

## **LAND AT CROWELL ROAD, CHINNOR**

# **APPENDICES TO PROOF OF EVIDENCE ON HOUSING NEED AND SUPPLY**

**ON BEHALF OF BEECHCROFT DEVELOPMENT LTD**

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## APPENDIX 1– ASSESSMENT OF THE 5YLS

### The adopted housing requirement

- 1.1 Policy STRAT2 identifies a stepped housing requirement for only 900hpa over the period 2011-26 as compared to the annual need for 981hpa<sup>1</sup> over the period 2011-31. The stepped housing requirement would require the delivery of 9,000 homes over the period 2011-21 and an additional 4,500 over the period 2021-26.
- 1.2 Whilst the stepped housing requirement provides the appropriate basis for assessing the 5YLS for the purposes of paragraph 74 of the NPPF, it should be acknowledged that the resultant calculation will under-state the position relative to the actual need for housing.
- 1.3 In order to provide a gauge of the need for housing and the effectiveness of the policies in addressing that need, I therefore also consider the 5YLS position against the housing need, although to be clear this assessment does not engage the presumption in favour of sustainable development. The 5YLS position against housing need is nevertheless material and so I assess the position against the need reflected in the Development Plan for 9,813 homes over the period 2011-21 and an additional need for 4,906 homes over the period 2021-26.

### The record of delivery

- 1.4 The record of delivery against the stepped housing requirement and the housing need is presented in Table A.1 below.

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<sup>1</sup> =23,550/24.

**Table A.1 – record of delivery**

	Completions	Stepped housing requirement	Cumulative surplus/backlog	Housing need	Cumulative surplus/backlog
2011/12	508	900	-392	981	-473
2012/13	475	900	-817	981	-980
2013/14	484	900	-1,233	981	-1,477
2014/15	600	900	-1,533	981	-1,858
2015/16	615	900	-1,818	981	-2,224
2016/17	722	900	-1,996	981	-2,484
2017/18	935	900	-1,961	981	-2,530
2018/19	1,369	900	-1,492	981	-2,142
2019/20	1,477	900	-915	981	-1,646
2020/21	861	900	-954	981	-1,767
<b>TOTAL</b>	<b>8,046</b>	<b>9,000</b>	<b>-954</b>	<b>9,813</b>	<b>-1,767</b>

1.5 It is therefore apparent that there has been a substantial under-delivery of 954 homes against the stepped housing requirement over the plan period to date. Against the need for housing the backlog is even more substantial with some 1,767 households not having been provided the housing they need to date.

1.6 This is illustrative of the fact that the policies of the SOLP and its predecessors have not been effective in meeting even the constrained stepped housing requirement let alone the housing need, by a substantial margin.

The five year requirement (excluding buffer)

1.7 In accordance with the PPG (68-031), the Inspector examining the SOLP, supported the use of the Sedgefield approach which requires that the backlog is addressed within five years.

1.8 The five year requirements (excluding buffer) that would arise against both the stepped housing requirement and the housing need are calculated in Table A.2 below.

**Table A.2 – five year requirements (excluding buffer)**

	Against the:	
	Stepped housing requirement	Housing need
Five year requirement/need (excluding backlog and buffer)	4,500	4,906
Backlog	954	1,767
<b>Five-year requirement/need (excluding buffer)</b>	<b>5,454</b>	<b>6,673</b>

The buffer

1.9 In addition, paragraph 74 of the NPPF requires that a buffer is included. The extent of the buffer is determined by the Housing Delivery Test (HDT) results as set out in footnote 41. In South Oxfordshire, the latest HDT results indicate that 173% of the number of homes required have been delivered over the past three years (2018-21) and as such paragraph 74 requires that a 5% buffer is applied to ensure choice and competition in the market.

The five year requirement (including buffer)

1.10 The five year requirements including the appropriate buffer are calculated in Table A.3 below.

**Table A.3 – five year requirements including buffer**

	Against the:	
	Stepped housing requirement	Housing need
Five-year requirement/need (excluding buffer)	5,454	6,673
Buffer	273	334
<b>Five-year requirement/need</b>	<b>5,727</b>	<b>7,006</b>

1.11 There is therefore a five year requirement for **5,727 homes** for the purposes of paragraph 74 of the NPPF as set out in Table 3 of the HLSS. Whilst this provides the appropriate basis for determining whether or not the presumption in favour of development is engaged through footnote 8 of the NPPF and for determining whether the policies of the Development Plan have been effective in meeting the minimum housing requirement, it provides no indication of the need for housing or whether policies of the Development Plan have been effective in addressing housing needs. The need for 6,673 homes within five years (excluding buffer) equates to a need for **7,006 homes** including the buffer which reflects the need for choice and competition as set out in paragraph 74 of the NPPF. This figure provide the gauge for these considerations.

The five year land supply based on the deliverable supply identified by the Council

1.12 As identified previously, the Council identify a deliverable supply of 6,101 homes, and therefore it is immediately apparent that the Council is unable to demonstrate a sufficient supply of sites over the next five years against the need for 7,006

homes including the buffer which is necessary to provide for choice and competition according to paragraph 74 of the NPPF. The respective positions on the basis of the deliverable supply are calculated in Table A.4 below. The Council is also clearly even unable to demonstrate a sufficient supply against the need excluding the necessary buffer<sup>2</sup>.

**Table A.4 – five year supply against the housing requirement and housing need**

	Against the:	
	Stepped housing requirement	Housing need
Five-year requirement/need	5,727	7,006
Deliverable supply identified by the Council	6,101	6,101
<b>Five-year land supply</b>	<b>5.33</b>	<b>4.35</b>
<b>Surplus/shortfall</b>	<b>+374</b>	<b>-905</b>

1.13 I proceed to consider the deliverable supply to identify the actual position.

The definition of a deliverable site

1.14 The NPPF defines a deliverable site as follows:

**“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<sup>3</sup>, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans)**

**b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register<sup>4</sup>, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.” (emphasis added)**

<sup>2</sup> The supply of 6,101 homes against the need excluding buffer for 6,673 homes would equate to a 4.57yIs with a shortfall of 572 homes.

<sup>3</sup> These are subsequently referred to as Category A sites.

<sup>4</sup> These are subsequently referred to as Category B sites.

1.15 The PPG provides guidance as to how this definition should be interpreted and assistance can also be gained by the approach adopted by s78 Inspectors, the Secretary of State and in some instances by the courts. I highlight some of the most relevant material considerations in this regard below.

Sites which post-date the base-date

1.16 The 5YLS provides an indication of the effectiveness of the policies of the Development Plan in addressing housing needs over the immediate five years. It does so by assessing the supply of deliverable sites over the five years from a specified base-date against the housing need which applied at that base-date. Any sites which post-date that base-date will respond to a different housing need. Such sites cannot therefore be included in the deliverable supply as this would skew the calculation. If these were to be included, it would also be necessary to take account of the housing need which existed at the time these sites gained planning permission and to discount all homes which had been delivered prior to this date (as these would no longer be deliverable).

