

Proof of Evidence of Jeff Richards BA (Hons) MTP MRTPI on Housing Delivery and Five Year Housing Land Supply

Land East of Knowle Lane, Cranleigh

Appeal ref. APP/R3650/W/23/3326412

LPA ref. WA/2023/00294

October 2023

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1. Introduction

Instructions

- 1.1 My name is Jeff Richards, and I am a Senior Director at Turley. I am instructed to present evidence at this Inquiry by Gleeson Land, herein referred to as ‘the Appellant’.
- 1.2 This Appeal follows the Council’s refusal of outline planning permission for up to 162 dwellings on land east of Knowle Lane, Cranleigh.
- 1.3 My evidence addresses both housing delivery to date in Waverley Borough as well as the Council’s ability to demonstrate a sufficient 5 year housing land supply.
- 1.4 The evidence which I have prepared and provide for this Appeal (PINS Reference No. APP/R3650/W/23/3326412) is true and has been prepared in accordance with the guidance of my professional institution. I confirm that the opinions expressed are true and professional opinions.

Qualifications

- 1.5 I have an Honours Degree in Town & Country Planning and a Masters degree in Town Planning, both from the University of the West of England. I am also a Member of the Royal Town Planning Institute and have over 22 years’ experience in the planning profession.
- 1.6 I joined Turley as a Director in November 2014, I held the role of Head of Planning South West (heading up Turley’s Bristol and Cardiff Offices) between 2016 and 2022 and I now hold the position of Senior Director. Turley has been working in planning and property for 40 years and is now one of the largest, leading planning practices in the UK, with offices in 14 locations.
- 1.7 Before my role at Turley, I practiced as a Planning Consultant with WYG for over 11 years, including as a Director from June 2013. Prior to that, I worked as a Planning Officer in Local Government at North Somerset Council for over 2 years.
- 1.8 I advise on a large range of development across many sectors, but hold a particular specialism in residential development where I provide strategic advice on residential promotions and progress numerous applications for development. I am currently advising on sites that, in total, will deliver over 20,000 new homes.
- 1.9 Since the publication of the 2012 National Planning Policy Framework (NPPF), and the inclusion of previous paragraphs 47¹ and 14² in that NPPF, I have also developed a particular specialism in the analysis of housing land supply, providing evidence on the requirement to demonstrate a five year housing land supply at numerous Local Plan Examinations and at Public Inquiries across the country. My experience in strategic residential development means that I am very familiar with the processes involved in

¹ Setting out the requirement to demonstrate a five year supply

² Setting out the presumption in favour of sustainable development

promoting and progressing sites for residential development, including their overall 'deliverability' and the time it can take to secure the necessary permission before first homes will be seen.

1.10 In that context, my evidence considers both the Council's housing delivery performance in the plan period to date and also the Council's ability to demonstrate a housing land supply sufficient to provide for five years' worth of housing, as required by paragraph 74 of the NPPF.

1.11 I have also previously provided evidence on Waverley Borough Council's five year housing land supply. That was in relation to an appeal (in 2019) on Land east of Loxwood Road, Alfold³ (a decision issued in January 2020). At that time, the Council claimed that it was able to demonstrate a sufficient housing land supply, however, on the basis of my evidence submitted for the appeal and following a roundtable session on housing land supply held at the inquiry, it was accepted by the Council that it could not demonstrate a sufficient housing and supply. This also led to an award of costs by the Inspector against the Council.

1.12 I have structured my evidence as follows:

Section 2 - I briefly consider the policy context relevant to the consideration of housing delivery and the determination of housing land supply.

Section 3 – I consider relevant case law on the matter of housing and supply and also summarise recent relevant appeal decisions where the requirement for 'clear evidence' within limb b) of the definition of a deliverable site has been considered. I also consider relevant appeal decisions in Waverley that have considered the Borough's housing land supply.

Section 4 - I consider the Council's housing delivery in the plan period to date, and consider the shortfalls in delivery that remain at the base date, 20 February 2023. I also consider the Council's track record of over-predicting the quantum of homes that are expected to be delivered across a five year period.

Section 5 – I set out the Council's current published position on five year housing land supply;

Section 6 – I provide my assessment of the Council's housing land supply, including the true extent of shortfalls in the Borough;

Section 7 – having identified the true extent of the shortfalls in housing land supply, I consider how long those shortfalls may last, and any action being taken by the Council to remedy those shortfalls; and

Section 8 - I set out my concluding remarks.

