3.81. As sites with a resolution to grant are not within any of the listed categories defined in the NPPF's glossary as potentially deliverable, it is for the Council to demonstrate why each site is supported by sufficient, robust evidence to enable its inclusion.

3.82. We have reviewed each site to establish whether they could be regarded as deliverable by virtue of their inclusion in one of the specified potential sources listed in the NPPF. For the reasons specified, we dispute the expected contribution from some of the listed sites and the reasons for this is explained below.

Land west of Allbrook Way, Knowle Hill (O/19/86980)

3.83. An outline application for the erection of 52 dwellings received a resolution to grant permission at the Eastleigh Area local committee, most recently on 8th June 2021. Over a year has since elapsed and the necessary legal agreement remains unsigned. There is no agreed timeframe for the signing of the necessary S106.

- 3.84. In addition to the lack of an outline planning permission, there is no information in relation to the timeframe for the submission, determination and future implementation of the necessary reserved matters. This is a further indication that the site is deliverable.
- 3.85. Whilst the site is allocated within the Local Plan for 45 dwellings (policy AL2), the lack of evidence to demonstrate a realistic timeframe for the determination of the pending outline application together with the necessary reserved matters means that this site is also not deliverable, even though it is within a potential category listed in the NPPF.
- 3.86. Outline planning permission was granted for up to 375 dwellings on 25th March 2022. The site falls within the second category of potentially deliverable sites.
- 3.87. Table 7 compares the Council’s delivery assumptions with our assessment.

Table 7: Comparison of expected delivery of land west of Allbrook Way, Knowle Hill

	1/7/22- 31/3/23	1/4/23- 31/3/24	1/4/24- 31/3/25	1/4/25- 31/3/26	1/4/26- 31/3/27	1/4/27- 30/6/27	Total
EBC	0	0	0	20	32	0	52
WBP	0	0	0	0	0	0	0

- 3.88. The approach we adopt in discounting any delivery from land west of Allbrook Way, Knowle Hill is consistent with the conclusions of Inspectors and the Secretary of State in other appeals²³.

Land west of Horton Heath (O/20/89498 & F/20/89500)

- 3.89. As noted in the **CD5.6** (page 22), this site is subject to the following planning applications which influence its deliverability credentials:
- Outline applications for up to 1,400 homes approved (applications O/14/75735²⁴ & O/16/79354²⁵).

²³ Nantwich and Sonning Common

²⁴ Outline application for up to 950 dwellings approved 22nd December 2017 with reserved matters requiring submission by 22nd December 2018

²⁵ Outline application for up to 450 dwellings approved 17th November 2017 with reserved matters requiring submission by 17th November 2019.

-
- Outline application for 2,500 dwellings with a resolution to grant at Horton Heath Committee on 30th September 2021 (O/20/89498)²⁶.
- 3.90. With respect to the application for up to 950 dwellings (O/14/75735), variations have been approved through applications X/18/84413²⁷ and X/19/86475²⁸. Following these variations, a reserved matters application for phase 1A (footway/cycleway) was submitted on 18th December 2018 and is pending determination (RM/18/86457). There is no timeframe specified for the determination of this reserved matters application nor for the submission of reserved matters for the erection of dwellings.
- 3.91. With regard to the application for up to 450 dwellings (O/16/79354), variations have been approved through application X/19/86303²⁹.
- 3.92. Following this variation, a reserved matters application for phase A1 footpath was submitted on 5th November 2019 and is pending determination (RM/19/86792).
- 3.93. There is no timeframe specified for the determination of this reserved matters application nor for the submission of reserved matters for the erection of dwellings.
- 3.94. On the southern part of the site, a free-standing detailed application for 381 dwellings has been submitted by Eastleigh Borough Council (LPA Ref: F/20/89500) and this was validated on 11th January 2021.
- 3.95. On 3rd Nov 2021, the Council's Horton Heath Planning Committee resolved to approve the application subject to the signing of a legal agreement alongside the submission of further highway plans.
- 3.96. Whilst additional highways drawings have been submitted, the necessary legal agreement remains unsigned. The submission of further highways and other drawings is illustrated in the extract from the Council's website.

²⁶ Extract of Committee Report included as WB6

²⁷ Approved 11th December 2018 and this amended the timeframe for submission of reserved matters to no later than 11th December 2019

²⁸ Approved 22nd October 2019 and this amended the timeframe for submission of reserved matters to no later than 22nd October 2020.

²⁹ Approved 22nd October 2019 and this amended the timeframe for submission of reserved matters to no later than 22nd October 2021.