1.17 This has been the consistent finding of every s78 appeal decision of which I am aware including for example in paragraph 326 of the Inspectors recommendations to the Secretary of State in the recovered Farleigh Fields appeal decision (CD7.6)<sup>5</sup> which states inter alia:

**“It is common ground that it is appropriate to assess supply for the five year period starting from 1 April 2016, however NSC includes sites in its anticipated supply that have been consented since that base date. As the appellant identifies, there is a significant body of appeal decisions in which Inspectors have indicated that such an approach is not appropriate in the absence of proper accounting<sup>136</sup>. I share those Inspectors’ broad view that if such sites are to be included then account must also be taken of the housing requirement that has accrued during the same period. NSC has not factored in that increased requirement or the increased backlog accrued after 1 April 2016, such that there is an imbalance in its inputs and a consequential artificial inflation of its supply of housing land over the five year period in relative terms. Accordingly, all of those sites, which amount to**

<sup>5</sup> See also paragraph 58 of the Land at Windacres Farm, Rudgwick appeal decision (CD7.7), paragraph 31 of the Entech House, Woolmer Green appeal decision (CD7.8), paragraph 67 of the Land on East Side of Green Road, Woolpit appeal decision (CD7.9), paragraph 62 of the Land off Colchester Road, Bures Hamlet appeal decision (CD7.10) and countless others.

**328 dwellings, should be omitted for the purposes of this exercise.” (emphasis added)**

1.18 The Secretary of State agreed in paragraph 18 of the appeal decision that:

**“...For the reasons set out by the Inspector at IR325-327, he concludes that 328 units should be removed from supply, reducing the subtotal further to 7,885 (IR326).”**

1.19 Sites which were the subject of a resolution to grant planning permission at the base-date fall within this group and so should not be included. This accords with the explicit findings of numerous Inspectors including for example in paragraph 67 of the Land on East Side of Green Road, Woolpit appeal decision (CD7.9), and paragraph 62 of the Land off Colchester Road, Bures Hamlet appeal decision (CD7.10). The Secretary of State has also found that sites that were the subject of resolutions to grant planning permission at the base-date, including those which had subsequently gained planning permission<sup>6</sup>, should be included in the deliverable supply owing to the fact that they did not fall into Category A or B of the definition of deliverable site at the base-date and there was no clear evidence given the outstanding need for legal agreements in paragraph 18 of the recovered Land off Darnhull School Lane, Winsford appeal decision (CD7.11).

The evidential basis of the assessment of deliverability

1.20 In order to consider whether the sites which were available to respond to the housing need at the base-date have a realistic prospect of delivery within five years it is clearly appropriate to take account of the latest evidence, in accordance the PPG (68-004) and the recommendations of the Inspector in paragraph 12.9 of the Land to the East of Newport Road and to the East and West of Cranfield Road, Woburn Sands appeal decision (CD7.12) which states inter alia:

**“However, there is nothing in the NPPF or PPG that stipulates that all of the documentary evidence for a 5 year HLS has to be available at the base date itself. Instead, the PPG advocates the use of the latest available evidence.” (emphasis added)**

1.21 The Secretary of State agreed in paragraph 12 of the appeal decision that:

**“...For the reasons given at IR12.8-12.12 the Secretary of State agrees with the Inspector that it is acceptable that the evidence can post-date the base date provided that it**

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<sup>6</sup> Including Winnington Business Park as identified in paragraph 367 of the Inspectors recommendation.

**is used to support sites identified as deliverable as of 1 April 2019 (IR12.11)."**

1.22 It is necessary to take account of the latest evidence to determine whether or not there is currently a realistic prospect of delivery, recognising that the deliverability of a site may change over time as unforeseen events arise and milestones are achieved or missed. This has been confirmed in paragraph 21 of the recovered Land off Audlem Road/Broad Lane, Stapeley appeal decision (CD7.13), wherein the Secretary of State states:

**"...the following should be removed from the supply... 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..."**

Sites for housing should be available now

1.23 The PPG (3-019) provides guidance as to how consider the availability of sites. This states inter alia:

**"The existence of planning permission can be a good indication of the availability of sites...Consideration can also be given to the delivery record of the developers or landowners putting forward sites, and whether the planning background of a site shows a history of unimplemented permissions."**

1.24 National guidance therefore requires a consideration of whether a site should be retained in the deliverable supply when it has a track record of non-delivery. This ensures that one does not place undue reliance upon sites which are unlikely to come forward to meet the actual needs of households.

Sites for housing should offer a suitable location for development now

1.25 The PPG (3-018) confirms that a site can be considered to offer a suitable location for development:

**"...if it would provide an appropriate location for development when considered against relevant constraints and their potential to be mitigated."**

1.26 Further assistance is provided in paragraph 34iv of the High Court Judgment of *Wainhomes (South West) Holdings Ltd and the Secretary of State for Communities and Local Government et al [2013] EWHC 597 (Admin)* (CD7.26) which states:

**“Where sites without planning permission are subject to objection, the nature and substance of the objections may go to the question whether the site offers a suitable location; and they may also determine whether the development is achievable with a realistic prospect that housing will be delivered on the site within five years. Even if detailed information is available about the site and the objections, prediction of the planning outcome is necessarily uncertain. All that probably need be said in most cases is that where sites do not have planning permission and are known to be subject to objections, the outcome cannot be guaranteed. Accordingly, where there is a body of sites which are known to be subject to objections, significant site specific evidence is likely to be required in order to justify a conclusion that 100% of all those sites offer suitable locations and are achievable with a realistic prospect that they will be delivered within five years.” (emphasis added)**

- 1.27 Therefore, it is clear that when considering whether a site offers a suitable location for development it is necessary to have regard to any constraints, and furthermore, if a planning application is subject to objections that there would need to be “significant site specific evidence” to conclude that the site offers a suitable location<sup>7</sup>.

Sites for housing should be achievable with a realistic prospect that housing will be delivered on the site within five years

- 1.28 To be included in the deliverable supply, there needs to be a realistic prospect of delivery. This is normally achieved by undertaking a detailed site specific assessment for larger sites which would typically demonstrate that there is not a realistic prospect of every home being delivered within five years, and an aggregated assessment of smaller sites with the application of a proportionate lapse rate or non-implementation rate applied. Without such a lapse or non-implementation rate being applied, it would be assumed that 100% of small sites will be implemented within five years which would be wholly unrealistic. This approach has been supported by numerous Councils and s78 Inspectors<sup>8</sup> including

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<sup>7</sup> This accords with the approach adopted by the Inspector in paragraphs 94 and 108 of the Land North East of Becket’s Grove, Wymondham appeal decision (CD7.14).