³ Appeal Ref. APP/R3650/W/19/3237359 (**Core Document CD5/1q**)

2. Relevant Planning Policy Contexts

The Development Plan and the Housing Requirement for Housing Land Supply Purposes

- 2.1 The adopted Development Plan for the purpose of the Appeal comprises the Waverley Borough Local Plan Part 1 (LPP1) 'Strategic policies and Sites' (adopted on 20 February 2018) and the Local Plan Part 2 'Site Allocations and Development Management Policies' (adopted on 21st March 2023).
- 2.2 Policy ALH1 of LPP1 makes provision for **at least 11,210 net additional homes** in the period 2013 to 2032, equivalent to **590 dwellings per annum**.
- 2.3 However, as the Borough Council adopted its strategic policies over 5 years ago, it is agreed between the two parties that, in accordance with paragraph 74 of the National Planning Policy Framework (NPPF), the Council's Five Year Housing Land Supply Position should be based on the Council's local housing need derived from the Government's standard methodology calculation.
- 2.4 Waverley Borough calculate this, in its latest October 2023 Position Statement (**Core Document CD6/4c**), to be **719 dwellings per annum**.

The National Planning Policy Framework

- 2.5 Paragraph 11 sets out the presumption in favour of sustainable development and confirms that for decision taking, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, this means granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (with the policies those areas and assets listed at footnote 7); or
 - ii. any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as taken as a whole.
- 2.6 Footnote 8 states that this includes for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.
- 2.7 Paragraph 60 advises that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

- 2.8 Paragraph 69 confirms that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly.
- 2.9 Paragraph 74 of the NPPF states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' of housing against the housing requirement in adopted strategic policy or the local housing need where the strategic policy is more than five years old.
- 2.10 The Glossary at Annex 2 of the NPPF provides a definition of what constitutes a Deliverable site 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.*
- 2.11 My evidence refers to the two strands of the above definition as 'limb a' and 'limb b' of the definition of deliverable.

Planning Practice Guidance

- 2.12 The PPG provides further guidance on assessing a five-year housing supply including:

Housing Supply and Delivery

- Paragraph 007 – What constitutes a 'deliverable' housing site in the context of plan-making and decision-taking?
- Paragraph 008 – What happens if an authority cannot demonstrate a 5 year housing land supply?
- Paragraph 010 – How can a 5 year housing land supply be confirmed as part of the examination of plan policies?
- Paragraph 011 – Can 'recently adopted plans' adopted under the 2012 Framework be used to confirm a 5 year land supply?
- Paragraph 022 – How should buffers be added to the 5 year housing land supply requirement?

- Paragraph 031 – How can past shortfall in housing completions against planned requirements be addressed?
 - Paragraph 032 – How can past over-supply of housing completions against planned requirements be addressed?
 - Paragraph 035 – How can authorities count older people’s housing in the housing land supply?
- 2.13 Paragraph 007 (under ‘Housing Supply and Delivery’), mentioned above, sets out the evidence to demonstrate deliverability may include the following:
- 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
- 2.14 Overall, the NPPF and PPG are clear that the obligation is on the local planning authority to demonstrate a five year supply against the definition of “deliverable” set out in Annex 2 of the NPPF and that this should be position that the authority should update annually.

3. Case Law and Appeal Decisions on Housing Land Supply

Case Law on the Relevance of the Extent of the Five Year Housing Land Supply Shortfall

