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# Rebuttal Evidence of Paul McColgan on Housing Land Supply

**Land to the rear of The Hollies Nursing Home,  
Reading Road, Burghfield Common RG7 3LZ  
APP/W0340/W/22/3312261**

Iceni Projects Limited on behalf of  
West Berkshire Council

September 2024

ICENI PROJECTS LIMITED  
ON BEHALF OF WEST  
BERKSHIRE COUNCIL

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Housing Land Supply**  
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HOME, READING ROAD, BURGHFIELD COMMON RG7  
3LZ



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## APPENDICES

See separate attachements

# 1. INTRODUCTION

- 1.1 This proof of evidence relates to a planning appeal at The Hollies Nursing Home, Reading Road, Burghfield Common in West Berkshire (APP/W0340/W/22/3312261). The proposed development is described as:

“a development of 32 dwellings including access from Regis Manor Road, associated parking, landscaping and public open space. The development will comprise a mixture of dwelling types and sizes to meet local needs and is designed to respond positively to the existing scale and character of the site and surrounding residential development. Dwelling types include apartments, terraced housing, semi-detached and detached housing, containing a mixture of 1 to 4-bedroom units, with affordable homes integrated into the development.”

## Background

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- 1.2 My name is Paul McColgan and I am a Director of Economics at Iceni Projects specialising in providing housing evidence base studies for local authorities. I hold a Masters Degree in GIS for Business and Service Planning. I am a Member of the Institute for Economic Development (MIED). I have almost 20 years of experience in advising the private and public sectors on housing matters.
- 1.3 I have provided professional advice on housing matters including housing needs and housing supply for a wide variety of public and private sector businesses. This includes advising over 100 local authorities through Strategic Housing Market Assessments and similar studies including West Berkshire.
- 1.4 I have provided expert witness advice at examination in public of local plans as well as public inquiries, where my assessment methodologies and findings have been accepted by Planning Inspectors.
- 1.5 In relation to this Public Inquiry, Iceni Projects were formally appointed by West Berkshire Council in August 2024 to consider the council’s current five-year housing land supply and specifically to consider and rebut the evidence provided by Katherine Miles of Pro-vision in relation to five-year housing land supply on behalf of the Appellant.

## Statement of Truth

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- 1.6 The evidence which I have prepared, as set out in this document is to the best of my knowledge true. I confirm that the opinions expressed are mine, and are true and professional opinions.

## 2. BACKGROUND

- 2.1 In this section I have sought to briefly address the policy framework relevant to the assessment of housing land supply, including the definition of 'deliverable' sites, as well as issues of principle related to this topic.

### The Housing Land Supply Threshold

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- 2.2 Paragraphs 76 and 77 of the latest National Planning Policy Framework (NPPF) from December 2023 address the level of housing land supply which needs to be provided by an LPA. The first relevant consideration is whether the Council is required to demonstrate a five-year land supply or a four-year land supply position. This is a critical matter, but one which is not given appropriate weight in Ms Miles's Proof of Evidence.
- 2.3 The provisions of NPPF Para 76 do not apply in West Berkshire. The 2012 Core Strategy and 2017 Housing Site Allocations DPD are both more than 5 years old. However, NPPF Para 77 is relevant and states:

*"local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply."*

- 2.4 Paragraph 226 relates to:

*"those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need... These arrangements will apply for a period of two years from the publication date of this revision of the Framework".*

- 2.5 In the case of West Berkshire, i) the Council submitted its Local Plan Review for examination in March 2023, with the Examination currently ongoing, b) the submitted Plan includes a policies map and proposed residential allocations, and c) the NPPF is less than two years old. The conditions in NPPF Para 226 are therefore met and thus for the purposes of this appeal, **the Council are only required to identify a four-year housing land supply.**

### Housing Requirement

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- 2.6 The housing requirement is a function of the base requirement and any buffer which is to be applied.

2.7 In identifying the housing requirement Paragraph 77 directs that:

*“The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old.”*

2.8 As noted previously, in the case of West Berkshire, the Council's adopted local plan is older than five years old therefore the supply should be assessed against the local housing need. As noted in footnote 42 of the NPPF the local housing need is calculated using the standard method.

2.9 At present, the Standard Method is based on 2014-based household growth projections provided by the Office for National Statistics (ONS) with adjustments to reflect affordability, although this can be capped depending on the level of uplift and the age of the local plan. In other areas, there is also an urban area uplift but this does not apply to West Berkshire.

2.10 Guidance on how to calculate a five-year supply following the standard method is available at PPG Paragraph 004, reference ID 2a-004- 20190920 and <http://www.gov.uk/guidance/housing-and-economic-development-needsassessments>.

2.11 Whilst the Council's February 2024 Housing Land Supply Statement identified the Local Housing Need figure at that time as 515 dpa, new affordability ratio data has since been published and the calculation can therefore be updated.

2.12 I consider that the relevant figure to use is that at the time of the assessment and therefore the latest data should be used for decision-making purposes. The latest standard method figure is 495 dpa. This is based on a baseline demographic growth of 370 households per annum and a 34% uplift based on an affordability ratio of 9.4. I have set out the basis of the calculation below.

**Table 2.1 Standard Method Local Housing Need**

<b>Component</b>	
<b>Average Annual Household Change (Step 1)</b>	<b>370</b>
Affordability Ratio 2023	9.4
Adjustment Factor	134%
<b>Adjusted Need (Step 2)</b>	<b>495</b>
Local Plan Adoption	16/07/2012
Local Plan Age	12
Housing Target	525
Cap	735
<b>Housing Need (Step 3)</b>	<b>495</b>
Largest Area	No
<b>Urban Uplift/ OAN (Step 4)</b>	<b>495</b>

Source: Iceni Projects Analysis of MHCLG Data

- 2.13 Next it is necessary to consider whether a buffer needs to be applied. The December 2023 NPPF has removed the requirement for a buffer to be applied to housing land supply calculations in all circumstances: A 20% buffer is only required where there has been ‘significant underdelivery’ of housing. NPPF paragraph 77 states that:

*“Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should, in addition, include a buffer of 20% (moved forward from later in the plan period).”*

- 2.14 Footnote 43 of the NPPF states that under delivery of housing over the previous three years is *“measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement.”*

- 2.15 The latest housing delivery test was published in December 2023 and gave West Berkshire a score of 134%. Therefore, a buffer of 20% should not be applied to the calculation of housing land supply in West Berkshire. **No buffer is therefore applicable to housing land supply calculations for West Berkshire.**

- 2.16 Ms Miles seeks to argue (KM Proof Para 5.53) that significant weight should be attached to the Government’s proposal to reinstate the 5% buffer and remove the four-year protection afforded to West Berkshire via Para 226 of the Dec 2023 NPPF. The consultation on proposed revisions to the NPPF runs until 24<sup>th</sup> September 2024, and revisions to the NPPF are unlikely to be made until later in the year.

- 2.17 Whilst the NPPF consultation and associated Written Ministerial Statements are potential material considerations, I consider that they can be afforded very limited weight. Ms Miles suggested approach is premature and prejudices the Government’s consideration of the consultation responses.