<sup>8</sup> See for example paragraph 48 of the Land at Caddywell Lane/Burwood Lane, Great Torrington appeal decision (CD7.15), paragraph 13 of the Land at Tappers Farm, Bodicote appeal decision (CD7.16), and paragraph 77 of the Land adjacent to the north side of Natland Mill Beck Lane appeal decision (CD7.17).

most recently in paragraphs 78 and 79 of the appeal decision at Land North East of Becket's Grove, Wymondham (CD7.14) which states:

**"At the Hearing there was discussion around the inclusion of sites where planning permission was granted some time ago, yet those sites remain on the list. The Council explained that the list would include sites where permission had been implemented, but had not yet been completed, but accepted that some sites which have started may not be built out, just as some extant permissions will never be implemented. The Council has applied a "lapse rate" of 27% to allow for such losses and provides, in the appendices to the Joint Core Strategy for Broadland, Norwich and South Norfolk: Annual Monitoring Report 2018-19-2020 the basis for this assumption.**

**The figure has been calculated from historic figures for non-delivery or completion, again over a 10 year period, taking the higher rate for the three Councils whose administrative areas contribute to the Greater Norwich Area, to provide a more conservative figure. I consider this method sufficiently robust as to give confidence in the Council's figure for anticipated completions and the number of dwellings to be provided by small sites should be retained." (emphasis added)**

The framework for assessing the deliverability of Category A sites

- 1.29 According to the NPPF, these sites are to be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years.
- 1.30 This clearly requires that once planning permission expires, the presumption of deliverability should no longer apply.
- 1.31 For all other Category A sites, where planning permission remains extant, these are to be considered deliverable unless there is clear evidence to the contrary.

The framework for assessing the deliverability of Category B sites

- 1.32 These sites should only be considered deliverable where there is clear evidence that completions will begin on site within five years.

1.33 The PPG (68-007) requires that robust, up to date evidence needs to be available. A number of appeal decisions<sup>9</sup> have interpreted this to require that there needs to be something cogent to provide strong evidence that in reality a site will deliver housing in the timescale and in the numbers contended for, rather than relying upon mere assertion.

1.34 The PPG (68-007) also provides a non-exhaustive list of examples of what clear evidence may include<sup>10</sup>. The examples include:

- i. the progress towards the approval of reserved matters,
- ii. a planning performance agreement that sets out the timescales,
- iii. a written agreement between the LPA and the site developer(s) which confirms the developer's delivery intentions and anticipated start and build-out rates,
- iv. firm progress with site assessment work, or
- v. clear relevant information about site viability, ownership constraints or infrastructure provision.

1.35 In general, and in accordance with the PPG, Inspectors and the Secretary of State have found that something akin to a written agreement or the submission of a reserved matters application is likely to be necessary to provide clear evidence. For example, in paragraph 21 of the Land off Audlem Road/Broad Lane, Stapeley recovered appeal decision (CD7.13), the Secretary of State concluded that:

**"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**

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<sup>9</sup> See for example paragraph 56 of the Land at Caddywell Lane/Burwood Lane, Great Torrington appeal decision (CD7.15) and paragraph 20 of the Little Sparrows, Sonning Common appeal decision (CD7.2).

<sup>10</sup> It explicitly identifies that clear evidence may include these examples, which clearly indicates that one of these examples alone would not necessarily provide clear evidence. For example, evidence about site viability could not in itself provide clear evidence that completions will begin.

**site where the agent in control of the site disputes deliverability.” (emphasis added)**

1.36 In this paragraph, the Secretary of State also clearly identifies that where the milestones identified in any evidence have not been achieved, the evidence should no longer be relied upon as providing clear evidence.

1.37 The content and realism of any such written agreement will also be material to whether or not there is the clear evidence envisaged by the NPPF. For example, in paragraph 23 of the Land off Popes Lane, Sturry appeal decision (CD7.18) states inter alia:

**“For a number of the disputed sites, the Council’s evidence is founded on site specific SCGs which have been agreed with the developer or landowner of the site in question. I appreciate that the PPG refers to SCGs as an admissible type of evidence, and I have had full regard to that advice. But nevertheless, the evidential value of any particular SCG in this context is dependent on its content. In a number of cases, the SCGs produced by the Council primarily record the developer’s or landowner’s stated intentions. Without any further detail, as to the means by which infrastructure requirements or other likely obstacles are to be overcome, and the timescales involved, this type of SCG does not seem to me to demonstrate that the development prospect is realistic. In addition, most of the site-specific SCGs are undated, thus leaving some uncertainty as to whether they represent the most up-to-date position.” (emphasis added)**

1.38 Similarly, paragraph 57 of the Land at Caddywell Lane/Burwood Lane, Great Torrington appeal decision (CD7.15) states:

**“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 the 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.” (emphasis added)**

The deliverable supply identified by the Council

1.39 The Council identify a deliverable supply of 6,101 homes which comprise<sup>11</sup>:

- i. 733 homes on small permitted sites (Category A);
- ii. 2,609 homes on large sites with detailed planning permission (Category A);
- iii. 1,617 homes on large sites with outline planning permission (Category B);
- iv. 842 homes on allocated sites<sup>12</sup> without planning permission (Category B);
- v. 100 homes on a site without any planning status at the base-date; and
- vi. A windfall allowance of 200 homes.

1.40 I consider each of these in turn.

Small permitted sites (Category A)

1.41 The Council identify 733 homes which benefitted from planning permission for non-major development at the base-date. This seemingly mistakenly includes 8 homes at 31 Wood Lane, Sonning Common which benefitted from full planning permission for the change of use and extension of offices to 6 residential dwellings (under P18/S4256/FUL). Whilst an alternative application for a change of use and extension to 8 dwellings was subsequently submitted this was refused in January 2022 including owing to excessive scale and bulk. Accordingly, the

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<sup>11</sup> This aggregates the sites based on their planning status at the base-date according to the references provided within the HLSS. It should be noted that this differs from the aggregated breakdown identified in Table 5 of the HLSS although I am unable to explain the difference. For example, Table 5 of the HLSS identifies a supply of 596 homes on small sites with detailed planning permission, 37 on small sites with outline planning permission and 75 on small sites with prior approvals comprising 708 homes on small permitted sites, whereas the table on page 40 of the HLSS identifies 733 homes on small permitted sites. It is possible that numerous of these differences are accounted for by the fact that where the HLSS indicates that a site has a certain planning status this was not the case at the base-date, including for example at the Former Carmel College site and Woodcote NDP Site 16 (which I include in large sites with detailed planning permission as indicated in the HLSS notwithstanding that these permissions had expired by the base-date).

<sup>12</sup> Including the Blandford+ Neighbourhood Plan which whilst not adopted at the base-date had recommended to proceed to referendum by the Examiner.

supply from this source identified by the Council is overstated and should be reduced by 2 to 731 homes.

- 1.42 The Council assume that 100% of these will be delivered within five years. There is absolutely no prospect, realistic or otherwise, of this being achieved. Indeed, a significant proportion of such sites will not be implemented as found based on detailed research by numerous LPAs and supported by Inspectors<sup>13</sup>. The non-implementation rate is now likely to be even greater than that which has applied historically as a number of smaller developers ceased their operations as a result of the pandemic.
- 1.43 The application of such a lapse or non-implementation rate is necessary to provide a realistic prospect of delivery and takes account of the rate at which planning permissions expire and the inevitability that a proportion of extant planning permission will not be implemented, and particularly so for those which have a significant record of non-implementation already.
- 1.44 Indeed, of the supply of 731 homes identified by the Council, planning permission has expired for at least 21 since 1<sup>st</sup> April 2021<sup>14</sup> or (3%). The NPPF clearly sets out that such sites should no longer be considered deliverable.
- 1.45 It would also be expected that planning permission would lapse on a similar proportion of homes in the next 2 years. This would indicate that the supply should be reduced by c.63 homes (or 9%) to take account of the proportion of planning permissions that are realistically likely to expire.
- 1.46 Additionally, on those sites upon which planning permission does not expire, a proportion of homes will not be developed within five years.
- 1.47 The normal way of addressing these combined factors is to apply a non-implementation rate that provides for a realistic supply from small permitted

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<sup>13</sup> See paragraphs 6.22 to 6.23 above.