- 3.1 The Council in this case accepts that it is unable to demonstrate a sufficient housing land supply. Its October 2023 Five Year Supply Position Statement (**Core Document CD6/4c**) confirms that the Council is only able to demonstrate a **3.89 year supply, a shortfall of 836 homes**.
- 3.2 However, whilst the Council accepts that it is unable to demonstrate a sufficient five year housing land supply, Court judgments have confirmed that the extent of a housing land supply shortfall is relevant to the determination of the weight one gives to relevant policies and to the benefits of housing delivery. As such, even where there are agreed shortfalls in housing land supply, it remains relevant to consider the extent of the shortfall.
- 3.3 In the judgment, *Hallam Land v. SSCLG* [2018] EWCA Civ 1808 (**Core Document CD5/2a**), which also drew on the findings of previous Court decisions, it has been confirmed that the extent of a housing land supply shortfall is relevant to the determination of the weight one gives to relevant policies and to the benefits of housing delivery⁴. This position has been further confirmed in the High Court decision, *Gladman v SoS for Communities and Local Government* [2019] EWHC 128 (**Core Document CD5/2b**).
- 3.4 As such, whilst the ability to demonstrate a sufficient housing supply is clearly a significant material consideration to the determination of the appeal and would trigger the presumption in favour of sustainable development at paragraph 11 of the NPPF, it remains relevant to consider the extent of the shortfall.
- 3.5 The Hallam Land Court of Appeal judgment also confirmed that is relevant to consider how long the shortfall might persist and what action, if any, is being taken an authority to address its shortfalls in supply⁵. Thus, it is not simply a case of considering the extent of the shortfall, but also what the Council are doing to resolve this and how long it is likely to persist.

Appeal decisions that have considered the approach to ‘clear evidence’

- 3.6 There are a number of sites included in the Council’s supply that have no detailed planning permission (including sites with no application submitted, or sites with a pending outline planning application only or sites with only outline planning permission secured) and so fall into limb b) of the definition of deliverable. Such sites should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

⁴ See in particular paragraphs 46 and 53 of the Judgment

⁵ Confirmed at paragraph 51 of the Judgment

- 3.7 In this context, there have been a number of recent appeal decisions where the definition of a deliverable site and the burden in respect of presenting 'clear evidence' has been considered.

Woolpit, Suffolk (Ref. APP/W3520/W/18/3194926), September 2018 (Core Document CD5/1f)

- 3.8 The Inspector's decision in the Woolpit appeal was one of the first decisions following the revised definition of a deliverable site in the NPPF.
- 3.9 It confirmed that, for sites with only outline permission, the onus is on the Council to provide the necessary clear evidence of deliverability. The Inspector stated, at paragraph 68, that:

"Sites with outline planning permission make up a very large proportion of the Council's claimed supply. The onus is on the Council to provide the clear evidence that each of these sites would start to provide housing completions within 5 years...the Council has not even come close to discharging the burden to provide the clear evidence that is needed for it to be able to rely upon those sites."

Ardleigh, Colchester (Ref. APP/P1560/W/17/3185776), September 2018 (Core Document CD5/1g)

- 3.10 At the time of the appeal, the draft PPG had been issued outlining the potential ways in which clear evidence might be provided. As the guidance had not yet been confirmed, the Inspector considered it appropriate to take a precautionary approach and to expect necessary evidence to involve a clear commitment to a programme of delivery.
- 3.11 When considering sites with outline planning permission only, the Inspector stated at paragraph 94:

*"Three of the sites have **not yet had applications for approval of reserved matters, which must be seen as a key milestone in the delivery process.** The Council's own assessment acknowledges potential difficulties in bringing forward development on these sites...uncertainties about viability and access prevent full confidence of delivery within the period."* (my emphasis).

- 3.12 In this decision, sites with only outline permission were subsequently omitted from the predicted supply.

Little Sparrows, Sonning Common, South Oxfordshire (APP/Q3115/W/20/3265861), June 2021 (Core Document CD5/1h)

- 3.13 The requirement for clear evidence and what it should comprise was considered in an appeal at Little Sparrows, Sonning Common. In the decision letter, dated June 2021, the Inspector states, at paragraphs 20 and 21, that:

"20. I have also had regard to the PPG advice published on 22 July 2019 on 'Housing supply and delivery' including the section that provides guidance on 'What constitutes a

'deliverable' housing site in the context of plan-making and decision-taking.' The PPG is clear on what is required:

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

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

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

London Road, Woolmer Green (Ref. APP/C1950/W/17/3190821), October 2018 (Core Document CD5/1i)

- 3.14 The Inspector recognised at Paragraph 30 of the decision that there is no presumption of deliverability from sites within the second limb of the definition of a deliverable site, stating:

"The second closed list refers to sites: with outline planning permission; with permission in principle; allocated in the development plan or identified on a brownfield register. Whilst such sites can be included within the 5-year HLS, there is no presumption of deliverability and it is for the LPA to justify their inclusion with clear evidence that housing completions will begin on-site within 5 years."

- 3.15 When considering sites with outline permission, the Inspector concluded at paragraph 32 that the information provided fell "well short" of the clear evidence required by the Framework.

