



Meeting Development Needs Statement to Matter 2

i) Deliverable and Developable Supply

1. What particular part of the document is unsound?

1.1 The NPPF is clear that local plans are the key to delivering sustainable development and must contribute to the achievement of sustainable development (paragraphs 150 and 151). 'Achieving sustainable development' is described in the NPPF under 13 headings, heading no. 6 is entitled 'Delivering a wide choice of high quality homes'. Under this heading paragraph 47 requires local planning authorities to boost significantly the supply of housing, including the need to meet the objectively assessed need and to identify a deliverable five-year housing land supply. Footnotes 11 and 12 provide a clear definition of 'deliverable' supply and 'developable' supply.

1.2 As submitted, the Local Plan Part 2 will not be able to ensure a deliverable and developable supply of housing land over the plan period to meet objectively assessed housing need (OAN) in accordance with the requirements of Paragraph 47. This is because the LPP1 relies heavily on a number of strategic allocations that have not delivered as anticipated and the LPP2 fails to respond adequately to this failure, failing to provide sufficient allocations to achieve choice and competition in the market.

2. Which soundness test(s) does it fail?

2.1 Clearly this is a failure in that the plan has not been positively prepared and is not consistent with national policy.

3. Why does it fail?

3.1 In order to test the supply, it is first necessary to understand the requirement. The LPP2 has been prepared on the basis of a district-housing requirement of 12,500 new dwellings over the period to 2031 as set out at Policy DS1 in the LPP1. This is subdivided into:

- Winchester Town, 4,000 dwellings
- South Hampshire Urban Areas, 6,000 dwellings
- Market Towns and Rural Area, 2,500 dwellings

3.2 It is acknowledged that Mr Justice Lewis confirmed in his judgment *Gladman Development Limited v Wokingham Borough Council* [2014] EWHC 2320 (Admin) that a site allocation plan (in that case referenced as the 'MDD') need not reassess the amount of housing to be provided if it has no intention to review the housing figure in the Core Strategy, stating:

"an inspector assessing the soundness of a development plan document dealing with the allocation of sites for a quantity of housing which is needed is not required to consider whether an objective assessment of housing need would disclose a need for additional housing" (Paragraph 60).



- 3.3 However, that is not to say that such an approach would enable the plan on adoption to be considered 'up to date' for the purposes of decision taking, as set out at paragraph 14 of the NPPF and associated paragraph 49.
- 3.4 In support of this position, it is clear that the LPP1 requirement was not informed by an objective assessment of housing need, in turn informed by a Strategic Housing Market Assessment for the district. The examination report discussion in respect of Housing General (EBT2, see paragraphs 49, 53 and 56) considers the South East Plan requirement, which at the time of the LPP1 hearing had not been revoked, and whilst updated evidence was considered there is no reference to an objective assessment of need for market and affordable housing (OAN). The so-called SHMA (EBT7, dated 2012) makes no reference to, and no calculation of, the OAN. The LPP1 was based on the best evidence available to the inquiry at the time, but not on an OAN, the hearings having taken place soon after the publication of the NPPF and long before the publication of the NPPG. Winchester still has no comprehensive SHMA, required by NPPF paragraph 159, although there is a PUSH SHMA covering the southern part of the district.
- 3.5 Clear parallels can be drawn between the situation in Winchester and the situation in Wokingham. In Wokingham, despite the Inspector finding the MDD sound and despite the outcome of the High Court judgment, a number of appeal decisions have been allowed on the basis of housing need and a shortfall in housing land supply. In the Spencers Wood s78 appeal decision, the Inspector confirms as a matter of principle that:
- "On a literal interpretation of the provisions of the NPPF, that would in itself be sufficient to indicate that the Council could not comply with the requirement of paragraph 49: since it does not know what its objectively assessed need for housing is, it cannot demonstrate that it is able to meet that need."* (Appendix 1, paragraph 20)
- 3.6 Similarly, the Burghfield Common Inspector with reference to the West Berkshire Core Strategy (adopted post NPPF in July 2012) considered, that:
- There was no SHMA which properly assessed overall housing needs in the Housing Market Area (HMA).
 - The SEP was still in place and there was a statutory requirement for the Core Strategy to be in general conformity with it.
 - Paragraph 47 of the NPPF applies.
 - The PPG explains that where evidence in Local Plans has become outdated, information in the latest full assessment of housing needs should be considered
 - In this case, the housing requirement figure in the Core Strategy was taken from the now revoked SEP which itself was based on evidence from a number of years earlier.
 - Taking all of this into account I consider that the housing requirement in the Core Strategy no longer provides an appropriate basis for the calculation of a five year supply. (Appendix 2, paragraphs 17 – 26)
- 3.7 In both cases, the appeals were allowed and in similar circumstances, the adoption of the LPP2, in its current form, would not support the plan-led process. It is relevant that the Burghfield Common decision was challenged, unsuccessfully, with Mr Justice



Supperstone confirming that the Inspector was entitled to depart from the core strategy requirement, adopted after the NPPF, because new evidence had come to light – that new evidence including new population projections and evidence of housing need presented by the appellant - *West Berkshire District Council v (1) Secretary of State for Local Communities and Local Government (2) HDD Burghfield Common Ltd* [2016] EWHC 267 (Admin) (see appendix 3).