<sup>14</sup> This includes only those upon which the necessary pre-commencement conditions have not been discharged in the timescales required by the planning permission and/or on which variations of conditions or alternative schemes have since been approved including P18/S2682/O (5 homes), P18/S2476/FUL (1), P17/S4409/O (5), P18/S1051/FUL (2), P18/S1758/FUL (2), P18/S2726/FUL (1), P18/S1630/FUL (1), P18/S0525/FUL (1), P18/S2484/FUL (1), P18/S2242/FUL (1), and P18/S1847/FUL(1). Clearly, many other permissions may also have expired where conditions have been discharged but the development not commenced and so this should be seen as being the absolute minimum.

sites. The LPAs that have analysed the rates of non-implementation of which I am aware include:

- i. South Norfolk = 27%<sup>15</sup>;
- ii. Wiltshire = 32.4%<sup>16</sup>;
- iii. Cheltenham = 22%<sup>17</sup>;
- iv. Tewkesbury = 22%<sup>18</sup>;
- v. Gloucester = 23%<sup>19</sup>;
- vi. Stroud = 22%.

1.48 Even assuming that the non-implementation rate on small sites in South Oxfordshire reflects the minimum identified in the above authorities at 22%, there is an optimistic but realistic prospect of the delivery of 570<sup>20</sup> of the 731 homes which benefitted from planning permission for non-major development at the base-date.

1.49 In combination the removal of the mistaken 2 homes at 31 Wood Lane, and the application of an optimistic but realistic non-implementation rate **reduces the supply of the Council by 163 homes.**

1.50 The respective positions of either party on the contribution from small permitted sites are set out in Table A.5 below.

**Table A.5 – respective positions on the deliverability of small permitted sites**

	The Council's position <sup>21</sup>	My position
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<sup>15</sup> As set out in the Land North East of Becket's Grove, Wymondham appeal decision (CD12.8).

<sup>16</sup> Where I undertook the empirical research in my time with the Council.

<sup>17</sup> As was found to be necessary by the Inspector examining the Joint Core Strategy.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> = 731 x 78%.

<sup>21</sup> Which assumes that (1) sites upon which planning permission has expired will nevertheless deliver, (2) planning permission will not expire on any other sites, (3) that 100% of homes will be delivered including on sites which have not made any substantive

31 Wood Lane	8	6
Sites upon which planning permission has expired	21	0
Other small permitted sites	704	564
<b>TOTAL</b>	<b>733</b>	<b>570</b>

*Large sites with detailed planning permission (Category A)*

- 1.51 The Council include 2,609 homes from this source of supply. I am unaware of any clear evidence that on the vast majority of these sites the permitted homes will not be completed within five years and I therefore agree that these sites should be considered to be deliverable, with the following exceptions.
- 1.52 Former Carmel College, Mongewell Park – this site gained full planning permission for a redevelopment of the former college complex to provide 166 residential dwellings, refurbishment of Grade II and Grade II\* listed buildings including provision of a restaurant, community cafe and swimming pool and retention of boating facilities and associated landscaping, access and parking arrangements in March 2016.
- 1.53 The Council has relied upon the delivery of this site for a number of years, and all of the trajectories of the Council have proved to be over-optimistic as illustrated in Table A.6 below.

**Table A.6 – previous and current trajectories for the Former Carmel College**

	2016/ 17	2017/ 18	2018/ 19	2019/ 20	2020/ 21	2021/ 22
Trajectory of April 2015	16	50	50	50	0	0
Trajectory of May 2017	0	50	50	66	0	0
Trajectory of April 2018	0	0	0	0	30	30
Trajectory of June 2019	0	0	0	0	50	50
Trajectory of June 2020	0	0	0	0	0	50
Trajectory of March 2021	0	0	0	0	0	50
Current Trajectory of June 2021	0	0	0	0	0	25
ACTUAL COMPLETIONS	0	0	0	0	0	0

progress towards delivery in up to 19 years, and (4) that the site at Common Mead Lane will deliver twice.

- 1.54 A number of applications to discharge conditions were submitted in 2018 and 2019. Conditions 3, 4, 10, 14, 19, 21, 23, and 28 were discharged, but the applications for the discharge of conditions 5, 6, 7, 8, 11, 12, 13, 16, 24, 25, 27 and 29 were either rejected or remain undetermined in early 2022. Until such time as each of these conditions have been discharged, development cannot commence. Condition 1 required that development must have commenced within three years of the grant of full planning permission, namely by 21<sup>st</sup> March 2019. However, the conditions necessary for this to happen had not and have not been discharged and so the planning permission has expired. Indeed, I recently visited the site on 11<sup>th</sup> March 2022 and was unable to identify any signs that a technical commencement had been achieved, and there were no signs of development forthcoming.
- 1.55 Accordingly, this site should not be considered deliverable for numerous reasons. Firstly, planning permission has expired such that this site no longer benefits from the presumption of deliverability of a Category A site. Secondly, there is no evidence, let alone clear evidence that completions will be achieved within five years. The HLSS suggests that the Council rely on the delivery intention of the developer but this already has not been achieved and so cannot be relied upon as providing clear evidence<sup>22</sup>. Thirdly, the extensive record of non-implementation<sup>23</sup> and the absence of any indication that this may change suggests that development will not be forthcoming in the near future. Fourthly, the trajectory of the Council is not only unrealistic it is impossible given that the completions anticipated by the Council have not been achieved. Accordingly, the supply of the Council should be **reduced by 166 homes**.
- 1.56 Thames Farm, Reading Road, Shiplake – this site gained outline planning permission for up to 95 homes on appeal in August 2017 and this was subject to 6 pre-commencement conditions (5, 6, 8, 9, 10 and 11).
- 1.57 An application for the approval of reserved matters was then approved in May 2019 such that condition 2 of the outline planning permission required that development would commence within 1 year (i.e. by May 2020). Of the 6 pre-

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<sup>22</sup> As set out in paragraph 21 of the recovered Stapeley appeal decision (CD7.13).

<sup>23</sup> Which is relevant to the availability of the site for development as set out in the PPG (3-019).

commencement conditions, 5 were discharged in 2019 namely conditions 5, 6, 8, 9, and 10.