Bures Hamlet, Essex (Ref. APP/Z1510/W/18/3207509), March 2019 (Core Document CD5/1j)

- 3.16 In the Bures Hamlet appeal, the Inspector considered the extent of evidence presented by the Council, including how this should be provided. At paragraph 66 of the decision, the Inspector found that:

"Where there is to be a reliance on an annual assessment then that clear evidence should logically be included in that published assessment or at least published alongside it. That would qualify as publicly available in an accessible format as the PPG requires. It would accord with guidance in PPG Paragraph 3-048 which applies to all forms of annual review

including, but not limited to, annual position statements. That is not to say there should be publication of every email or every note of a meeting or telephone conversation. The information can be provided in summary form but there needs to be some means of identifying the basis for the conclusion reached."

- 3.17 When considering the information made available in the Annual Monitoring Report (AMR), the Inspector states at paragraph 67 that:

"The information published here in the AMR is minimal and it relies heavily on unsupported assertions that a site will be delivered. That does not amount to clear evidence. In most cases it does not include the additional information that was introduced only in oral evidence at the inquiry such as: the date when a reserved matters submission was made or anticipated; when a S106 obligation was completed; why a full planning application and not a reserved matters application was submitted on a site that already had outline permission; the source of an estimate of a delivery rate; any assumptions and yardsticks that were applied where direct information was in doubt or missing; or other information of the type suggested in PPG paragraph 3-036."

- 3.18 The Inspector concludes at paragraph 69 that the Council has not provided clear evidence in the AMR that there is a five year housing land supply. He also concluded that, whilst there was insufficient evidence to draw a precise conclusion on supply, the likelihood is that the supply was closer to the Appellant's figure of 4.45 years.

Southfield Road, Gretton (Ref. APP/U2805/W/18/3218880) August 2019 (Core Document CD5/1k)

- 3.19 The Inspector considered the position on four contested sites against the NPPF definition of a deliverable site and the revised PPG guidance on what constitutes 'clear evidence'. The Inspector recognises at paragraph 35 that consideration of clear evidence now focuses on 'how much' and whether progress is 'firm'.

- 3.20 Within the Inspector's analysis of the four disputed sites, he considered that:

1. Information limited to a developer holding a meeting in respect of progressing towards a detailed application is not considered to be firm evidence of progression of reserved matters (paragraph 37).
2. There had been attempts to develop on a site for a number of years and no firm progress had been demonstrated by the Council that it would deliver (paragraph 38).
3. On a large sustainable urban extension, the delivery on site had been pushed back through several reviews of AMRs and the Inspector had difficulty with the evidence presented being sufficiently clear enough to demonstrate the Council's trajectory (paragraphs 39 and 40).

- 3.21 The Inspector concluded that the Council's submission fell short of the clear evidence required by the Framework.

Land at Farleigh Farm, Backwell (Ref. APP/D0121/W/21/3285624), June 2022 (Core Document CD5/1I)

- 3.22 Finally, in an appeal in Backwell in June 2022, the Inspector considered the concept of deliverability and what might be meant by the requirement for clear evidence. At paragraphs 48 and 49 of his decision, the Inspector states the following:

“I start by clarifying the concept of ‘deliverability’. The Framework Annex 2 sets out the main considerations in this regard. In particular, Category A sites which do not involve major development and have planning permission, and all those sites with detailed planning permission should be considered deliverable in principle, unless there is clear evidence that homes will not be delivered within five years. In contrast Category B sites, including those which have outline planning permission for major development or have been allocated in a development plan, should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. The essential point for both categories is whether it is reasonable to assume that they will contribute to the five-year supply, though caselaw has determined that it is not necessary for there to be certainty of delivery as anticipated.