### **Deliverable Sites**

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- 2.18 I address in this section the appropriate approach to consider the deliverability of sites. NPPF Para 69 requires an LPA to demonstrate a supply of specific deliverable sites. ‘Deliverable’ is defined in the NPPF Glossary (page 70) as follows:

*Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:*

*a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires*

*unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*

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

- 2.19 Sites with planning permission which do not involve major development (such as those of less than 10 dwellings) and larger schemes which have detailed planning permission (full or reserved matters), which fall under Part a) of the definition, are to be considered deliverable unless there is clear evidence that homes will not be delivered in the five year period. Such sites are to be considered deliverable in principle.<sup>1</sup>
- 2.20 In contrast, sites with outline permission, extant allocations and those on brownfield registers, which fall under Part b) of the definition, should be considered deliverable only where there is **clear evidence** that housing completions will begin on site within 5 years.
- 2.21 In a Consent Order dated 7<sup>th</sup> May 2020 regarding a case in South Northamptonshire,(Appendix 1) the Secretary of State (Paragraph B) conceded that Part b) of the definition of ‘deliverable’ was not to be regarded as a ‘closed list’ and that the proper interpretation was 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 of deliverable; and that the examples given in categories a) and b) are not exhaustive. This means that proposed allocations are capable of being considered deliverable. Whether a site does or does not meet the definition is a matter of planning judgment on the evidence available.
- 2.22 The use of “realistic prospect” is an important phraseology. Consequently “deliverable” means the site is realistically capable of being delivered. This is important as a range of factors relating to whether a site will or will not be delivered are outside of the gift of a local planning authority. The test is not one of certainty.

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<sup>1</sup> PPG ID: 68-007-20190722



2.23 Planning Practice Guidance guides the quality of evidence expected. Para 68-007-20190722 specifically answers the question “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”. In response, the PPG outlines that in order to demonstrate 5 years' worth of deliverable housing supply, robust, up-to-date evidence needs to be available. It outlines that the evidence required to demonstrate the deliverability (for sites which are not considered deliverable in principle) 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.”*

2.24 This list is illustrative and is not a closed list therefore there may be other forms of evidence which are also relevant.

2.25 PPG Para 68-007 also cross refers to the Housing and Economic Land Availability PPG. This refers to the types of evidence necessary to demonstrate deliverability. I would make the following points regarding the tests of deliverability having regard to the PPG:

- Suitability – I would argue that for five-year land supply purposes suitability should be assessed against policies in the adopted and emerging development plan. Other considerations would include national policies and the inclusion of sites on the Brownfield Register;
- Availability – the PPG outlines that there should be confidence that there are no legal or ownership impediments to development, for example, land controlled by a developer or landowner who has expressed an intention to develop may be considered available. The PPG notes that the existence of planning permission is a good indication of availability;
- Achievability – the test is one of whether the evidence supports a *reasonable prospect* of the site being developed at a particular point in time, having regard to economic viability and the capacity of a developer to let/sell properties (PPG 3-020); and

- Timescales and Rate of Development – information on suitability, availability and achievability can be used to assess the timescale within which sites are capable of development. This may include indicative lead-in times and build-out rates for the development of different scales of site. The advice of developers or local agents will be important in assessing [this] (PPG 3-022-20190722).

2.26 The Secretary of State in an appeal decision related to *Land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands, Buckinghamshire* (APP/Y0435/W/17/3169314) (Appendix 2), dated June 2020, found that proformas provided by the planning authority can, in principle, provide evidence of a site's deliverability.

### 3. MATTERS OF PRINCIPLE

#### Five Year Period

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- 3.1 The appellant's witness, Ms Katherine Miles, has calculated a 5-year housing land supply for the period 2024/25 to 2028/29 based on her scrutiny of the Council's housing trajectory as set out in the Council Housing Land Supply Update April 2024.
- 3.2 It should be noted that the Council's latest published five-year housing land position is set out in its February 2024 position. That document as set out in paragraph 2.8 states that the housing land supply period being used is the period 1 April 2023 to 31 March 2028.
- 3.3 It is fundamentally unsound for the appellant to unilaterally roll forward this period, not least because the housing trajectory document she relies on does not take into account anything which has been permitted in the 2023/24 monitoring year, as it has a 2023 base period. It will therefore significantly undercount the actual supply in the latter period.
- 3.4 In essence, although she counts the projected supply in 2028/29 period she does not count the permitted supply in the 2023/24 period which would come forward during the next five years. I also do not have a confirmed figure for this period so this error cannot be easily rectified by both parties moving forward.
- 3.5 To achieve a robust five-year housing land supply it is essential to have an understanding of what has been delivered and the pipeline supply of permitted sites at the start of the base period. In this instance, it should be the 1<sup>st</sup> of April 2023 which the council provides.
- 3.6 However, for the appellant's proposed start date of the 1<sup>st</sup> of April 2024 she does not know (and cannot know because the council doesn't know) what has been completed and permitted in the year previous.
- 3.7 The appellant has also challenged several sites that she has incorrectly assumed form part of the five-year housing land supply as they form part of the housing trajectory which has a much lower evidential bar. In many cases, the sites that are being challenged only deliver any housing in that sixth year (2028/29) and therefore should not be included in the calculation never mind a case made for discounting them.
- 3.8 In the following chapter, I have only provided rebuttal evidence setting out my justification for the inclusion of sites that form part of the Council's five-year housing land supply. In the subsequent

chapter, I have provided commentary and rebuttal evidence of those sites for those sites which the appellant has added to the trajectory.

### **The Council's Position**

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- 3.9 The Council's most recent housing land supply statement was published in February 2024 (Appendix 3). This is supported by two appendixes which set out the schedule of sites and the site deliverability forms which as established are an appropriate source of information for five-year housing land supply calculations.
- 3.10 The position set out in the Housing Land Supply Statement (February 2024) is a supply of 3,073 units which equates to a 6.0-year supply. This is for the period 2023/24 to 2027/28. Importantly this confirms that the presumption in favour of sustainable development will not apply.
- 3.11 Since that time, and for the purposes of the Local Plan Review Examination, the council has produced further information about the housing trajectory. The most recent version to be published is contained within the Council's response to AP78 (Appendix 4).
- 3.12 The Local Plan Review Inspector in his preliminary questions and following the hearing sessions provided the council with an Action Point in respect of the five-year housing land supply, and the Council's response is included within EXAM39 (Appendix 5 ((pp.5-15))).
- 3.13 This response includes some supporting text to the Policy which reiterates the start position for assessing supply is the 1<sup>st</sup> of April 2023. The amendments include confirmation of a supply of 3,056 units equating to a supply of 5.7 years based on a need for 515 dpa plus a 5% buffer.
- 3.14 The response also includes a track change version of Policy SP12 Approach to Housing Delivery this includes the text:

*"To meet the housing requirement, the following sources will ensure a continuous supply of land for housing across the Plan period:*

- *sites allocated within the Local Plan and made neighbourhood plans;*
- *existing planning commitments on unallocated sites;*
- *existing planning commitments for C2 Use Class communal accommodation; and*
- *a windfall allowance.*

### **Sites to be allocated in Neighbourhood Plans**

*The Council will supply a housing requirement figure to those qualifying bodies either preparing or updating a neighbourhood plan that intends to include residential allocations.*

*For those plans currently in preparation, it will be necessary to identify sites to meet the following levels of development:*

- *Hungerford: approximately 55 dwellings*
- *Lambourn: approximately 25 dwellings*

### **Deliverable Supply – Matters of Principle**

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- 3.15 The appellant has contested the deliverability of 16 specific sites; the supply from an emerging neighbourhood plan; and the windfall allowance. In contesting some of these sites the appellant has highlighted a couple of non-site-specific issues with the supply as matters of principle and I rebut these insertions below and provide information on the site-specific issues in the following chapter.