- 1.58 However, condition 11 of the outline planning permission which requires that no development can commence until a drainage strategy has been submitted to and approved by the Council has still not been discharged.
- 1.59 An application to discharge this condition was submitted in February 2020 but was withdrawn in June 2020 as Thames Water were unable to support the discharge of this condition.
- 1.60 Another application to discharge this condition was submitted in August 2020 but withdrawn in October 2021 as the County Council and Thames Water were unable to support the discharge of this condition.
- 1.61 In the absence of the discharge of this condition, development was unable to commence and so the applicant then applied to extend the time of the planning permission, in accordance with the extension of planning permissions allowed during the pandemic. As a result, the outline planning permission was extended such that development was required to have commenced by 1<sup>st</sup> May 2021.
- 1.62 Condition 11 has still not been discharged as of 31<sup>st</sup> March 2022 and so development cannot have lawfully commenced. This has been confirmed by the Council, following an application for a certificate of lawful use, which the Council refused identifying that the ground stabilisation works undertaken by the applicant were not part of the foundation works of the development permitted and as such were unlawful such that the permitted development has not been commenced. As such the planning permission has expired and this site no longer benefits from the presumption of deliverability as set out in the definition of a deliverable site within the NPPF.
- 1.63 Notwithstanding that planning permission had expired, the applicant had applied to re-discharge condition 5 in October 2021<sup>24</sup> but this application was rejected by the Council as the Construction Management Plan submitted for discharge included the ground stabilisation works which were beyond the scope of the permitted development.

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<sup>24</sup> This condition had already been discharged in 2019.

1.64 In summary, planning permission has expired on this site such that it no longer benefits from the presumption of deliverability. There would therefore need to be clear evidence that this site is deliverable. However, one of the pre-commencement conditions has been unable to be discharged despite numerous attempts such that unless there is clear evidence that notwithstanding recent history this will now be resolved imminently and development forthcoming thereafter, this site should not be considered to be deliverable. This **reduces the supply of the Council by 95 homes.**

1.65 Woodcote NDP Site 16: Former Reservoir site, Greenmore – this allocated site gained full planning permission for the erection of 20 new dwellings and associated infrastructure in May 2017. There were subsequently no applications to discharge conditions<sup>25</sup> and planning permission has expired, such that the site no longer benefits from the presumption of deliverability of a Category A site. There would therefore need to be clear evidence that completions will be achieved within five years for this site to be considered deliverable.

1.66 The site is now subject to a new full planning application for the demolition of the existing pumphouse and construction of 20 new dwellings and associated infrastructure. This application is however subject to a holding objection from the Council on drainage related matters, a holding objection from the County Council on transport matters, and an objection from the County Council on flood risk matters. As set out in the *Wainhomes Judgment*, in order to conclude that this site offers a suitable location for development and that if so the necessary mitigation can and will be in place in time to facilitate delivery within five years, there would need to be significant site specific evidence that these objections will be overcome and the timescales for achieving this.

1.67 However, there is no evidence, beyond an allusion to the developer's delivery intention within the HLSS, let alone clear evidence that these objections will be able to be satisfactorily addressed, or that thereafter, completions will then be achieved within five years. The developer's delivery intention alluded to in the HLSS is not publicly available and so cannot be relied upon as providing clear

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<sup>25</sup> Although a full application was submitted for an alternative use in 2017, which was refused and dismissed at appeal. An application for the variation of conditions was then submitted in February 2019 but was withdrawn.

evidence<sup>26</sup> and in any event it is no longer possible that this could be achieved given that this indicated that completions would be achieved in the next year and yet the site does not even benefit from detailed consent. I also strongly suspect that the developer’s delivery intentions did not allow for the application to be subject to the objections that it has generated. Accordingly, the allusion to the developer’s delivery intention can no longer be relied upon even if it could have previously been<sup>27</sup>. The site should not therefore be considered deliverable, and the supply of the Council should be **reduced by 20 homes**.

1.68 It should also be noted that I have visited a number of other sites with detailed planning permission and the trajectories anticipated by the Council have not been achieved. However, on these other sites, I consider that notwithstanding the delays, there is sufficient evidence to conclude that these are deliverable within five years and so I do not address them in this Proof of Evidence.

1.69 The respective positions of either party on the contribution from large sites with detailed planning permission are set out in Table A.7 below.

**Table A.7 – respective positions on the deliverability of large sites with detailed planning permission**

	The Council’s position	My position
Former Carmel College	166	0
Thames Farm	95	0
Woodcote NDP Site 16	20	0
Other uncontested sites	2,328	2,328
<b>TOTAL</b>	<b>2,609</b>	<b>2,328</b>

*Large sites with outline planning permission (Category B)*

1.70 The Council include 1,617 homes from this source of supply. Such sites should only be considered deliverable where there is clear evidence that completions will be achieved within five years. Whilst the Council has not published any such evidence, I have sought to gather clear evidence on the deliverability of these sites. Having undertaken this work, I agree with the Council that there is sufficient clear evidence to support the deliverability of the majority of this supply.

<sup>26</sup> As would a PPA or written agreement as suggested as examples of clear evidence by the PPG (68-007).

<sup>27</sup> In accordance with the approach of the Secretary of State in paragraph 21 of the recovered Stapeley appeal decision (CD7.13).

However, on a number of sites I have been unable to obtain such evidence, or the available evidence points in the opposite direction as discussed below.

- 1.71 Brightwell-cum-Sotwell NDP: Site 2 – this allocated site gained outline planning permission for up to 13 dwellings on 5<sup>th</sup> March 2019. There were subsequently no applications to discharge conditions and planning permission expired on 5<sup>th</sup> March 2022 such that it no longer benefits from the presumption of deliverability of a Category A site. This site should therefore only be considered deliverable where there is clear evidence that completions will be achieved.
- 1.72 The site is now subject to a full planning application for the erection of 20 homes and associated infrastructure. This application is however subject to a holding objection from the Council on landscape matters, a holding objection from the Council on ecological matters, an objection from the County Council on transport matters, and an objection from the Council on arboricultural grounds. As set out in the *Wainhomes Judgment*, in order to conclude that this site offers a suitable location for development and that if so the necessary mitigation can and will be in place in time to facilitate delivery within five years, there would need to be significant site specific evidence that these objections will be overcome and the timescales for achieving this.
- 1.73 However, there is no evidence whatsoever beyond that set out above, let alone clear evidence that these objections will be able to be satisfactorily addressed, or that thereafter, completions will then be achieved within five years. The site should not therefore be considered deliverable and the supply of the Council should be **reduced by 13 homes**.
- 1.74 Land adjacent to the Village Hall, Main Road, East Hagbourne – this site gained outline planning permission in January 2018. Variations of condition were approved in April 2020 and again in February 2022 and an application for the approval of reserved matters was submitted in February 2019. This application remains undetermined some 3 years later. As such, in the absence of a detailed consent, this site should only be considered deliverable where there is clear evidence that completions will be achieved within five years.
- 1.75 The application for the approval of reserved matters has been the subject of objections from statutory consultees throughout the period of determination. Additional information and amended plans have been provided on no less than 8

occasions including most recently in January 2022 to address these objections, but in response to these latest amendments and information, the County Council has maintained its objections to the proposals in respect of both transport and flood risk matters.