PLANNING APPLICATION

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F/20/89500 - Full planning

Status	Applicant	Agent	Specialist	Site Address	Planning Portal Ref
Valid	Eastleigh Borough Council	Savills (UK) Limited (Mr Bryony Stala)	Dawn Errington	Land west of Burnetts Lane, Eastleigh, SO30 2HH	9330477

Details Consultees and Comments Documents

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Habitat Regs Appropriate Assessment	Supporting Info	25/08/2022	1
HCC Highways Fifth and final response	Consultee Response	25/08/2022	1
AMENDED_Southern Access Design (131.0005.006.E)	Plan	05/08/2022	1
AMENDED_Visibility Splays Review (131.0005.003.N)	Plan	05/08/2022	1
AMENDED_Northern Access Design (131.0005.005.E)	Plan	05/08/2022	1
AMENDED_Proposed Site Layout Plan (29607A_10_N)	Plan	05/08/2022	1
AMENDED_Road, Footway, Cycleway Dimensions Plan (131.0005.011.B)	Plan	05/08/2022	1
AMENDED_Indicative Right Turn Lane Design (131.0005.002.E)	Plan	05/08/2022	1
AMENDED_Pedestrian and Cyclists Visibility Splays Review (131.0005.010.F)	Plan	05/08/2022	1
AMENDED_Refuse Vehicle Swept Path Analysis (131.0005.004.L)	Plan	05/08/2022	1
GROUND INVESTIGATION REPORT Redacted	Report - Other	27/07/2022	1

Extract from Council website: Application F/20/89500.

- 3.97. It is noted that the site is allocated within the Local Plan for approximately 1,500 dwellings (policy HH1). However, there is a lack of evidence to demonstrate a realistic timeframe for the delivery of any dwellings on the site.
- 3.98. The allocation of the site in the Local Plan indicates that the site is within a defined category listed in the NPPF, as is further confirmed by its extant outline permission.
- 3.99. Although the site has extant outline permission, there is no indication of when a reserved matters application for housing will be submitted and consequently determined.

- 3.100. Whilst the submission³⁰ of a detailed application F/20/89500 for 381 dwellings is an indication that this element could be deliverable, it remains necessary to assess a reasonable lead in time for construction.
- 3.101. We acknowledge that part of the site is deliverable and have consequently considered the potential lead in times and delivery rates. With reference to the research by Lichfields in Start to Finish – what factors affect the build out rates (2020) (**CD15.10**) the site could commence delivery in early 2025³¹ with an annual delivery rate of 54dpa³².
- 3.102. This contrasts to the unrealistic initial expectations of the Council in the Committee Report on the outline application³³. Whilst these initial expectations have been revised by the Council in their Land Supply Assessment, they are nevertheless considered unrealistic
- 3.103. As noted in the Sonning Common appeal decision (paragraph 21), alongside consideration of timeframes for determining applications it is also important to assess the realism of build out rates. The Council's expectations for delivery are unjustified, especially as whilst the Council has been the applicant, there is no confirmation that it can achieve the rates envisaged as a developer. This is notwithstanding the statements on page 22 of **CD5.6** regarding the inclusion of the site within the Government's First Homes Scheme.
- 3.104. Taylor Wimpey as a national developer with a significant track record generally would achieve between 47 and 58dpa per outlet. This compares to the 54dpa referenced above derived from the Lichfields Research. The Council has not explained how its expectations of build rates are achievable and therefore having regard to Lichfields alongside the rates achieved by Taylor Wimpey, we conclude that 54dpa would be a realistic figure.
- 3.105. Table 8 compares the Council's delivery assumptions with our assessment.

³⁰ Validated 11th January 2021

³¹ Allowing the 4 year average within figure 4 for planning and delivery for sites of between 100 and 499 dwellings. This has been applied given the extended period that the site has had outline permission as indicted above.

³² Reflecting rates for sites of between 100 and 499 dwellings in table 3.

³³ See paragraph 15 of the Committee Report on application O/20/89498 in WB6

Table 8: Comparison of expected delivery of land west of Horton Heath

	1/7/22- 31/3/23	1/4/23- 31/3/24	1/4/24- 31/3/25	1/4/25- 31/3/26	1/4/26- 31/3/27	1/4/27- 30/6/27	Total
EBC	0	0	108	170	270	95	643
WBP	0	0	10	54	54	14	132

3.106. We have adjusted the delivery profile for land west of Horton Heath, which position is reflective of the evidence we set out.

Treetops, Allington Lane, Fair Oak (F/21/91132)

3.107. As noted in **CD5.6** (page 22), this site is subject to a planning application for the demolition of the existing buildings (includes a dwelling) and erection 35 dwellings which was validated on 21st July 2021 (F/21/91132).

3.108. On 9th March 2022, the Area Planning Committee resolved to approve the application. However, the legal agreement remains unsigned and there is no timeframe for this.

3.109. The site is within the area allocated in the adopted Local Plan (Policy FO2) for the erection of approximately 119 dwellings. Within the area allocated, planning permission has been granted for the erection of 84 dwellings through applications RM/18/84195³⁴ and F/19/85028³⁵. Therefore, the residual capacity of the allocation in policy FO2 is for 35 dwellings.

3.110. The pending detailed planning application provides evidence for the deliverability of the site, although as the net provision in the pending application is for 34 dwellings, this is the figure relied upon by the appellant as the deliverable supply.

3.111. In accepting the delivery of this site, we have considered the potential lead in times and delivery rates and conclude that having regard to the national research by Lichfields in Start to Finish – what factors affect the build out rates (2020) (**CD15.10**) the site could commence delivery in autumn 2024³⁶ with an annual delivery rate of 27dpa³⁷.