### **Nutrient Neutrality Issues**

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- 3.16 Ms Miles's position is that three proposed allocations and three retained allocated sites which form part of the 5-year housing land supply are located in the River Lambourn Special Area of Conservation (SAC) where nutrient neutrality issues are causing delays in these sites receiving planning permission or discharging conditions.
- 3.17 The River Lambourn SAC is subject to a recent European Court of Justice ruling which said, essentially, that where such protected sites were in an unfavourable condition due to pollution resulting in excess nutrients, the potential for new development to add to this load should be necessarily limited.
- 3.18 This ruling, and subsequent regulations, have meant greater scrutiny of proposed developments, including residential, that could potentially increase nutrient loads in to SAC and other European environmental designations.
- 3.19 In March 2022, Natural England's Advice Letter on Water Quality and Nutrient Neutrality identified sites which were adversely affected by nutrient pollution. This included the River Lambourn SAC which was specifically impacted by Phosphorous loading.
- 3.20 As a consequence, West Berkshire Council was no longer able to permit new residential development in the catchment area of the River Lambourn unless it could be clearly demonstrated that it would not have a detrimental impact in terms of Phosphorous loading to the SAC.

- 3.21 This is not an absolute barrier to new residential development. Natural England has noted that development could be achieved if appropriate avoidance and mitigation measures were implemented alongside development, which result in the development being nutrient-neutral are put in place.
- 3.22 Ms Miles identifies issues with nutrient neutrality in her Proof, including in Paras 5.9 – 5.12. In Para 5.9 she identifies a barrier as the lack of a nutrient calculator or nutrient mitigation options report, which need to inform a Nutrient Mitigation Strategy.
- 3.23 The position has moved on. West Berkshire Council has recently (July 2024) published a “Solutions Report” (Appendix 6) which sets out the scale of the issue and the potential solutions that could be used to offset increased phosphorous loadings to allow development in the catchment area of the River Lambourn.
- 3.24 The report sets out a series of solutions and a RAG scoring system is applied based on the cost, phosphorous removal and environmental feasibility. Several solutions were deemed to have a “green” ranking as either or both a temporary or permanent solution. These are:
- Riparian Buffer Strips and Willow Buffer Strips (both)
  - Taking Agricultural Land Out of Use (both)
  - Wet Woodlands (temporary)
  - Expedite Planned Improvements to Treatment Works (temporary); and
  - Improvements to package treatment plants/septic plants (temporary).
- 3.25 The Solutions Report also sets out the preferred mitigation solutions stages and timescales for delivery in West Berkshire. This includes some of the “amber” solutions which are as follows:
- Riparian Buffer Strips and Willow Buffer Strips – Up to 71 weeks
  - Wet Woodlands – Up to 55 weeks
  - Reverting Agricultural Land to grassland or semi-woodland areas – Up to 55 weeks
  - Cover Crops – Up to 97 weeks including post-construction monitoring
  - Paddock Management – Up to 38 weeks
  - Upgrading or replacing existing private sewage package treatment plants – Up to 77 weeks

- Highways drainage/Sustainable drainage systems – Up to 108 weeks including post-construction monitoring
  - Retro-installation of Sustainable Drainage Systems (SuDS) in existing developments – Up to 66 Weeks
- 3.26 The report also sets out the different options for mitigation solutions delivery and the aspects that need to be considered. This includes developer-led mitigation, which would see the developers being solely responsible for delivering the mitigation (on-site or off-site) to offset the impact of their proposed development.
- 3.27 The report recognises that the solutions proffered are more suitable for larger development due to the costs and space involved. This would not include any of the sites highlighted by Ms Miles. However, the report suggests that this could be overcome by smaller sites pooling resources and funding or partnering with organisations with more experience such as the Wildlife Trust.
- 3.28 The report also suggests that the Council could manage strategic schemes or a portfolio of solutions to allow developers to purchase mitigation credits for off-site solutions. Again, this could be pooling developers' resources to deliver larger strategic off-site mitigation schemes.
- 3.29 This approach would also give the Council direct oversight of the delivery and function of the mitigation scheme and by doing so give it greater certainty. The distribution of credits can also be better managed to align and incentivise the delivery of sites (and their stages) should a shortage of credits be an issue. Other approaches to mitigations suggested in the report include local authority nutrient trading schemes as well as private credit and trading schemes operated by third parties.
- 3.30 Furthermore, while improvements to treatment works and package treatment plants were excluded from West Berkshire solutions (potentially because they are in Thames Waters remit) they are still important considerations as Thames Water will be opening upgrades to Waste Water Treatment Works (WWTW).
- 3.31 Specifically, East Shefford WWTW upgrades in 2025 will result in a 90% reduction in phosphates. In addition, Chieveley WWTW will result in a 50% reduction in phosphates following their Jan 2025 upgrades and a 75% reduction following their Jan 2030 upgrades.
- 3.32 There is also the possibility that in some instances that on-site mitigation could be found on some of the sites currently held up.
- 3.33 Finally, the Council also published the River Lambourn Phosphate Budget Calculator in June 2024. The calculator is designed to rapidly calculate the phosphate loading from new development in the River Lambourn SAC catchment. The calculator also indicates potential mitigation options including

on-site and off-site options. This publication is progressive towards dealing with the issues and blockages that had previously occurred.

- 3.34 Now that these investments are being made and the Solutions Report and Budget Calculator are published, the Council can seek solutions from those sites seeking to mitigate their impact either on-site or off-site. This will likely lift the barriers to development that Ms Miles highlights.
- 3.35 I am also mindful that all of the sites listed by the appellant as being susceptible to Nutrient Neutrality delays are small sites: indeed the largest site, Land adjacent to Station Road, Hermitage, only accounts for 34 units. While such sites can be complicated in planning terms, once permission is achieved they can be built out rapidly, often within a year. Therefore, while there have been delays, as detailed above the main sticking points are being overcome.
- 3.36 I therefore do not agree with the appellant that a range of these sites will not deliver housing in the next five years because of this issue. I have regard to site specifics in the subsequent chapters.

### **Windfall Allowance**

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- 3.37 Ms Miles challenges the Council's assumed windfall allowance. In summary, Ms Miles asserts that the Council assumed rate of 141 dwellings per annum (within the trajectory) does not reflect the rates of delivery in the last three years (97 dpa) (Para 5.48) or the five-year average (99 dpa) which she considers should be applied in the 2026/7 – 2028/9 period (KM PoE p96). This is the difference of 41 dpa which equates to 123 homes over the 5-year plan period.
- 3.38 The NPPF definition of windfall is sites not specifically identified in the development plan. The Council's justification for the windfall allowance is set out in the February 2024 Housing Land Supply Statement (Appendix 3 Paras 3.15 – 3.21).
- 3.39 As Para 3.18 therein set out, the historic rate of windfall development over the longer term in West Berkshire has averaged 380 units per year, primarily on previously developed sites within settlements. However, the Council have only used small windfall sites which equate to an average of 137 dwellings per annum.
- 3.40 In my view, the Council has taken an extremely cautious approach of not including any allowance for large or medium-sized windfall sites in the five-year housing land supply. However, the reality in West Berkshire is that as neither the Core Strategy, Housing Site Allocations DPD nor emerging Local Plan Review make site allocations within settlement boundaries, large windfall site development can be expected to continue to be an important component of supply across the plan period.