- 1.76 There is no evidence whatsoever, let alone clear evidence, that these objections which have been maintained for an extensive period and notwithstanding numerous attempts to resolve them will be able to be satisfactorily addressed and if so how long this will take. Furthermore, there is no evidence to demonstrate that completions will be achieved within five years even if the objections are resolved and planning permission is granted. Instead, the HLSS relies upon the application of average lead-in times and build-out rates that will not be applicable to individual sites. Such average rates cannot be applied in the absence of the necessary clear evidence as this would undermine the requirement for clear evidence<sup>28</sup>. Accordingly, the supply of the Council should be **reduced by 74 homes**.
- 1.77 Land at Wheatley Campus, Oxford Brookes University, Holton – this site gained outline planning permission for the demolition of existing structures and redevelopment of the site with up to 500 dwellings and associated infrastructure on appeal in April 2020. In the subsequent two years there have been no applications to discharge conditions or for the approval of reserved matters.
- 1.78 As with the preceding sites, this site should only be considered deliverable where there is clear evidence that completions will be achieved within five years. There is no however no evidence whatsoever that completions will be achieved, and certainly nothing akin to the examples set out in the PPG (68-007) such as a PPA, or a written agreement between the Council and developers. As with many other sites the HLSS relies upon the developer’s delivery intentions which are not publicly available and so cannot be relied upon as providing clear evidence.

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<sup>28</sup> Indeed, if these were applied, every single site would be deliverable as on average it takes 47 months (just under 4 years) from the submission of an outline planning application until the first completion according to Appendix B of the HLSS. This would thereby undermine the definition of a deliverable site and would fail to take account of the fact that a proportion of sites will not achieve any completions within five years.

- 1.79 In the absence of any evidence that completions will be achieved within five years, this site should not be considered deliverable and accordingly the supply of the Council should be **reduced by 168 homes**.
- 1.80 The respective positions of either party on the contribution from large sites with outline planning permission are set out in Table A.8 below.

**Table A.8 – respective positions on the deliverability of large sites with outline planning permission**

	The Council’s position	My position
Brightwell-cum-Sotwell NDP Site 2	13	0
Land adjacent to the Village Hall, East Hagbourne	74	0
Land at Wheatley Campus, Holton	168	0
Other uncontested sites	1,362	1,362
<b>TOTAL</b>	<b>1,617</b>	<b>1,362</b>

*Allocated sites without planning permission (Category B)*

- 1.81 The Council include 842 homes allocated sites which did not benefit from planning permission at the base-date. As set out in the NPPF, these sites should only be considered deliverable where there is clear evidence that completions will be achieved. I consider a number of these below where I have been unable to obtain such evidence, or the available evidence points in the opposite direction.
- 1.82 Ladygrove East – Land off A4130, Hadden Hill, Didcot – the deliverability of this site was considered in paragraph 11 of the Lady Grove appeal (CD7.3) wherein the Inspector concluded that the Council’s trajectory which assumes delivery in year 3 (2023/24) was too optimistic and so delayed the trajectory by one year.
- 1.83 No substantive progress has been made on this site since the Lady Grove appeal was heard. The outline planning applications for the delivery of up to 250 dwellings and up to 750 dwellings, both of which the Inspector was aware of have not been determined in the subsequent 8 months<sup>29</sup>.

<sup>29</sup> The outline planning application for up to 250 dwellings covers part of the area proposed for up to 750 dwellings by the other planning application.

- 1.84 The outline planning application for up to 750 dwellings is however due to be considered by planning committee on 16<sup>th</sup> March 2022 with a recommendation to resolve grant planning permission subject to the agreement of a s106. It is apparent from the committee report that there are a wide range of obligations to be secured through a s106 agreement and no indication of any progress towards securing these. Indeed, this site previously gained a resolution to grant planning permission in 2006 and a s106 package was unable to be agreed. It would therefore be expected that even if a resolution to grant outline planning permission is forthcoming on 16<sup>th</sup> March, outline planning permission will not be granted for a considerable period of time<sup>30</sup> whilst negotiations are undertaken. Appendix B of the HLSS suggests that on sites of over 500 homes, it has taken on average 34.1 months<sup>31</sup> (2 years and 10 months) from the grant of outline planning permission until the first completion ranging from 30.3 months (2 years and 6 months) at Didcot North East to 39.7 months (3 years and 4 months) at Land to the West of Wallingford. Therefore, even if committee resolves to grant outline planning permission this month, a s106 is then agreed within the month, and the shortest lead-in time ever achieved is then achieved, the first completion wouldn't be until October 2024, circa a year later than suggested by the Council and in accordance with the findings of the Inspector. Therefore, even if there was clear evidence that this site will achieve completions within five years, it would be unrealistic to include any more homes than assumed by the Inspector.
- 1.85 The outline planning application for up to 250 dwellings remains subject to holding objections on ecological, arboricultural and landscape grounds and there is no evidence as to how, if or when these will be overcome such that there is not sufficient evidence to include this within the deliverable supply. In any event, assuming that the larger application gains a resolution to grant planning permission, it would not be expected that this planning application will be pursued.
- 1.86 The deliverability or otherwise of this site will therefore be determined according to whether there is clear evidence that completions will be achieved in accordance with the trajectory identified by the Inspector (which reduces the supply by 80 homes) or not (such that the supply should be reduced by 190 homes). The only evidence that I have been able to identify is, as with numerous of the preceding

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<sup>30</sup> Potentially years.

<sup>31</sup> =76.8-42.7.

sites, an allusion by the HLSS to the developer's delivery intentions. Once again, this is not in the public domain and so cannot be relied upon as providing clear evidence. In the absence of such evidence, the supply of the Council should be **reduced by 190 homes.**

- 1.87 Didcot Gateway South – the deliverability of this site was considered in paragraph 12 of the Lady Grove appeal (CD7.3) wherein the Inspector noted that this scheme had been beset by delays, there was no planning permission, no tangible evidence of significant progress towards the preparation or submission of planning applications, and therefore found that this site was not deliverable.
- 1.88 The HLSS suggests that Homes England had advised that an outline planning application would be submitted in Spring 2021 and identifies that the trajectory of the Council was based on the developer's delivery intentions which presumably assumed that this milestone would be achieved. However, an outline planning application was only submitted in February 2022 and so it is clear that the delivery of this site has been delayed by c.1 year. This alone would reduce the supply of the HLSS by 53 homes even if it the developer's delivery intentions which are not publicly available and which have already not been achieved were considered capable of providing clear evidence.
- 1.89 Even if there was a written agreement of the developer's delivery intentions, as the milestones have not been achieved, there is now no clear evidence of deliverability. The fact that the anticipated milestones have not been achieved may have significant implications for the timescales for delivery as Homes England (and associated developers) may now have diverted their resources of other sites in their portfolio.
- 1.90 Appendix B to the HLSS also suggests that for sites of this size in South Oxfordshire it takes on average 41.8 months (3 years and 6 months) from the submission of an outline planning application until the first completion, ranging from 35.4 (3 years) to 54.2 months (4 years and 6 months). As the outline planning application was submitted in February 2022, the first completion wouldn't be expected until between late 2025 and late 2026, such that this site would make at most a minimal contribution to the deliverable supply by 31<sup>st</sup> March 2026 even if there was clear evidence that a shorter lead-in time will be achieved.