³⁴ Application for 49 dwellings approved 14th January 2019. The scheme was completed before 1st July 2022

³⁵ Application for 35 dwellings approved 8th July 2020. The scheme was completed before 1st July 2022

³⁶ Allowing the 3.3 years average within figure 4 for planning and delivery for sites of up to 99 dwellings

³⁷ Reflecting rates for sites of up to 99 dwellings in table 3.

3.112. Table 9 compares the Council's delivery assumptions with our assessment.

Table 9: Comparison of expected delivery of land at Treetops, Allington Lane, Fair Oak

	1/7/22- 31/3/23	1/4/23- 31/3/24	1/4/24- 31/3/25	1/4/25- 31/3/26	1/4/26- 31/3/27	1/4/27- 30/6/27	Total
EBC	0	15	20	0	0	0	35
WBP	0	0	15	19	0	0	34

3.113. Our adjusted delivery profile for land at Treetops, Allington Lane, Fair Oak is reflective of the evidence we have set out above.

Former Eastleigh Post Office, 14 High Street, Eastleigh (F/20/89125)

3.114. As noted in **CD5.6** (page 23), this site is subject to an application to demolish the existing post office and erect a mix use scheme including commercial uses at ground floor with 28 dwellings. This application was validated on 13th November 2020. The Council resolved to approve the scheme at the Area Planning Committee held on 19th January 2021. It remains to be determined.

3.115. Whilst there is a pending application on the site, it is not included within any of the categories of potentially deliverable sources listed in the NPPF.

3.116. The Council's statement on page 23 is not considered to be sufficient to enable the inclusion of the site as a deliverable source of supply, taking account of the findings in the various Consent Orders (**CD15.8** and **CD15.9**) together with the clear advice in the NPPF and the PPG. We discount this site as it has not been demonstrated to be deliverable.

3.117. Table 10 compares the Council's delivery assumptions with our assessment.

Table 10: Comparison of expected delivery of land at the former Eastleigh Post Office

	1/7/22- 31/3/23	1/4/23- 31/3/24	1/4/24- 31/3/25	1/4/25- 31/3/26	1/4/26- 31/3/27	1/4/27- 30/6/27	Total
EBC	0	0	28	0	0	0	28
WBP	0	0	0	0	0	0	0

3.118. Our discounting of any delivery from land at the former Eastleigh Post Office is consistent with the conclusions of Inspectors and the Secretary of State in other appeals³⁸.

Housing for Older People (C2) (Equivalent of)

3.119. The Council expects 105 dwellings to be delivered within the five years from this source. We accept this position.

3.120. The respective positions in relation to this component of supply are as follows:

EBC: 105 dwellings
WBP: 105 dwellings
Difference: 0 dwellings

Sites in adopted Local Plan.

3.121. The Council expects 35 dwellings to be delivered within the five years from this source.

3.122. For the reasons explained, we dispute the contended delivery from the site specified and remove the 35 dwellings.

3.123. The respective positions in relation to this component of supply are as follows:

EBC: 35 dwellings
WBP: 0 dwellings
Difference: 35 dwellings

Kings Copse Avenue, Botley (LP ref BO3)

3.124. As noted in **CD4.1**, this site is allocated by policy BO3 for 120 dwellings. However, there is no evidence to support the Council's deliverability assumption.

3.125. We dispute the deliverability of this site.

3.126. Table 11 compares the Council's delivery assumptions with our assessment.

³⁸ Nantwich and Sonning Common

Table 11: Comparison of expected delivery of land at Kings Copse Avenue, Botley

	1/7/22- 31/3/23	1/4/23- 31/3/24	1/4/24- 31/3/25	1/4/25- 31/3/26	1/4/26- 31/3/27	1/4/27- 30/6/27	Total
EBC	0	0	0	0	15	20	35
WBP	0	0	0	0	0	0	0

3.127. Our discounting of any delivery from land at Kings Copse, Botley is consistent with the conclusions of Inspectors and the Secretary of State in other appeals³⁹.

Sites in Eastleigh Borough Council's Housing Programme

3.128. The Council expects 48 dwellings to be delivered within the five years from this source of supply (comprising 3 sites). For the reasons specified, we dispute the contended delivery from the 3 sites. Accordingly, we discount the supply by 48 dwellings.

3.129. The respective positions in relation to this component of supply are as follows:

EBC: 48 dwellings
WBP: 0 dwellings
Difference: 48 dwellings

3.130. Although paragraphs 4.25 – 4.28 of **CD5.6** state that the site in the Council's Housing Programme can be included as the East Northamptonshire Consent Order noted that the list of deliverable sources is not closed, reflecting the approach in the Beford Consent Order and appeal decisions, it is essential that clear robust evidence is provided to demonstrate why sites in this category are nevertheless deliverable.