- 3.41 Ms Miles's assertion that small site windfalls were lower over the 2019-22 period is correct but needs to be seen in context. She fails to recognise that the three-year period she notes 2019/20 and 2021/22 was significantly influenced by the pandemic. Although construction was a key industry, many sites would still have stalled as delivery was not possible through a combination of lockdown, furloughed staff, a lack of materials and subsequent increase in construction costs (both labour and resources). This issue was recognised by the national Government when it adjusted the Housing Delivery Test results. In that instance, the Government reduced the number of homes required "to reflect the disruption caused to housing delivery by the pandemic". Specifically, they reduced the target for 2019/20 by 8.3% and for 2020/21 by 33.3%.
- 3.42 These issues are still being resolved and I would expect delivery rates to return to pre-pandemic levels very shortly. The Council have reported that many of the stalled sites are now being developed out and that the latest year is likely to be much higher than previous years.
- 3.43 There are further reasons to expect that the pandemic may increase levels of windfall development within settlements in West Berkshire.
- 3.44 As has been widely reported many retail centres are now struggling with high levels of vacancy as a result of changing shopping patterns. To combat the high levels of vacant retail units and to provide an increased supply of housing, in August 2021 the government made the conversion of shops (Use Class E) to residential (Use Class C2) a permitted development i.e. it does not require planning permission. As this was not previously the case it would seem reasonable to assume an increased flow will materialise.
- 3.45 The same can also be said for office-to-residential conversion, which was already a permitted development, but given the reduced demand for office accommodation, due to increased levels of working from home, it would be reasonable to expect that supply from this source would increase as more offices become vacant.
- 3.46 These are relevant considerations as NPPF Para 72 states that windfall assumptions should have regard to both historic rates and expected future trends.
- 3.47 Taken together, these issues point to a return to longer-term levels of windfall supply as being reasonable. Indeed, given the changes it could be argued that it is a conservative position for the council to take.
- 3.48 Similarly, the fact that the Council only uses the trend in small windfall sites rather than median, large and small windfall sites which as the Housing Background Paper submitted to PINS (Appendix 7) sets out could deliver 383 dwellings per annum on non-allocated sites. Small sites therefore only

contribute around 36% of all historic windfall. This cautious approach suggests the Council are potentially underestimating the future housing supply from windfall development.

- 3.49 I therefore disagree with the appellant's assertion that a lower level of windfall allowance should be applied to any five-year housing land supply calculation.

## 4. DELIVERABILITY OF SPECIFIC SITES WITHIN THE COUNCIL'S 5-YEAR HOUSING LAND SUPPLY

- 4.1 This section of the report directly responds to Ms Miles's evidence in relation to several specific sites which are included in the Council's five-year housing land supply as of February 2024. I have grouped these by the categories used in Ms Miles' Proof.
- 4.2 My evidence is informed by engagement with landowners/developers/site promoters/agents as appropriate, as well as in-house case officers and other specialist staff at West Berkshire Council. This engagement has been undertaken in September 2024 in relation to this appeal. This evidence is documented in a series of appendices.
- 4.3 I have also drawn on the Council's evidence prepared in relation to the examination of the Local Plan Review. This includes the Council's Written Statement for Matter 6 (Appendix 8). For this document, the agents/promoters of all the sites proposed for allocation were asked to complete site deliverability forms. These are included in Appendix B of the Statement (pp.67-131).
- 4.4 Site deliverability proformas were also used to inform the Feb 2024 Housing Land Supply Statement (Appendix 3B). This form of evidence was accepted by the Secretary of State (and previously the inspector) at an appeal in Milton Keynes (see paragraph 2.25).

### Proposed Retained Allocations

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#### RSA15 – Land at Newbury Road, Lambourn

- 4.5 The Council includes 8 units within the five-year housing land supply from this site, which it expects to be delivered in the 2026/7 monitoring year. However, this reflects an application which is likely to expire.
- 4.6 The appellant recognises the site has full planning permission at the base date. While she correctly highlights this is about to expire, she does not provide any evidence that it will not be implemented in that time. It would therefore be technically inappropriate to remove this site before the permission expires, but I accept that implementation is unrealistic and therefore this application should be discounted.
- 4.7 The appellant also notes an alternative application for 5 units has been made and asserts this will be delayed due to Nutrient Neutrality and a lack of a Strategy to deal with it. The Council also accepts that this is being delayed for this reason.

- 4.8 However, as stated in the previous chapter I do not believe that this should be a long-term barrier to development. The owner of the site also owns adjacent land with the possibility to mitigate any adverse impact the development may have on nutrient neutrality. The site would also feed into the East Shefford WWTW which is due to have an upgrade in 2025 which will reduce nutrients by 90%.
- 4.9 The Council's research suggests that based on the reduction in nutrient neutrality mitigation requirements after 2025/26 and the possibility of short-term mitigation solutions, it is estimated that these 5 dwellings could be delivered by 2026/27.
- 4.10 The site is also supported by a site deliverability form for the November 2022 housing land position (Appendix 9 (P86 - 87) completed by the planning agent although this relates to the previous scheme. This still suggests that the main matter affecting the delivery timing was the granting of planning permission.
- 4.11 Therefore, even with a long delay, which is not expected given the recent NN changes and planned investment, as a small site, the site could still form part of the housing land supply. It is a proposed retained allocation which has a planning application which is being progressed. Given the small nature of the site, it could easily be built out rapidly and could therefore be included in the housing land supply.
- 4.12 However, I do concede that the development potential should be reduced by 3 units to 5 units.

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### **Retained Allocations**

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#### **SP16 – Sandleford Park East**

- 4.13 The Council has included the delivery of 150 units from this site within their 5 years period with delivery expected in 2026/7 and 2027/28. The Council also expect delivery of 100 units every year in the trajectory thereafter until completion.
- 4.14 The appellant has suggested that the Sandleford Park East site will deliver a smaller number of homes overall than permitted (785 rather than 1,000), that no reserve matters application has been submitted, numerous conditions still need to be discharged and that there is an application to vary the S106 agreement. Ms Miles adds that there is no clear evidence of delivery within the next five years and therefore 250 units should be removed from the supply (looking to March 2028).
- 4.15 There is however clear evidence of progress. The site has an extant outline consent, granted by the Secretary of State in May 2022. The developer, Bloor Homes, has carried out community engagement for the emerging proposals in Spring/Summer 2024.