- 1.91 In the absence of the necessary clear evidence and given the unrealism of the trajectory of the HLSS, this site should not be considered deliverable in accordance with the findings of the Lady Grove appeal decision, and the supply of the Council should be **reduced by 91 homes**.
- 1.92 North-East Didcot – this allocated site benefits from an outline planning permission, the deliverability of which is not contested. The HLSS also includes a supply of 135 homes on parts of the remainder of this allocation under site ref: 2448.
- 1.93 The remainder of the allocation is subject to three separate planning applications according to the HLSS. The first at Land South of Appleford Way is the subject of an undetermined outline planning application which was submitted over 3 years ago in January 2019. Additional information was provided by the applicant on transport matters in July 2020 but there does not appear to have been any progress towards the grant of planning permission in the subsequent 20 months. It is unclear why this planning application remains undetermined after such an extensive period of time and there is no evidence that this circumstance will change in the near future or that completions will be forthcoming within five years thereafter. Even if there was clear evidence that outline planning permission will be granted immediately, it can be calculated from Appendix B to the HLSS that it has taken on average 28.7 months (2 years 5 months) from the grant of outline planning permission until the first completion on sites of this size, ranging from 21.6 months (1 year 10 months) to 40.2 months (3 years 4 months). Therefore, even if there was clear evidence that planning permission will be granted immediately and clear evidence that the shortest lead-in time ever achieved in South Oxfordshire will be matched, this site wouldn't contribute to the supply until late 2023/24. In the alternative, if the grant of planning permission takes a number of months or years, or the application is refused, and the lead-in time on this site is towards the longer end of that experienced in South Oxfordshire this site will not achieve any completions within the five year period.
- 1.94 The second related to an application for a screening opinion at Ladygrove Farm. A full planning application was submitted on this site for the construction of 86 homes in March 2021. This application remains subject to a holding objection from the Council on landscape grounds. There is no evidence to demonstrate that this objection will be satisfactorily addressed or as to when development will be

forthcoming assuming this is the case. Even if there was such evidence and this demonstrated that planning permission will be granted forthwith, Appendix B to the HLSS indicates that on sites of this size it takes on average 20.1 months (1 year 8 months) from the grant of full planning permission until the first completion, ranging from 9.9 months to 27.2 months (2 years 3 months). The HLSS suggests that the first completions on the remainder of North East Didcot will be achieved in early 2023/24 which would require that both planning permission is granted immediately and the shortest lead-in time achieved on any similarly sized site is matched. There is no evidence that either of these will occur.

- 1.95 The third relates to an undetermined outline planning application at Pearith Farm which was submitted in January 2020. This remains subject to objections on urban design grounds from the Council. As above, there is no evidence to suggest that these will be satisfactorily addressed or that development will be forthcoming within five years thereafter. Even if there was evidence to demonstrate that planning permission will be granted imminently, Appendix B to the HLSS indicates that on sites of this size it would then take on average 29.2 months (2 years 5 months) until the first completion is achieved, ranging from 19.4 months (1 year 7 months) to 37.9 months (3 years 2 months). Therefore, even if there was clear evidence that planning permission will be granted immediately and clear evidence that the shortest lead-in time ever achieved in South Oxfordshire will be matched, this site wouldn't contribute to the supply until late 2023/24. In the alternative, if the grant of planning permission takes a number of months or years, or the application is refused, and the lead-in time on this site is towards the longer end of that experienced in South Oxfordshire this site will not achieve any completions within the five year period.
- 1.96 The starting point is therefore that the trajectory of the HLSS is unrealistic and would necessitate shorter lead-in times than have ever been achieved on any site in South Oxfordshire. The HLSS suggests that this trajectory for these three sites in aggregate has been informed by developer's delivery intentions. However, this information is not publicly available and so cannot be relied upon as providing clear evidence even were it to be considered realistic.
- 1.97 In the absence of the necessary clear evidence and the continued absence of any planning permissions, this site should not be considered deliverable such that the supply of the HLSS should be **reduced by 135 homes**.

1.98 Northfield, Garsington - the deliverability of this site was considered in paragraph 15 of the Lady Grove appeal (CD7.3) wherein the Inspector found that the Council's lead-in time was unrealistic and therefore found that this site was not deliverable.

1.99 The HLSS relies upon the trajectory provided to the Local Plan examination which assumed that a planning application would be submitted in 2021/22. However, no such application was submitted and there is now no clear evidence that completions will be achieved. Indeed, these circumstances mirror those considered in paragraph 21 of the Stapeley appeal decision where the Secretary of State concluded:

**"He considers that, on the basis of the evidence before him, the following should be removed from the supply: ...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."**

1.100 The HLSS relies upon the trajectory provided to the Local Plan examination which assumed that a planning application would be submitted in 2021/22. However, no such application was submitted and there is now no clear evidence that completions will be achieved. Indeed, these circumstances mirror those considered in paragraph 21 of the Stapeley appeal decision where the Secretary of State concluded:

1.101 Furthermore, Appendix B of the HLSS indicates that for sites of this size it has taken on average 76.8 months (6 years 5 months) from the submission of an outline planning application until the first completion, ranging from 52.3 months (4 years 4 months) to 101.3 months (8 years 5 months). It would therefore be wholly unrealistic to assume that this site which is not even the subject of an outline planning application will achieve the first completions within the remaining 4 years of the five year period.

1.102 In the absence of the necessary clear evidence and the unrealism of any contribution to the supply within five years, this site should not be considered deliverable in accordance with the findings of the Lady Grove appeal decision, such that the supply of the HLSS should be **reduced by 50 homes**.

- 1.103 GNP3 – Manor Road, Goring – this allocated site is the subject of an undetermined full planning application which was submitted in July 2020. This application remains subject to holding objections from the Council on ecological and landscape matters, an objection from the Environment Agency in relation to groundwater quality, an objection from the AONB owing to its impact on the setting of the AONB, and an objection from the County Council in respect of transport. There is no evidence as to how, when and if these objections will be able to be satisfactorily resolved as required by the *Wainhomes* Judgment.
- 1.104 The only evidence alluded to within the HLSS are the application of average lead-in times and build-out rates which may not be applicable to this site.
- 1.105 In the absence of any evidence of suitability of achievability, let alone clear site-specific evidence, this site should not be considered deliverable and the supply of the HLSS should be **reduced by 46 homes**.
- 1.106 JHHNDP Site A & A1: Land West of Fair Mile – this allocated site benefits from a full planning application which was submitted in July 2019, but which remains undetermined. This application remains subject to objections from the County Council on transport matters. As above, there is no evidence as required by the *Wainhomes* Judgment to demonstrate that these objections can and will be overcome.
- 1.107 Additionally, as with the preceding site, the HLSS does not provide any clear evidence as to when completions will be achieved but instead relies upon the application of average lead-in times and build-out rates which may not be achieved on this site.
- 1.108 In the absence of any evidence of suitability of achievability, let alone clear site specific evidence, this site should not be considered deliverable and the supply of the HLSS should be **reduced by 60 homes**.
- 1.109 Watlington NDP: Site B and Site C – these sites were considered in combination in paragraph 13 of the Lady Grove appeal decision (CD7.3) wherein the Inspector noted that these sites were subject to undetermined outline planning applications, awaiting s106 agreements, and that given that the trajectories of the Council assumed that these s106 agreements would have been in place they should be delayed, and the supply reduced by 60 homes.