- 3.8 In this context, it is relevant that the LPP1 was prepared prior to the NPPG, introduced in March 2014, requiring assessments of housing need to respond to market signals, including affordability (Paragraph: 020 Reference ID: 2a-020-20140306). The judgment of Mr Justice Sales *Zurich Assurance Limited v (1) Winchester City Council (2) South Downs National Park Authority* [2014] EWHC 758 (Admin) (EBT3) does not assist the Council in this respect. The judgment is dated 18 March 2014, just twelve days after the NPPG, with no reference to the NPPG or market signals (as a distinct element of OAN separate to modeling and separate to an uplift for affordable provision – see EBT3).
- 3.9 Clearly, there is an urgent need to prepare a new SHMA to inform a review of the LPP1, given the acute affordability pressures in the district (which experiences high house prices, a high ratio of entry-level house prices against the average earnings of younger households, an increase in housing costs relative to earnings, and increasing numbers of households living in rented accommodation, shared homes and with parents).
- 3.10 The LLP2 should incorporate a sufficient degree of flexibility in its land supply by providing additional allocations for housing, to enable it to respond to the likely increase in the OAN once a new SHMA is either prepared by the Council or an alternative OAN is put forward by other parties through a s78 appeal under the precedent established by Mr Justice Supperstone in the West Berkshire case (appendix 3).
- 3.11 It would be appropriate, to future proof the LPP2 for the short term at least, pending this review, to make provision for an additional 10% above the 'requirement, which would be in line with the NPPG and justified by the market signals prevailing across Winchester district, also in line with the general approach to market signals elsewhere whereby in circumstances where an uplift is considered justified this has ranged from 10% - 20%, such a level being considered 'reasonable'.
- 3.12 In addition to the baseline requirement, and in respect of the five-year supply, it is necessary to address the accumulated shortfall, since the beginning of the plan period and to consider the scale of the buffer.
- 3.13 The Council prefers the 'Liverpool' approach and a 5% buffer. With reference to the Liverpool approach, reference is made (OD15 paragraphs 5.19 and 5.20) to the Zurich judgment and Denmead appeal decision. Neither assist the Council; Zurich predates the NPPG, which clarifies that the shortfall should be made up in the first five-years, and Denmead references a slow trajectory only in the first four years of the plan period, which has now passed.
- 3.14 In line with PINS position in respect of the Amber Valley Local Plan (appendix 4) the shortfall must be added to the baseline requirement before the buffer.



- 3.15 The Council maintains that it does not have a record of persistent under delivery. However since the start of the plan period the following has been achieved (see AMR OD14):

	Required	Complete	Balance	Projected completions (LPP1 APP F)	Balance
2011/12	625	317	-308	317	0
2012/13	625	204	-421	222	-18
2013/14	625	470	-155	378	92
2014/15	625	262	-363	582	-320
2015/16	625	446	-179	763	-317
Total	3125	1699	-1426	2262	-563

- 3.16 Even taking into account the slow start anticipated in the LPP1 trajectory (Appendix F of the LPP1) the Council has a record of persistent under-delivery.

- 3.17 In light of recent case law from the Court of Appeal Hopkins Homes and Richborough Estates [2016] EWCA Civ 168 it would be inappropriate to continue to accept a deficient approach to satisfying housing need in the district:

“The more specific context is set by the policies for housing development in the paragraphs immediately preceding and following paragraph 49, in the section devoted to the Government’s objective of “[delivering] a wide choice of high quality homes” (see paragraph 15 above). These policies are partly directed to plan-making and partly to decision-taking. Underlying them all is the basic imperative of delivery...”

- 3.18 Further publications from the government, including the consultation to the NPPF changes and the productivity plan provide indication that the government considers the response to boosting significantly the supply of housing, to date, has been inadequate. In particular, the productivity plan confirms:

“As the London School of Economics (LSE) Growth Commission found, ‘under-supply of housing, especially in high-growth areas of the country has pushed up house prices. The UK has been incapable of building enough homes to keep up with growing demand” (paragraph 9.7). “The government will also take steps to ensure that local plans are more responsive to local needs ... helping to speed up the process of implementing or amending a plan.” (paragraph 9.11).

Whilst the NPPF changes confirm:

“... Local planning authorities can help to ensure that homes delivered match local requirements in a number of ways, including: allocating a good mix of sites in their Local Plans”

- 3.19 The outcome of the above is the need to allocate additional sites as the Council’s supply in the five-year period and across the plan period is insufficient to address changing circumstances.