- 4.16 The Case Officer has informed me (Appendix 10) that good progress has been made over the last two years with bringing forward development on the site. At present 13 of the 58 conditions on the Outline Planning Permission are effectively pre-reserved matters conditions for enabling infrastructure and protection measures, and the applicants have already discharged 6 of those and have also applied to discharge another six pre-reserved matters conditions.
- 4.17 The Case officer also confirmed that they meet regularly with the developer and the council is reviewing and agreeing on extensions of time on all the outstanding discharge of conditions applications and they are on track to determine the application in the Autumn of 2024 with a view to receiving the first reserve matters application for infrastructure by February 2025 at the latest and for the residential phase reserved matters application to be received by Summer 2025.
- 4.18 The Council has recently confirmed to the developer (Appendix 10) that the housing mix in that approved application strikes the right balance between the policy emphasis for family housing whilst also having regard to the most up-to-date evidence on housing need. It also confirmed that as Sandleford Park East is a strategic site and will help to meet the future needs of the District and as such the approved mix should be adhered to.
- 4.19 Access to the site through two points on Monks Lane to the north both of which have detailed planning approval which has moved on to the construction phase after approval under s278 with the Highways Department. There is also access to the site from the A339 Link Road to the east and this was provided by the Council up to the site boundary. There is a fourth access to the site to the west which will be the main connection between the two sites. Both developers have conditions inserted that mean Bloor Homes will provide the internal primary road to that point within six years from commencement and Donnington New Homes (Sandleford Park West) by occupation of 200 units.
- 4.20 The developer has also engaged in this appeal (Appendix 11) via their planning agent (White Peak Planning) and echoed the stance of the Case Officer. They informed us that they intend to submit the first reserve matters application before March 25 and start on-site by the end of 2025. The Council's delivery assumptions, with first completions around Autumn 2026, continue to look reasonable against this.
- 4.21 The planning agent also confirmed that they anticipate a build-out rate across the two outlets of 120 units per annum, with 785 units being delivered within 6 or 7 years. This is higher than the Council's assumptions in the HLS Assessment. They also confirmed that they expect to deliver 240 units by the end of the 2027/28 monitoring period. They have confirmed that no issues are anticipated regarding delivery.
- 4.22 As the site is a retained allocation, has outline planning permission and both the Council and the developer have provided the clear evidence of progress required to consider the site as developable.

Therefore, rather than reducing the supply by 250 units as the appellants suggest I consider that a reduction of 10 units is more appropriate based on what can be delivered in the 2023/24 to 2027/28 period.

### **Existing Planning Commitments – Unallocated Sites**

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#### **Land to the rear of 1 – 15 The Broadway (Bayer Site)**

- 4.23 The Council has included this as a deliverable site, which was expected to yield 72 dwellings in the five years to March 2028.
- 4.24 The appellant has indicated that this site should not form part of the supply as “there is no certainty that the site will be deliverable within the five years” and highlighted a change of ownership and had been put to public auction but this had been withdrawn. The relevant test of deliverability is not one of ‘certainty’ but whether there is a ‘realistic prospect’ of its delivery.
- 4.25 This site has detailed planning permission for 72 units and reserved matters were approved in 2017., Several conditions have been discharged and construction has commenced (although apparently, this has now ceased).
- 4.26 However, since that permission the site ownership has changed and the site’s planning agent (Turleys) has indicated that their site is “highly unlikely to proceed” under the current application, as its new owners (Newbarry Limited) cannot make the site viable (see Appendix 12). Viability is a relevant consideration in assessing deliverability.
- 4.27 The Council are still considering a modification of the S106 agreement (to delay payment to the first occupation). However, the case officer does not believe (Appendix 13) that this alone is holding up development.
- 4.28 The planning agent has also indicated that they intend to approach WBDC for a pre-application discussion in respect of “a different much simpler scheme for mews houses in due course”. But they have also confirmed that there was “insufficient certainty to say that it will deliver any dwellings at all”.
- 4.29 I therefore consider that based on the evidence available at this point, the site cannot be considered deliverable and should not form part of the five-year housing land. I therefore would deduct 72 dwellings from the supply position.

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## Permitted Sites through Prior Approval

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### Bayer House, Strawberry Hill

- 4.30 The Council has included 191 units from this site within the deliverable supply in the February 2024 HLS Statement, with its delivery expected in 2023/4 and 2024/5. The first phase of this development which comprises 50 units has been completed and is occupied.
- 4.31 The appellant has suggested that as prior approval has lapsed, the previous developer is now in administration, and the site is being marketed for sale. Given this, Ms Miles states it would not deliver the 141 units within the next five years.
- 4.32 While the planning permission has been implemented and phase 1 is complete and occupied, I accept the prior approval for the remainder of the site to be completed within three years before it lapses under the Town and Country Planning (General Permitted Development Order (GPDO)).
- 4.33 The site is in the urban area and therefore the principle in favour of sustainable development would be applied by the Council. The site is also included on the West Berkshire Brownfield Land Register (site ref is BR/2022/04).
- 4.34 I have attempted to contact the site administrator (RSM) but I am still awaiting a response from them at the time of writing. As the administrator cannot provide clear evidence that housing completions will begin on site within five years then I would concede that the supply should be reduced by 141 units.

### Summary

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- 4.35 In summary I accept that the Council's five-year housing land supply as set out in the Feb 2024 report could be reduced by 226 units based on the evidence set out above. This is far less than the 447 reduction sought by the appellant and this essentially relates to the difference in opinion around the Sandleford Park East site.

## **5. DELIVERABILITY OF SPECIFIC SITES WITHIN THE APPELLANT'S 5-YEAR HOUSING LAND SUPPLY**

- 5.1 This section of the report directly responds to Ms Miles's evidence in relation to several specific sites which do not form part of the Council's 5-Year Housing Land Supply (Feb 2024). I have grouped these by the categories used in Ms Miles' Proof.
- 5.2 This commentary is provided without prejudice as my own and the Council's position is that none of these sites actually comprised part of the Council's five-year land supply as of 1<sup>st</sup> April 2023. However, I still have issues with the appellant's contention that these sites should be removed from the supply in year six (2028/29) when the Council's trajectory suggests the sites will come forward.
- 5.3 Again this evidence is informed by engagement with officers/landowners/developers/site promoters/agents as appropriate as well as Local Plan Review evidence and site deliverability proformas which are included in the February 2024 Housing Land Supply Statement (Appendix 3b).

### **Proposed New Strategic Allocations**

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#### **SP17 - North East Thattham**

- 5.4 The allocation itself is for 1,500 units (and potential capacity for up to 2,500 homes) but the Council's trajectory only includes 20 units in year six therefore is not included in the Council's supply position.
- 5.5 The appellant has contested the inclusion of this site as it is likely to be delivered beyond the next 5 Years. This is derived from a Statement of Common Ground between the Council and the North East Thattham Partnership and an updated estimate of delivery of first homes between Q3 2031 and Q3 2033.
- 5.6 The statement notes that the area of disagreement is around the length of time determination of the outline planning application will take and that the Council believe this could be done more quickly. As the stage is assumed to take 12 months the maximum reduction would only bring the site forward to between Q3 2030 and Q3 2032.
- 5.7 As part of the appeal the Council informed me (Appendix 14) that they anticipate delivery from 2030 onwards. This includes a lead-in which incorporates time for a masterplan to be prepared and adopted as an SPD by the Council before a planning application is submitted. Once this is achieved the Council believes that a build-out rate of approximately 170 dwellings per annum could be achieved and this was agreed with the North East Thattham Partnership.



- 5.8 Therefore, given the Council's current position, I agree that this site would not form part of the Council's five-year housing land supply, but as it was never included as part of the supply then no reduction is required.