3.131. The Council in appendix F⁴⁰ when detailing the 'evidence' it relies upon to justify the inclusion of sites within its Council housing programme as deliverable references pre-application advice together with the decisions of the authority's Housing Programme Board. Whilst these are noted, they are not a formal decision of the Council as a planning authority which could be regarded as providing the relevant certainty of deliverability and that they are not impacted by any constraints. In the absence of this evidence, especially the content of the pre-application responses of the planning authority, the appellant does not regard any of the listed sites as deliverable.

³⁹ Nantwich and Sonning Common

⁴⁰ Page 26 of the Land Supply Statement (CD5.6)

3.132. Table 12 compares the Council's delivery assumptions with our assessment.

Table 12: Comparison of expected delivery of land within the Council's Housing Programme

	1/7/22- 31/3/23	1/4/23- 31/3/24	1/4/24- 31/3/25	1/4/25- 31/3/26	1/4/26- 31/3/27	1/4/27- 30/6/27	Total
LPA	0	0	11	37	0	0	48
WBP	0	0	0	0	0	0	0

Windfall allowance for years 3, 4 and 5

3.133. The Council expects 162 dwellings to be delivered within the five years from this source. For the reasons we go on to explain, we discount the windfall supply by 52 dwellings.

3.134. The respective positions in relation to this component of supply are as follows:

EBC: 162 dwellings
WBP: 110 dwellings
Difference: 52 dwellings

3.135. The Council's evidence indicates that over the period 2011/12 through to 2020/21, 548 dwellings were completed in Eastleigh Borough. This is an annual rate of 55 dwellings.

3.136. Whilst the Local Plan Inspector accepted⁴¹ that a contribution from windfalls could be included years 3-5, it is important to re-assess this having regard to the latest evidence on historic delivery as indicated above.

3.137. This review ensures that the approach to windfalls is consistent with the guidance outlined in paragraph 71 of the NPPF. This states:

“Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.”

⁴¹ Paragraph 74 of CD5.1

3.138. Within the above guidance, we emphasise the references to realism of any rates and that it should have regard to historic delivery rates and future trends.

3.139. The Council's approach to the contribution of delivery from small sites is shown in Table 13.

Table 13: Council's approach on small sites

	1/7/22-31/3/23	1/4/23-31/3/24	1/4/24-31/3/25	1/4/25-31/3/26	1/4/26-31/3/27	1/4/27-30/6/27	Total
Sites with permission	41	55	55	14	0	0	165
Windfall	0	0	38	55	55	14	162
Total	41	55	93	69	55	14	327

3.140. Table 13 indicates that from April 2024 through to March 2026, the Council expects total annual delivery from small sites to significantly exceed the 55dpa historic rate achieved. This contrasts with other years where the 55dpa rate is envisaged.

3.141. We do not consider that the Council has justified its approach to small windfalls having regard to the significant boost they envisage.

3.142. This contrasts with our position (as shown in Table 14 below) which indicates how the cumulative delivery from small sites with permission together with windfalls maintains the annual historic rate of 55dpa.

3.143. We consider our position is consistent with the NPPF (paragraph 71).

Table 14: Our approach on small sites

	1/7/22-31/3/23	1/4/23-31/3/24	1/4/24-31/3/25	1/4/25-31/3/26	1/4/26-31/3/27	1/4/27-30/6/27	Total
Sites with permission	41	55	55	14	0	0	165
Windfall	0	0	0	41	55	14	110
Total	41	55	55	55	55	14	195

Summary of Site Assessment

3.144. Based on our analysis of deliverability, we have deducted a total of 1,175 dwellings from the Council's assessment of supply.

3.145. The respective positions are summarised by source in Table 15 below.

Table 15: Summary of Site Assessment

Supply source	Council	WBP	Difference
Net outstanding permissions for small sites (<10 units) (discounted by 4% for lapses)	165	165	0
Net outstanding planning permissions for large sites (10+ units)	2,565	2,157	408
Sites with a resolution to grant permission	863	271	592
Housing for older people (C2) (Equivalent no. of dwellings)	105	105	0
Sites in Adopted Local Plan	35	0	35
Sites in Eastleigh Borough Council's Housing Programme	48	0	48
Windfall sites (for years 3 - 5)	162	110	52
Total	3,943	2,808	1,135

3.146. 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

3.147. 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 74 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 60 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 (2021) taking account of the confirmation in the Consent Orders and the Nantwich appeal decision.

- 3.148. As confirmed in the appeal decisions at Woolpit (**CD8.11**) and Longdene (**CD8.12**) 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.
- 3.149. As set out in the Housing Land Supply SoCG (**CD13.5**), the base date for the current Appeal is 1st July 2022.
- 3.150. The importance of the base date for evidence also reflects the requirements of the NPPF (paragraph 74) to “update annually a supply of specific deliverable sites”.
- 3.151. 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 2018¹⁴ 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)

- 3.152. 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)