1.110 Whilst outline planning applications were then granted in January 2022, there is no evidence that completions will come forward any more quickly than assumed by the Inspector at the Lady Grove appeal. Indeed,

1.111 In the absence of any information to the contrary, I agree with the findings of that Inspector and therefore consider the supply should be **reduced by 60 homes**.

1.112 The respective positions of either party on the contribution from allocated sites without planning permission are set out in Table A.9 below.

**Table A.9 – respective positions on the deliverability of allocated sites without planning permission**

	The Council's position	My position
Ladygrove East – Land off A4130, Hadden Hill, Didcot	190	0
Didcot Gateway South	91	0
North-East Didcot	135	0
Land at Northfield	50	0
GNP6 – Wallingford Road, Goring	46	0
JHHNDP Site A & A1: Land West of Fair Mile	60	0
Watlington NDP: Sites B and C	120	60
Other uncontested sites	150	150
<b>Total</b>	<b>842</b>	<b>210</b>

*Sites without any planning status at the base date*

1.113 The Council include one unallocated and unpermitted site within the deliverable supply, at Land to the south of Newnham Manor, Crowmarsh Gifford.

1.114 This site was considered in paragraph 10 of the Lady Grove appeal decision (CD7.3) wherein the Inspector acknowledged that this site benefitted from a resolution to grant outline planning permission but was informed that a s106 would be agreed in the winter of 2021 and on this basis concluded that it could contribute 20 homes to the deliverable supply.

1.115 This site did not and does not fall in either Category A or Category B. Assuming that planning permission is granted, the planning permission will post-date the base-date and so should not be included until that point. Indeed, the PPG (68-

007) identifies that the definition of a deliverable site sets out the sites which would require further evidence to be considered deliverable specifying that this relates solely to those listed in Category B<sup>32</sup>. For sites outside of Category B, the PPG is therefore clear that even clear evidence wouldn't be sufficient to include these in the deliverable supply. This chimes with the findings of the Secretary of State in paragraph 18 of the recovered Winsford appeal decision (CD7.11). It also accords with the findings of numerous Inspectors as set out in paragraph 5.23 above.

1.116 Furthermore, as a s106 was not agreed in the winter of 2021 as anticipated by the Inspector in the Lady Grove appeal decision, the delivery of this site has been subject to further delays, such that even if this were considered capable of being included, it would not contribute to the supply within the five year period.

1.117 As this site post dates the base date, there is no clear evidence of deliverability, and it has been the subject of even longer delays it should not be included in the deliverable supply, such that the supply of the HLSS should be **reduced by 100 homes**.

1.118 The respective positions of either party on the contribution from sites without any planning status are set out in Table A.10 below.

**Table A.10 – respective positions on the deliverability of sites without any planning status**

	The Council's position	My position
Land to the south of Newnham Manor, Crowmarsh Gifford	100	0
<b>Total</b>	<b>100</b>	<b>0</b>

Windfall allowance

1.119 The Council include a windfall allowance of 200 homes which is not contested.

Total deliverable supply

1.120 Based on the preceding analysis, the respective positions on the deliverable supply is presented in Table A.11 below.

<sup>32</sup> I.e. those with outline planning permission for major development, allocated sites, those on a brownfield register or with permission in principle.

**Table A.11 – respective positions on the deliverable supply**

	The Council's position	My position
31 Wood Lane	8	6
Sites upon which planning permission has expired	21	0
Other small permitted sites	704	564
<b>Small permitted sites</b>	<b>733</b>	<b>570</b>
Former Carmel College	166	0
Thames Farm	95	0
Woodcote NDP Site 16	20	0
Other uncontested sites	2,328	2,328
<b>Large sites with detailed planning permission</b>	<b>2,609</b>	<b>2,328</b>
<b>CATEGORY A SITES</b>	<b>3,342</b>	<b>2,898</b>
Brightwell-cum-Sotwell NDP Site 2	13	0
Land adjacent to the Village Hall, East Hagbourne	74	0
Land at Wheatley Campus, Holton	168	0
Other uncontested sites	1,362	1,362
<b>Large sites with outline planning permission</b>	<b>1,617</b>	<b>1,362</b>
Ladygrove East – Land off A4130, Hadden Hill, Didcot	190	0
Didcot Gateway South	91	0
North-East Didcot	135	0
Land at Northfield	50	0
GNP6 – Wallingford Road, Goring	46	0
JHHNDP Site A & A1: Land West of Fair Mile	60	0
Watlington NDP: Sites B and C	120	60
Other uncontested sites	150	150
<b>Allocated sites</b>	<b>842</b>	<b>210</b>
<b>CATEGORY B SITES</b>	<b>2,459</b>	<b>1,572</b>
Land to the south of Newnham Manor, Crowmarsh Gifford	100	0
<b>Sites without any planning status</b>	<b>100</b>	<b>0</b>
Windfall	200	200
<b>Windfall</b>	<b>200</b>	<b>200</b>
<b>TOTAL</b>	<b>6,101</b>	<b>4,670</b>

The resultant five year land supply positions

1.121 In Table A.12, the respective 5YLS positions are calculated against both the adopted stepped housing requirement and the need for housing established in the SOLP.

**Table A.12 – five year supply against the housing requirement and housing need**

	Against the:	
	Stepped housing requirement	Housing need
Five-year requirement/need	5,727	7,006
Deliverable supply identified by the Council	6,101	6,101
<b>Five-year land supply of the Council</b>	<b>5.33</b>	<b>4.35</b>
<b>Surplus/shortfall of the Council</b>	<b>+374</b>	<b>-905</b>
Five-year requirement/need	5,727	7,006
Deliverable supply identified by myself	4,670	4,670
<b>Five-year land supply identified by myself</b>	<b>4.08</b>	<b>3.33</b>
<b>Surplus/shortfall identified by myself</b>	<b>-1,057</b>	<b>-2,336</b>

1.122 On the basis of either party's position on the deliverable supply, there is a substantial shortfall in the availability of housing to meet housing needs (rather than the housing requirement) in the next five years, with **a shortfall of either 905 or 2,336 homes (with a 3.33 or 4.35yIs)**. Notwithstanding that this is not the appropriate measure to determine whether or not paragraph 11d is engaged, this is the appropriate measure to determine whether there is a need for additional housing and clearly demonstrates such a need. This will inevitably be material to the weight afforded to the benefits of increasing the supply of housing as would arise from the appeal proposals.

1.123 Furthermore, in accordance with the findings of the Lady Grove appeal decision, the Council is unable to demonstrate a 5YLS even against the constrained housing requirement of the SOLP. This not only engages the tilted balance of paragraph 11d of the NPPF, it also illustrates that the policies of the SOLP have been ineffective in maintaining a sufficient supply against a housing requirement which in itself does not meet housing needs in the early part of the plan period.

Indeed, based on a review of the deliverability of sites, taking account of the limited progress which has been made towards the delivery of numerous sites, it is now apparent that there is a significant shortfall of **1,057 homes (a 4.08yIs)** even against the constrained housing requirement. The extent of this shortfall is likely be material to the weight afforded to the policies of the Development Plan which have resulted in this shortfall.