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### **Proposed New Allocations**

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- 5.9 As set out in the previous chapter the appellants have challenged the following sites based on their impact on Nutrient Neutrality on the River Lambourn SAC:

#### **RSA17 – Land at Chieveley Glebe**

#### **RSA19 – Land west of Spring Meadows, Great Shefford**

#### **RSA22 – Land adjacent to Station Road, Hermitage**

- 5.10 None of these sites are included in the Council's supply position as of February 2024, therefore there is no supply to reduce.
- 5.11 However, given the now-published Solutions Report and the planned investment by Thames Water which will upgrade Waste Water Treatment Plants early next year, I see no reason why these smaller sites cannot come forward within year 6 as suggested by the council's latest trajectory.
- 5.12 To conclude, I would not agree with the Appellant's position to reduce the Council's supply position as these sites do not form part of the Council's five-year housing land supply in the first place. I also consider that the sites could reasonably come forwards in year 6.

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### **Proposed Retained Allocations**

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#### **RSA14 – Land adjoining Lynch Lane, Lambourn**

- 5.13 This site was not included within the Council's five-year housing land supply but the Council do include 30 units from a total of 90 units in 2028/29.
- 5.14 The applicant has suggested that this site will not deliver any units in their 5-year period because no planning application has been made and if an application were to be made it would likely be delayed due to Nutrient Neutrality. As stated above, I do not think this latter point would be a barrier to delivery.
- 5.15 I have also been in contact with the site owner and developer Hygrove Property Services Ltd on behalf of Hygrove Holdings. Hygrove Holdings is a developer and will build out the site. They have

informed us (Appendix 15) that they have been holding pre-application discussions with the Council about increasing the capacity of the site to 90 units.

- 5.16 The developer expects a response to the pre-application from the Council by the 17th of September and confirms that they will submit a full application within a month (October 17th), if the response is positive. The developer has also appointed a planning consultant to do this work.
- 5.17 They are currently anticipating the planning application to be approved within 6-12 months although they expect it to be closer to 6 months, which I consider reasonable, and that they would expect to be on-site within 3 months of a positive decision (May 2025).
- 5.18 The developer's agents (Charles Robinson) indicated to them that between 30 and 40 homes per year could be built and sold based on current market conditions; but if the market is more buoyant a faster rate of delivery could be achieved. This would mean a total build-out time of between 2.5 – 3 years for a 90-unit scheme. Three years from May 2025 would see the development completed within 2028.
- 5.19 The developer confirmed that they own the site and that all the engineering, topographic, and survey work has already been completed. Quantity surveyors and contractors have also been identified and Hygrove are willing and able to deliver the site themselves and have a strong track record in doing so.
- 5.20 Hygrove also confirmed that matters in relation to Nitrate Neutrality “now appear resolved” due to the upgrades to the East Shefford WWTW and the availability of adjacent sites to mitigate the impact, hence the submission of their pre-application. Therefore, far from reducing the five-year housing land supply, it is reasonable to assume this site could deliver more homes than first planned.
- 5.21 The most recent site deliverability form for the site is included in Appendix 2 of the Feb 2024 Housing Land Position Statement (pp. 50-55). This shows that the developer considered delivery to occur in full (90 units) within the next five years (completion in 2027/28) although this is now out of date their current thinking is that it would only be delayed by a year, which is still within the next five years.

#### **RSA20 – Land off Charlottes Close, Hermitage**

- 5.22 As with all sites in this chapter this site is not included within the Council's Five-Year Housing Land Supply Position. However, the site's 16-unit capacity is included within its trajectory for 2028/29.
- 5.23 Similar to the previous site, the appellant recognises the site has full planning permission and therefore meets the definition of deliverable. Again, it is highlighted this is about to expire, although no evidence has been provided that it will not be implemented in time. It would therefore be

inappropriate to remove this site before the permission expires but given that the site is not included in the supply this is academic.

- 5.24 The developer, Deanfield Homes, has highlighted the requirement to discharge conditions in relation to Nutrient Neutrality and an application is pending. This would involve upgrading a property in the catchment area which has a septic tank with a package treatment pack. This technology will then release clean water into the catchment area. This would offset the impact of the proposed development through an off-site contribution.
- 5.25 The developer also confirmed to me (Appendix 16) that they have submitted a non-material amendment for approval by the Council. If approved, they then intend to implement the amended permission by building some roads into the site and then secure nutrient neutrality mitigation.
- 5.26 The developer has identified several properties with a septic tank but has not yet entered into discussions with the property owners and this will need to be secured through a legal agreement for the Council to approve it as mitigation. I therefore think that nutrient neutrality should not be seen as a barrier to delivery.
- 5.27 However, even if this process was to take a year to complete the developer has confirmed that they could be on-site in 2026 with build-out completed within the 2026/27 monitoring year.
- 5.28 Despite this, I recognise the implementation of the current planning application is extremely time-sensitive. Therefore, I concede that this site may not be deliverable but as it does not form part of the Council's Five-Year Housing Land Supply it cannot be deducted.

#### **RSA21 – Land to the southeast of the Old Farmhouse, Hermitage**

- 5.29 This site is not included in the Council's five-year housing land supply but 11 units of the site's total capacity of 21 units are included in the Council's housing trajectory for year six 2027/28.
- 5.30 This site is owned by the appellant and Ms Miles suggests the site will not come forward in the next five years due to Nutrient Neutrality issues including a reserved matters application put on hold and pre-commencement conditions still to be discharged.
- 5.31 However, as set out above I do not consider these to be long-term barriers to delivery of this site and with the Solutions Report and budget calculator now published these are likely to overcome issues in the short term if the applicant is willing to discharge conditions.

- 5.32 The fact that the site has outline consent and that reserve matters have been submitted (although on hold) clearly demonstrates progress towards delivery and that the site should form part of the five-year housing land supply.
- 5.33 Now that these issues are being addressed by the Council, if the appellant still believes it cannot deliver any aspect of the site within the next five years, despite previously suggesting in the delivery proforma that it could deliver the site within four years (Appendix 3B (P63-67) it raises issues of the appellant's intention and ability to deliver homes in the District in a timely manner.
- 5.34 I consider that the site would continue to be deliverable in year 6 but as it is not included in the Council's five-year housing land supply it cannot be discounted regardless of this position.

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### **Neighbourhood Plan Allocations**

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- 5.35 The Council's five-year housing land supply as set out in the February 2024 document does not include any Neighbourhood Plan allocations. However, the Council's latest trajectory does include 30 units from a total of 80 units expected to come from allocations in the Hungerford and Lambourn Neighbourhood Plan in Year Six (2028/29)/
- 5.36 The appellant has incorrectly challenged the inclusion of two neighbourhood plan allocations in Hungerford (totalling 20 units in the next five years) and an unspecified supply from the Lambourn Neighbourhood Plan (totalling 10 units in the next five years). These are addressed below.

### **HUNG12- Land at Smitham Bridge Road**

- 5.37 The appellant contests that the Hungerford Neighbourhood Plan is not adopted and that this particular site has issues with flooding and their highways team has accessibility concerns. Ms Miles also notes that the site is in the North Wessex Downs AONB.
- 5.38 Concerning the status of the Hungerford Neighbourhood Plan, the Council have confirmed that the preparation of this document is progressing and the pre-submission (Regulation 14) Hungerford Neighbourhood Plan (NP) was subject to consultation between 16 February and 29 March 2024.
- 5.39 However, due to the Local Plan Review examination, the Planning Policy Team were unable to submit a response to the consultation until August 2024. This response did not raise any significant issues with the proposed allocations.
- 5.40 I understand from the Council that Hungerford Town Council are very keen to submit its Neighbourhood Plan and once this has happened, the Council will then check that the submission

requirements as set out in the Regulations<sup>2</sup> have been met. If they have been met, then the Regulations stipulate that the Plan must be publicised for 6 weeks as soon as possible after submission.