- 3.20 Turning briefly to the existing supply, paragraph 149 in the LPP1 report emphasized that the plan must have sufficient flexibility to respond to changing circumstances, especially delivery at the three strategic housing sites. The Inspector specifically states



that further sources of supply should come forward in the event of delivery issues at these sites:

“This is reinforced by the ongoing importance of monitoring, including regarding delivery on the three strategic housing sites, as now recognised by the Council through significant earlier additions to App D of the plan and a modification to para 8.5 (MM 27). Amongst other things, this would require other sources of supply to come forward in the event of difficulties or delays with delivery of one or more of the main sites.”

- 3.21 Of the three strategic sites only the major development area at West of Waterloo is currently delivering new homes. Even there, table 12 of the AMR (OD14) shows a slow start and slow progress, it certainly does not support the Council’s trajectory at Table 5 of the Background Paper 1 (OD15).
- 3.22 Winchester City North (Barton Farm) has benefited from planning permission since the Secretary of State for Communities and Local Government approved the application on appeal in October 2012. CALA Homes remain the developer, with permission to build 2,000 new homes. However, despite securing reserved matters for the first phase of 423 new dwellings in April 2014 construction has yet to commence on site. The Spencers Wood appeal decision, at appendix 1, discusses lead in times. Certainly there will be no housing completions on this site within the next nine months, meaning that the trajectory has slipped at least a year.
- 3.23 North Whiteley has not yet secured planning permission for 3,500 new homes and is a highly complex development with the highways related works interlinking with government-committed schemes. There are also complexities with the forecast for ecological works. Reserved Matters applications are still required and discharge of conditions applications still need to be submitted. Even without detailed assessment and testing it can be seen that the Council’s trajectory is unrealistic.
- 3.24 Should the LPP2 be adopted in its current form it would be immediately out of date on adoption and not fit for purpose.

How could the document be made sound?

- 3.25 The LPP2 needs to provide flexibility and contingency at least to address the rolling five-year requirement whilst the Council produces a SHMA, with an OAN and this is translated through the local plan review process into a requirement.
- 3.26 The LPP2 must identify a range of smaller – moderately sized sites which are less complex and provide greater certainty of delivery, this will ensure that the LLP1 and LPP2 collectively provide for a deliverable and developable supply of housing. A suitable additional amount of land would be to make provision for at least 10% over and above the existing overall requirement to reflect market signals. It should be further noted that the DCLG records that 10 – 20% of planning permissions do not materialise in a start, the permission drops out, for a number of reasons including:
 - The landowner cannot get the price for the site that they want
 - A developer cannot secure finance or meet the terms of the option
 - The development is later not considered to be financially worthwhile
 - There are supply chain constraints hindering a start



- 3.27 To allow for this across the plan period a 10% contingency would be robust.
- 3.28 In respect of the 20% buffer in relation to the five-year housing land supply requirement, this of course is moved forward from later in the plan period and therefore only affects the need to identify sufficient deliverable sites rather than increase the total supply across the plan period.
- 3.29 Without updating the requirement as such, the LPP2 should nevertheless make provision for the accommodation of 15,000 dwellings over the plan period, representing a positive, flexible and robust approach to soundness and future proofing the plan until the OAN is determined and the plan reviewed.
- 3.30 The five-year provision would be in the region of 6,200 dwellings (measured against the requirement with the market uplift).
- 3.31 The Council maintains that it can deliver circa 13,900 homes across the plan period, but it is clear from the slippage and delivery rates in respect of the strategic sites alone that this is an unrealistic scenario.
- 3.32 Additional sites should be identified within the district, either as firm allocations or at least as reserve sites. Additionally, it must be clear that the development plan as a whole, LPP1 and LPP2 must be subject to early review to address the OAN.
- 3.33 The Statement made on behalf of Bargate Homes (Representor Number: 52084) to Matter 14 on Winchester Town – Policies WIN 1-4 outlines the sustainability credentials of the proposals at Salters Lane and that it is a deliverable site capable of providing approximately 240 new homes. Whilst there remains an opportunity to develop on the edge of Eastleigh Borough adjacent to a recently permitted development north of Hedge End, as outlined in the written statement of Gleeson, Miller, Bloor consortium.

4. *What is the precise change that is sought?*

- 4.1 An update to the housing provisions, requirement for additional allocations, and commitment to early review.

ii) Selection of Allocated sites

- 5.1 We do not consider that the selection of sites has been robustly justified, but this matter is addressed in respect of area specific sessions and in respect of a written submission for Matter 1.

iii) Area Needs

- 6.1 We address this matter in respect of the area specific sessions.

iv) Contingencies

- 7.1 Given the position set out above we clearly consider that the LPP2 includes contingencies. This would be wholly in line with the Government's position requiring choice and competition in the market, requiring a range of sites, and introducing a



responsive plan led process which can quickly address changing circumstances. This would support the imperative of delivery and support the delivery of the LPP1.

7.2 Contingencies should take a number of forms:

- Increased overall provision of 15,000 homes across the plan period
- Allocation of additional sites
- Identification of reserve sites
- Commitment to an assessment of OAN and early plan review