- 3.153. As referenced above, although **CD5.6** refers to the Consent Order from East Northamptonshire, which the Council use in seeking to justify their 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.
- 3.154. However, and as indicated above, we do not consider that the Council 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 NPPF results in the appellant discounting a significant element of the Council’s contended supply.
- 3.155. Our discounting of sites/sources without the requisite supporting evidence is reflective of the decision of the Secretary of State in the Nantwich appeal (**CD8.9**) referred to above (which post-dates the East Northamptonshire Consent Order).
- 3.156. We have reviewed progress on sites relied upon by the Council in their Calculation of Five Year Supply Report the 1st July 2022 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 supply (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 period⁴², results in an incomplete review.
- 3.157. The importance of ensuring any appraisal of land supply (alongside the requirement) includes ALL relevant factors has been acknowledged in appeal decisions.
- 3.158. The Waterbeach decision (**CD8.10**) is a long established decision that clearly establishes this fundamental principle, as confirmed in paragraphs 20-22 of the decision:

⁴² i.e. to omit any completions since 1st July 2022

-
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 year⁶. 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]. 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)

3.159. 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. 1st July 2022. This reflects the correct approach taken by the Longdene Inspector (see last sentence of paragraph 39 quote above).

3.160. 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 (**CD8.7**).

3.161. That decision is helpful in setting out the approach to be taken to the assessment of deliverability under the auspices of the 2019 NPPF (which are repeated in the 2021 edition) even when considered against a recently adopted Local Plan, especially where like Eastleigh, the plan was assessed under the 2012 NPPF.

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

(iii) The Respective Five Year Housing Land Supply Positions

3.163. 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 above⁴³), contends that the supply of deliverable housing land should be reduced by 1,135 dwellings in the five year period from July 2022 to June 2027.

3.164. Based upon the analysis we have undertaken, it is our position that the deliverable supply figure for the five year period is 2,808 dwellings.

3.165. The derivation of this compared to the assessment of the authority is illustrated in Table 16 below.

Table 16 – Comparison of deliverable land supply sources (1st Jul 2022-30th Jun 2027)

Supply source	Council	WBP	Difference
Net outstanding permissions for small sites (<10 units) (discounted by 4% for lapses)	165	165	0
Net outstanding planning permissions for large sites (10+ units)	2,565	2,157	408
Sites with a resolution to grant permission	863	271	592
Housing for older people (C2) (Equivalent no. of dwellings)	105	105	0
Sites in Adopted Local Plan	35	0	35
Sites in Eastleigh Borough Council's Housing Programme	48	0	48
Windfall sites (for years 3 - 5)	162	110	52
Total	3,943	2,808	1,135

⁴³ Includes Hanslope (CD8.7) and Sonning Common (CD8.8)

3.166. Table 17 provides a breakdown of the components of supply where delivery is disputed between the parties.

Table 17 – Disputed Components of Supply by Source (1st Jul 2022-30th Jun 2027)

Supply site/ source	LPA	WBP	Difference
Net outstanding planning permissions for large sites (10+ units)			
Land to the north and east of Winchester Street, Botley	63	0	63
Land west of Woodhouse Lane, Hedge End	345	0	345
Sites with a resolution to grant permission			
Land west of Allbrook Way, Knowle Hill	52	0	52
Land west of Horton Heath	643	132	511
Treetops, Allington Lane, Fair Oak	35	34	1
Former Eastleigh Post Office, 14 High Street	28	0	28
Sites in Adopted Local Plan			
Kings Copse Avenue, Botley	35	0	35
Sites in Eastleigh Borough Housing Programme			
Land at 30-32 Queens View, Netley	20	0	20
Land at 237 Chamberlayne Road, Eastleigh	11	0	0
Land at Station Road (Arch Theatre), Chandlers Ford	17	0	0
Windfall sites (for years 3 - 5)			
Windfall allowance	162	110	52
Total	1,411	276	1,135

3.167. On the basis of the foregoing, Table 18 below provides a comparison between the housing land supply positions adopted by the Council and the Appellant as at 1st July 2022, covering the five year period 1st July 2022 to 30th June 2027.

3.168. As set out in Table 18 below, we identify a total supply of 2,808 dwellings which represents a supply of 3.67 years. This is also a shortfall of 1,019 dwellings.

Table 18 – The Respective Five Year Housing Land Supply Positions

	Council	Appellant
Requirement 1/7/2022 to 30/6/2027	3,827	3,827
Assessed deliverable supply	3,943	2,808
Extent of shortfall/surplus	116	-1,019
No. of years supply	5.15yrs	3.67yrs

- 3.169. Based on the foregoing, it is my professional opinion that the housing shortfall I have identified should be afforded significant weight in the determination of this Appeal.
- 3.170. In addition to the conclusion that the Council is not able to demonstrate a five year supply of housing land at 1st July 2022, it is also important to recognise that the adopted Local Plan does not address its identified housing needs – see section 2 of the statement⁴⁴.
- 3.171. The failure of the Local Plan to meet its housing needs is a further factor in considering the weight attached to the benefits that additional housing provides, especially in the context of the identified shortfall. The benefits and associated weight were considered in an appeal on land north of Cooks Lane, Southbourne (**CD8.16**).
- 3.172. Paragraphs 40, 41 and 49 of the Southbourne appeal decision states as follows:

40. The Council can demonstrate a five year supply of housing.

41. The Local Plan review is at an early stage and can only carry limited weight in the decision making process. Nevertheless the Local Plan was found sound and adopted on the basis of having a lower housing provision than OAN at the time of its examination and that it needed to be reviewed within five years to ensure OAN is met. Although there was disagreement at the Inquiry between the Council and the appellant over the meaning of review, it is clear that the Council has considered the position regarding the Local Plan and decided that it needs updating. The Local Development Scheme includes a commitment to review and that process has slipped. The Local Plan review has been consulted

49. In this case, the proposal would bring benefits to which I attach significant weight, and construction benefits. It would be located in an accessible location on the edge of a village well served by transport and services. It would not lead to any identified development control type planning harm. Fundamentally it would provide housing which would boost the supply of housing in a District which whilst it has a five year supply currently, needs to ensure that housing supply is maintained in the future particularly given that it is unlikely to be able to rely upon its Local Plan provision figure in the near future. I have attached substantial weight to the contribution that this site can make to boosting the supply of housing

⁴⁴ See policy S2 of the Local Plan and the supporting paragraphs, especially paragraph 4.12

particularly in the circumstances outlined. In attributing this weight, I have taken into account the Council's contention that houses would not be completed on this site until after the Local Plan review will be adopted. However, that is not certain to be the case, and in any event any plan-led site would most likely have a similar such lead in time.

- 3.173. Aside from the identified housing land supply shortfall, as the Eastleigh Local Plan (adopted April 2022) does not address the full identified housing need, and the Council is required to commence a review within 12 months from adoption of the Plan (thus by April 2023).
- 3.174. As set out in **WB7**, the site is controlled by Foreman Homes and they are committed to the early delivery of dwellings from the Appeal Site.
- 3.175. In the circumstances, I am of the view that the benefits of providing additional housing should be given significant weight.

4. AFFORDABLE HOUSING NEED AND SUPPLY IN EASTLEIGH BOROUGH

General

- 4.1. The provision of affordable housing is a key part of the planning system.
- 4.2. A community's need for affordable housing was first enshrined as a material consideration in PPG3 in 1992 and has continued to play an important role in subsequent national planning policy, including the National Planning Policy Framework (2012, 2018, 2019 and 2021 versions).

National Planning Policy Framework (2021)

- 4.3. The National Planning Policy Framework (NPPF) is a material planning consideration. It is important in setting out the role of affordable housing in the planning and decision-making process.
- 4.4. The NPPF sets a strong emphasis on the delivery of sustainable development, including affordable homes, at paragraphs 20 and 61.
- 4.5. Paragraph 60 clearly sets out the Government's aim to "boost significantly the supply of homes". To both achieve higher housing supply and address the needs of the whole community, paragraphs 61 and 62 indicate:

61. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

62. Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers²⁵, people who rent their homes and people

wishing to commission or build their own homes²⁶. (My underlining)

- 4.6. The need for affordable housing and the importance of its provision is emphasised in many Government publications, including:
- Planning and the broken housing market, Committee of Public Accounts, House of Commons (June 2019)
 - Reaffirmation of the Government support for affordable housing in press release of 6th July 2020⁴⁵
 - Planning White Paper – August 2020

Affordable Housing Delivery and Supply

- 4.7. Paragraph 2.11 of the Local Plan states:

“Again in common with many other places, there is a significant need for affordable dwellings in the Borough. In 2016, house prices in Eastleigh were 9.3 times the annual earnings, up from 8.0 times in 20113. The Council’s Housing Register is managed through Hampshire Homechoice. In 2016 there were 1,890 households registered who could not afford to buy or rent a property in the private sector, of which 1,690 households (90%) were in the ‘reasonable preference’ category as they fall into a specific category of housing need. This figure has remained consistent in recent years (see 2017 ORS Affordable Housing Assessment).”

- 4.8. To address the need for affordable housing in the Borough, Policy S2 indicates **“The Council will support the provision of an average of 200 (net) new affordable homes per annum as part of the overall net additional homes provided each year (from 2016 to 2036)”**
- 4.9. As explained, there is a significant need for affordable housing within the Borough.
- 4.10. The Council’s AMR only provides details of affordable housing delivery until 31st March 2018⁴⁶. This contrasts with the information compiled by the Government which is available for all years until 2020/21⁴⁷.

⁴⁵ <https://www.gov.uk/government/news/jenrick-acts-to-safeguard-affordable-homes-during-pandemic>

⁴⁶ See Table 4.3 of the AMR for 2017-18

⁴⁷ [Live tables on affordable housing supply - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/live-tables/affordable-housing-supply) – Table 1011C

- 4.11. Whilst the Council has achieved its objective within the Local Plan of ensuring at least 200 affordable homes are provided annually, as Table 19 indicates the Council still has a significant need as demonstrated through its housing waiting list.
- 4.12. A review of the Council's waiting list indicates that the size has not changed even though the Council has achieved the annualised affordable housing target at Policy S2 of the Local Plan.