- 5.41 During the consultation, the Council will appoint an Examiner. The Examination would take up to 10 weeks. The Examiner's report is not binding, and the Council would decide on the Plan within 5 weeks of receiving the Examiner's report (this is set out within a Decision Statement). The Decision Statement will be endorsed at a meeting of the Council. The Council will also be asked to agree that the Plan can be adopted immediately following a successful 'yes' vote in a referendum. The referendum must take place within 84 days of the publication of the Decision Statement. In total this process would take a total of up to 8 months.
- 5.42 Concerning flooding, the Council officer has informed me that this is minimal and the flood zone is only on the site boundary (see below). It also resulted in the capacity of the site being reduced.

**Table 5.1 Flood Constraints Around Land at Smitham Bridge Road**



Source: Landstack based on EA data

- 5.43 The Council have also confirmed (Appendix 17) that the site was previously considered as part of the preparation of the Housing Site Allocations DPD, and was promoted through the SHLAA, but in

<sup>2</sup> Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) and Schedule 4b of the Town and Country Planning Act 1990 (as inserted into Schedule 10 of the Localism Act 2011)

both cases, it was deemed as a reasonable alternative and deliverable in part was ultimately rejected based on other sites being more in keeping with the role and function of Hungerford. More recently, the site was promoted for consideration within the Council's Housing and Economic Land Availability Assessment.

- 5.44 I have also engaged with the developer (Appendix 18) who has an option on this site, Donnington New Homes, and they have confirmed that they are waiting on the NP to be finalised but they consider the site to be fully deliverable by the end of 2026 (44 units) and plan to achieve this.
- 5.45 Therefore, rather than discounting this site there is justification to include it within the five-year housing land supply. However, I have not chosen to do so until such a time that the site is allocated in the Neighbourhood Plan

### **HUNG13: Land North of Cottrell Close**

- 5.46 Again, the appellant contests that the Hungerford Neighbourhood Plan has not been adopted and that this particular site has not been assessed in the HELAA and has no recent planning history. Ms Miles also notes that the site is in the North Wessex Downs AONB.
- 5.47 As set out in response to HUNG12 I understand from the Council that the Neighbourhood Plan process could be completed in as little as 8 months.
- 5.48 The Council has also informed us (Appendix 17) that the site was promoted directly to Hungerford Town Council as part of the call for sites process for the Neighbourhood Plan and that it was previously promoted by Richard Nevil, Southern Management Ltd on behalf of The Chiltern Estate as part of the SHLAA.
- 5.49 The Council also confirmed that the site was considered for the Housing Site Allocation DPD and was recommended as an option for allocation but was ultimately not recommended for allocation because it was not adjacent to the Hungerford boundary and there were several other issues which were not "Showstoppers" but made the site poorer in comparison to the preferred site.
- 5.50 Given the above and particularly the lack of a known promoter and developer, I concede that this site would not deliver any housing in the 2028/29 period as suggested by the trajectory. But as the site was never included in the Council's five-year housing land supply there is no need to discount this site.

### **Unnamed Sites in Lambourn**

- 5.51 The April 2024 Housing Trajectory also includes 10 Units on sites to be allocated in the Lambourn Plan in 2028/29 and therefore does not form part of the Council's Housing Land Supply. However, the appellant challenges this position as there is no neighbourhood plan has been published for consultation and there are issues around Nitrate Neutrality.
- 5.52 As set out for previous sites I do not consider that Nitrate Neutrality should be seen as a barrier to development.
- 5.53 The Council has also confirmed (Appendix 19) that Lambourn Parish Council have advised them that they will be starting the 6-week consultation on their pre-submission (Reg 14) Neighbourhood Plan (NP) on Friday the 6<sup>th</sup> of September 2026 and this will run through to the 18th October.
- 5.54 This is not substantially behind the Hungerford Neighbourhood Plan which the Council consider could be completed in as little as 8 months. There were also two sites within the development boundary which would also be favourable however this would be a double count with the Windfall.
- 5.55 Ultimately, while there is uncertainty around this provision, although clarification will be provided in the short term, the site does not form part of the Council's five-year housing land supply and therefore cannot be discounted.

### **Retained Allocations**

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#### **SP16 – Sandleford Park West**

- 5.56 The Council does not include this site as part of its five-year housing land supply although its trajectory does suggest that 50 units from a capacity of 500 could be delivered in year six (2028/29).
- 5.57 The appellant has suggested that this part of the allocation only has a resolution to grant outline planning permission and that there is no evidence to justify any completions before 2028/29. Ms Miles also adds that the site is pending a S106 agreement and that no reserved matters applications have been made. As such, she believes cannot be considered part of the five-year housing land supply and 50 units should be removed.
- 5.58 As stated, the site is a retained allocated site and the developer has received a resolution to grant outline planning permission with full planning details for some elements from the Council on the 24<sup>th</sup> of April 2024 for a total of 360 homes. The Council's case officer has confirmed that they are in the process of finalising the 106 agreement with an extension of time agreed to the end of November (see Appendix 10).

- 5.59 During the examination in public of the Local Plan Review, the Council confirmed its position in relation to the allocation. This was in response to the inspector's question about the site's allocation and their request for a main modification. To inform this response the Council liaised with the site developer Donnington New Homes.
- 5.60 The response confirmed the April 2024 housing trajectory set out in EXAM22 (Appendix 3), based on the information known in March 2023, and confirmed that still reflects the expected delivery of the Allocation. This included 500 dwellings at Sandlesford Park West, including 50 units in 2028/29 i.e. outside the Council's five-year period and inside the Appellants.
- 5.61 The site is subject to a current outstanding application for 500 units at Sandlesford Park West (which also includes a site known as Sanfoin). However, the Council's Case Officer has informed me that they expect this application will be withdrawn, as such it should not form part of the five-year housing land supply.
- 5.62 However, there is a smaller site of 360 units (which does not include Sanfoin) and the council has been granted an extension of time to determine the site to finalise an S106 agreement which includes first homes. This application is expected to be determined by the end of November. There is a resolution to approve.
- 5.63 The main road access to the West (Warren Road Corridor) will have full permission while the rest of the site is covered by reserved matters. Conditions require that the Warren Road Corridor works are carried out prior to the commencement of developing housing on-site and the developer has confirmed to the Council that this access work will be put in place immediately to support the construction phase.
- 5.64 The developer has also confirmed to me via engagement (Appendix 18) that they envisaged that the S106 will be signed and the Decision Notice issued by the Council in October which is slightly sooner than the Council end of November deadline.
- 5.65 The developer envisages that the submission of Reserved Matters planning application(s) will then follow during 2025, with a start on building houses site on site envisaged during late 2025 and into 2026. They have also confirmed that 30 homes will be delivered during 2026 with 60 units in the following years until completion in 2032. This would be a total of 90 units within the appellant's five-year period and 30 in the Council's.
- 5.66 As this is a retained allocation, I believe that this would provide clear evidence that housing completions will begin on-site within five years. Therefore, rather than removing 50 units from year six as the appellant proposes, the Council's housing land supply could reasonably be increased by



30 units as these were not previously included and this information has only subsequently materialised since February.