Table 19: Extent of housing waiting list in Eastleigh Borough⁴⁸

	1/4/2014	1/4/2015	1/4/2016	1/4/2017	1/4/2018	1/4/2019	1/4/2020	1/4/2021
Households on waiting list	1,973	2,604	1,887	1,845	1,871	1,809	1,839	1,905
Households in reasonable preference category	1,733	2,437	1,692	1,689	1,764	1,729	1,743	1,837
Homeless	83	139	121	154	140	107	126	150

Future Affordable Housing Supply

- 4.13. The future delivery of affordable housing in Eastleigh Borough is highly uncertain.
- 4.14. In addition to the shortfall to resolving the ongoing need on the housing register, there is also the question of whether future needs will be met. The risks of not meeting these needs are heightened by the fact that any future housing supply delivered through permitted development conversions is exempt from affordable housing, and on brownfield sites, the affordable housing potential is tempered by vacant building credit. This has the potential to make the situation even more severe, especially with respect to the significant number of the Borough's Housing Register as detailed in Table 19.
- 4.15. Paragraph 61 of the NPPF requires that the needs of groups with specific housing requirements are addressed. Paragraph 62 confirms that one of the specific groups relates to those requiring affordable housing.

⁴⁸ Data from [Local authority housing data - GOV.UK \(www.gov.uk\)](http://www.gov.uk).

- 4.16. Although the Government's statistics provide information on past affordable housing delivery, there is nothing showing future expectations. Therefore, it does not provide sufficient clarity that the ongoing annual need for 200 affordable dwellings in the Borough required by the Local Plan will continue to be addressed and more importantly the unresolved demand as illustrated on the Council's housing register. Therefore, it is essential to seek further opportunities to boost the supply of affordable homes – as would arise on the appeal site.
- 4.17. The failure to meet the identified needs of affordable housing is a dire situation indicating that the Authority is not fulfilling the objectives in paragraph 62 of the NPPF.
- 4.18. The inadequacy of affordable housing provision to address the housing waiting list impacts people and communities. A step change in the delivery of affordable housing is therefore required if the Council is to get anywhere near to resolving the very significant need within the Council's Housing Register. Such a step change would be consistent with the thrust of paragraph 60 of the NPPF, to boost significantly the supply of homes.

Weight to be Afforded to the Proposed Affordable Housing

- 4.19. The social need for affordable housing is an important material planning consideration and making social progress in tackling such needs is an important element of sustainable development running through the NPPF.
- 4.20. The importance of affordable housing as a material consideration has been reflected in a number of Secretary of State (SoS) and Planning Inspector decisions. A consistent theme is the significant amount of weight which is attached to affordable housing relative to other material planning considerations in the planning balance.
- 4.21. Of particular relevance is the weight to be attached to affordable housing provision even in situations where Councils believe they have a sufficient supply of housing land.
- 4.22. With regard to land off Watery Lane, Curborough, Lichfield, Secretary of State Decision (13th February 2017) (APP/K3415/A/14/2224354) (**CD8.14**), the Secretary of State's decision letter at paragraph 44 confirmed an existence of a five-year housing land supply.

- 4.23. Notwithstanding, the Secretary of State still attached “Very substantial weight” to the benefits of the provision of affordable and market housing (paragraph 53). As part of the planning balance and overall conclusion, the Secretary of State also gave modest weight to the landscape and visual harm from the development, considerable weight to the harm to the setting of heritage assets and considerable weight to the loss of veteran trees and ancient hedgerows (paragraph 54). Despite this, the Secretary of State at paragraph 55 concluded that the social and economic benefits of providing affordable and market housing were of such importance that they outweighed this environmental harm such that the proposal represented sustainable development.
- 4.24. This is a clear example of where the provision of housing, including affordable housing, despite the existence of a five year housing land supply, represented significant benefits and a weighty material consideration that outweighed environmental harms.
- 4.25. In the Secretary of State’s decision in the appeal for 121 dwellings on land north of Dark Lane, Alrewas (**CD8.15**), he stated (paragraph 49):

“The Secretary of State notes that since the inquiry closed, the Council’s affordable housing requirement for the site has increased from 25% to 31%. The Secretary of State agrees with the Inspector for the reasons given (IR12.71) that the need for affordable housing in the district is acknowledged to be acute and, therefore, the affordable housing element of the scheme should carry substantial weight” (My underlining)

- 4.26. In paragraph 60, he concluded:

“Weighing in favour of the proposal for the reasons given above he attaches substantial weight to the benefits of the provision of affordable housing and also attaches further significant weight to the benefits of market housing. In doing so he considers that the appeal proposal advances the social and economic roles identified in paragraphs 7 and 8 of the Framework which are not diminished owing to the Council now being able to demonstrate a five year supply.” (My underlining)

- 4.27. The benefits of affordable housing were also acknowledged by the Inspector in the appeal for up to 180 dwellings on land at Deerlands Road, Wingerworth (**CD8.17**).
- 4.28. Paragraph 54 of the decision notes, in relation to the need for and weight to be attributed to the provision of affordable housing:

“In addition, the need for affordable housing is agreed by the parties to be acute and significant. The Council criticised some of the details of the appellant’s approach towards consideration of affordable housing at the Inquiry, but it is clear that there is a very significant need for affordable housing in the District, and that there is very considerable doubt as to delivery. Even if one accepts the Council’s position that there is a pipeline of affordable housing coming forward in Wingerworth - which is far from clear – the provision of 40% affordable housing in the appeal scheme is a benefit. This is a very significant material consideration weighing in favour of the appeal scheme.”

- 4.29. Paragraph 72 states that the **“provision of affordable housing weigh in favour of the appeal”** before paragraph 75 concludes as follows:

“Although I have concluded that there is a five year housing land supply in the District, based on the standard methodology, this is not a ceiling and the provision of general needs housing is a significant material consideration in the light of national policy. In addition the provision of 40% affordable housing is a very significant material consideration weighing in favour of the appeal scheme.”

- 4.30. This acceptance of the benefits of affordable housing is also recognised in the previous appeal decision relating to this site for up to 70 dwellings (**CD8.1**). Notwithstanding the Inspector’s conclusion that the Council was able to show a five-year supply of deliverable housing land, paragraph 47 of the decision states in relation to the provision of affordable housing as follows:

“The Council gave evidence as to how the authority has managed to achieve its current housing land supply position and the parties agreed that the Council can demonstrate a five year land supply. The Council’s evidence was that there is a figure of 7.8 years, with the appellant evidencing a 7.2 year supply. Both parties agreed that there is no need to explore the reasons for this slight difference further. At the close of the Inquiry it was suggested by the Council that the figure is around 10 years on the basis of recently released data. However again there is no need to explore this further. Overall, despite the presence of significantly more than a five year supply, the provision of market and affordable housing weighs significantly in favour of the proposal, in the light of the national policy to significantly boost the supply of homes.”
(Our emphasis underlined)

- 4.31. Paragraph 64 of the decision concludes as follows:

“As agreed by the Council, the economic and social benefits of the proposal are worthy of significant weight. Given the national objective of significantly boosting the supply of homes, the provision of market and especially affordable housing carries significant weight. I appreciate the Council’s point that the economic benefits related to short term construction jobs, and the longer term boost to local spending power, could arise from any similar development. However that does not detract from the fact that this particular development offers these benefits, which I accord significant weight.” (My underlining)

- 4.32. The Inspector’s decision in the previous Satchell Lane appeal was reviewed through the Eastleigh Borough Council v Secretary of State judgement ([2019] EWHC 1862 (Admin)) (CD9.1). In paragraph 18, the judge acknowledged:

“Despite the presence of significantly more than a 5YHLS, the provision of market and affordable housing weighed significantly in favour of the proposal in light of the national policy to significantly boost the supply of homes.”

- 4.33. Paragraph 20 adds:

“As agreed by the Council, the economic and social benefits of the proposal were worthy of significant weight and, given the national objective of significantly boosting the supply of homes, the provision of market and especially affordable housing carries significant weight.”

- 4.34. The above decisions emphasise the great weight which the Secretary of State and Inspectors have, on various occasions, attached to the provision of affordable housing in the consideration of planning applications and appeals. The appropriateness of attributing great weight to the benefits of affordable housing has also been accepted by the Courts.

- 4.35. Some of the key points that arise from these examples are that:

- i. Affordable housing is an important material consideration;
- ii. Affordable housing can be considered in its own right;
- iii. The importance of unmet need for affordable housing being met; and
- iv. Even where there is a five year housing land supply, material benefits arising from affordable housing can still justify the grant of planning permission despite harm/development plan policy conflicts.

- 4.36. The above has set out the context for applying planning policy, and the planning benefits of the Appeal scheme associated with the affordable housing part of the scheme, to be weighed in the overall planning balance.

5. SUMMARY AND CONCLUSION

- 5.1. There is disagreement whether the Council is able to demonstrate a five year supply of deliverable housing land.
- 5.2. Based the analysis I have undertaken with Mr Ritchie, I am able to conclude that there is a clear lack of a five year supply of deliverable housing land and therefore the presumption in favour of sustainable development at paragraph 11(d) of the NPPF is engaged.
- 5.3. The Council's case on housing land supply relies upon sites which were neither allocated nor had a planning permission at the base date for the assessment (1st July 2022) 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 1st July 2022).
- 5.4. Having assessed the housing land supply based upon the requirements set out in the NPPF, PPG and the approach adopted in numerous appeal decisions, I conclude 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.
- 5.5. The Appeal is to therefore be determined on this basis.
- 5.6. In the alternative, and contrary to the evidence submitted on behalf of the Appellant, were the Inspector to consider the Borough Council was able to show a five year supply of deliverable housing land, the Inspector would need to undertake the 38(6) balance (instead of the 'tilted' balance) and weigh the development plan conflict against the material considerations. In that scenario, the development plan conflict would be the location of the Site beyond the settlement boundary in a recently adopted Local Plan (which does not plan for the full identified housing need), and the limited landscape harm that would be occasioned to the existing landscape character. The benefits of the Scheme include the economic and social benefits associated with the delivery of housing, in a sustainable location.

5.7. In that scenario, informed by the Inspector's findings in the previous appeal (**CD8.1**), I am of the view that the Appeal should be allowed.