### **RSA1 - Land north of Newbury College**

- 5.67 This site does not form part of the Council's Five-Year Housing Land Supply but the site's previous total capacity of 16 units is part of the Council's latest housing trajectory for year six (2028/29).
- 5.68 The appellant has suggested that this site be removed from the five-year housing land supply on the basis that its permission has lapsed and that the outline planning permission sought has not been determined.
- 5.69 It should be again reiterated that the Council did not consider this as part of its five-year housing land supply in February 2024 but as part of its trajectory in 2028/29 which forms part of the appellant's five-year period.
- 5.70 I have nonetheless engaged with the applicant Feltham Properties as part of this appeal. Feltham Properties is the developer for both the lapsed permission and the outline permission being sought. Through my correspondence with them (Appendix 20), the developers expect Outline consent for 31 units shortly. They will then progress a Reserved Matters application as soon as possible and they anticipate an indicative build-out program of 18-20 months. Completion would therefore take place by the end of the Council's five-year period.
- 5.71 The Council's case officer has also confirmed that they are looking to recommend approval subject to conditions, completion of a S106 agreement (Appendix 21) and subject to comments from the Council trees specialists. Furthermore, the enlarged site forms part of the settlement boundary and thus the presumption in favour of sustainable development applies but as it is a large site does not form part of the windfall allowance. This is a material change since the Council's declared position in February
- 5.72 For an allocated site, I believe this correspondence provides clear evidence that housing completions will begin on site within the Council's five-year period as required by the NPPF. I would therefore disagree with the appellant that this site should not form part of their or the Council's five-year housing land supply.
- 5.73 Indeed, rather than Ms Miles's assumption that the site should result in a subtraction of 16 units, the site should deliver 31 units by the end of 2027/28 which should be added to the Council's current supply position as it was never previously included.

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**Existing Planning Commitments – Unallocated Sites**

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**Land off Faraday Road and Kelvin Road, Newbury**

- 5.74 This site does not form part of the Council's Five-Year Housing Land Supply but 80 Units of the site's total capacity of 160 units is part of the Council's latest housing trajectory for year six (2028/29).
- 5.75 The appellant has indicated that the site should not be included as part of the five-year housing land supply as although there is an extant permission (for 160 units) it is not considered deliverable within the five years as there are existing uses with leases on the site.
- 5.76 The land is owned in part by Rissance / Faraday Developments who have freehold ownership over part of the site and long leasehold on the remainder of the site, which is owned by West Berkshire Council. An in-principle agreement is in place (but not yet signed) whereby in exchange for the freehold, West Berkshire Council receives a share of the uplift in value when the site is sold.
- 5.77 As part of this appeal, I contacted Carter Jonas who is marketing the site on behalf of the developers. They confirmed (Appendix 22) that because the extant planning permission includes a hotel and office component there is no demand in the current market and development of this type is currently not viable.
- 5.78 The site is therefore being sold off in multiple lots and it is anticipated that the buyers will seek alternative planning permissions. Carter Jonas believes some of those lots will come forward for residential uses with a combined capacity of around 400 units and confirmed that there is already good interest from market housing and social housing providers on the potential residential lots.
- 5.79 Carter Jonas believes the site will be sold in early spring and they expect a planning application to be submitted immediately with this taking around 18 months to be determined by the Council. They believe that the Council will support the redevelopment as it is the flagship site in the Bond Riverside Estate regeneration.
- 5.80 Once determined, the residential lots will have a lead-in time of around 9-12 months as the existing uses will need to be demolished. The scheme could then deliver units in around 30 months from now (October 2027) at a rate of between 60-80 market units per annum. However, an affordable or extra-care development could result in a faster rate of delivery.
- 5.81 Based on the above, it would take three years for delivery to commence and therefore the site has the potential to deliver some units between October 2027 and the end of March 2028. However, this is likely to be only around 30 units if 6 months delivery is possible.

- 5.82 While I accept that this **application** should not be included as part of the supply I do not accept that the site itself should be excluded. This is because the site is included on the Council's Brownfield Register (BR/2017/24) and according to the NPPF "should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years".
- 5.83 I believe that the information provided by the planning agent provides this evidence. This site should therefore be considered part of the housing land supply and 30 units should be added to the supply as this site was not previously included within it.

### **Summary**

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- 5.84 None of the sites examined in the section of my rebuttal proof were included as part of the Council's Housing Land Supply position as set out in the February 2024 report. Therefore, I do not consider that any of these sites could possibly be discounted from it.
- 5.85 Indeed, in light of new evidence I expect four of these sites to deliver a total of around 181 homes within the Council's five-year period.

## 6. FIVE-YEAR HOUSING LAND SUPPLY CALCULATION

- 6.1 As set out in the previous two chapters I consider that the supply position has shifted on eight sites. Four of these have a negative impact on the Council's supply position and four have a positive impact.
- 6.2 Taking into account all of these changes I believe the net impact is a reduction in the Council's supply position for the period 2023/24 to 2027/28 of 45 units. The contributions from each site to this total are set out in the table below

**Table 6.1 Adjustments to the Council's Housing Land Supply Position (2023/24 – 2027/28)**

Site	Adjustment
RSA15 – Land at Newbury Road, Lambourn	-3
SP16 – Sandleford Park East	-10
Land to the rear of 1 – 15 The Broadway (Bayer Site)	-72
Bayer House, Strawberry Hill	-141
Land adjoining Lynch Lane, Lambourn	90
SP16 – Sandleford Park West	30
Land north of Newbury College	31
Land off Faraday Road and Kelvin Road, Newbury	30
<b>Total</b>	<b>-45</b>

Source: Iceni Projects

- 6.3 This reduction of 45 units would reduce the council supply position as set out in the February 2024 report from 3,073 to 3,026 units over the 2023/24 to 2027/28 period. The implications of this on the five-year housing land supply are set out in the table below.

**Table 6.2 West Berkshire Five Year Housing Land Supply Calculation - 2023/24 to 2027/28 – September 2024**

	Standard Method (Core Scenario)	Local Plan	Standard Method +Buffer	Local Plan +Buffer
Housing Need - Per Annum	495	515	495	515
Years	5	5	5	5
Need	2,475	2,575	2,475	2,575
Buffer	0%	0%	5%	5%
Total Need	2,475	2,575	2,599	2,704
Total Supply	3,028	3,028	3,028	3,028
<b>Years Supply</b>	<b>6.1</b>	<b>5.9</b>	<b>5.8</b>	<b>5.6</b>

Source: Iceni Projects

- 6.4 As set out, the core scenario using the current standard method without a buffer (which aligns with the current NPPF) shows a housing land supply of 6.1 years. This compares to a need to demonstrate 4 years of housing land supply, given the status of the emerging Local Plan.
- 6.5 Even if the inspector accepts the arguments that the emerging Local Plan Review figure should be used and that a buffer should be applied, then the council can still demonstrate a 5.6-year supply. This therefore demonstrates that by any reasonable scenario, the Council can still demonstrate a 5 year supply never mind a four-year supply. As such, I conclude that the presumption in favour of sustainable development should not apply based on the council not being able to demonstrate a five-year housing land supply.