*Some examples of the nature of ‘clear evidence’ are provided in the planning practice guidance (PPG). 5 These are necessarily generalised and refer to indicators such as ‘progress towards approving reserved matters’ and ‘firm progress with site assessment work’. **Nonetheless, the evidence provided must be tangible and directly relevant to achieving development on site, as opposed to speculation and assertion.** In doing so such evidence should support the key test of whether there is a ‘realistic prospect’ of delivery within five years.” (my emphasis)*

Summary of Appeal Decisions and Approach to ‘clear evidence’

- 3.23 Drawing the findings of the various appeals summarised above, it is my view that the following is relevant when considering whether a site within limb b) has the necessary clear evidence to be considered deliverable:
- i. the onus is on the Council to provide the necessary clear evidence that first homes will be delivered in the five year period;
 - ii. any clear evidence should logically be included in the Council’s published assessment or at least published alongside it;
 - iii. the evidence provided must be tangible or cogent and directly relevant to achieving development on site, as opposed to speculation and assertion;
 - iv. clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward;
 - v. securing an email or completed proforma from a developer or agent does not in itself constitute clear evidence;
 - i. the holding of a meeting to discuss progress towards a detailed application is not sufficient clear evidence;

- ii. an application for approval of reserved matters, should be seen as a key milestone in the delivery process, but firm progress of the determination of any such application that has been submitted is also relevant to determine whether sufficient clear evidence can be demonstrated;
- iii. where there is evidence that the delivery of a site has been pushed back through several reviews of AMRs, the current claimed delivery assumptions on that site should be approached with considerable caution; and
- iv. where there have been attempts to develop on a site for a number of years and no firm progress had been demonstrated by the Council that it would deliver, then current claimed delivery assumptions on that site should be approach with considerable caution.

Appeal Decisions in Waverley that have considered the five year housing land supply in the District

Land west of Loxwood Road, Alford, Surrey, GU6 8HN (Appeal Ref. Appeal Ref: APP/R3650/W/21/3278196) (January 2022) (Core Document CD5/1m)

- 3.24 Throughout the appeal the Council maintained there was a 5.22 year supply against the housing requirement in Policy ALH1 of the Local Plan Part 1 (LPP1) (at the time of the appeal the LPP1 was under 5 years old).
- 3.25 Relevant to my evidence in this appeal, the Inspector found that the following sites did not meet the definition of deliverable:
 - i. **Land at Dunsfold Park** – at the time of the appeal, the site has an extant outline consent, but the Inspector considered that it was unlikely that it would be implemented, and a new outline permission would be required. There was no evidence of housebuilder involvement or progress of work towards a reserved matters application. The Council had not provided a realistic assessment of the factors involved in the delivery of the site, such as a timetable and likely progress towards completions. The Inspector therefore considered that the site was not deliverable (paragraph 81).
 - ii. **Land at Wey Hill** – at the time of the appeal the site was a draft allocation in the draft Local Plan Part 2 (LPP2). The Inspector’s conclusion relating to this site was that no information had been provided to demonstrate that existing uses at the site could be relocated. As the site was, at the time, a draft allocation, the Inspector considered that there was no clear evidence to demonstrate that the site is a suitable location for development, and there was no evidence of availability or that development would be achievable on the site. It was therefore removed from the deliverable supply (paragraph 86).
- 3.26 The Inspector also found that there were a number of other sites set out in the Appellant’s evidence that were not deliverable, and removed them from the supply (paragraph 88). In total, the Inspector **removed 1,085 dwellings** from the Council’s supply and concluded that the deliverable supply was equivalent to **4.01 years** (paragraph 89).

Appeal Ref: APP/R3650/W/21/3280136, Land off Scotland Lane, Scotland Lane, Haslemere GU27 3AN (February 2022) (Core Document CD5/1n)

- 3.27 In paragraph 89 of the appeal decision, the Inspector confirmed that the Council could not demonstrate a deliverable 5 year supply:

*“The Council suggest that the 5-year supply is 5.2 years based on their amended completions data. The Appellant suggests that it is just under 4 years. In light of my findings above, I conclude that the Council can demonstrate a supply of deliverable housing land of **around 4.25 years.**”* (my emphasis)

- 3.28 In coming to this conclusion (and relevant to my assessment of sites later in my evidence), the Inspector removed 400 units from the supply from Dunsfold Park (paragraphs 70-73), stating that no firm start date for the development was provided to the Inquiry. Enabling works, including the construction of an access road and a roundabout, both of which had full planning consent and were due to start in 2022, but the Inspector cited that there had been delays with the landowner selling the site (which remains relevant now and indeed, as I will come onto, a previous agreement to sell the site to an investor has now fallen through). The Inspector considered that any developer buying the site would likely seek to amend the outline permission for the site and therefore the Council’s trajectory for the site (which indicated 850 homes in the 5 year period) was optimistic, as development would likely commence on the site at a later date. The Inspector considered that delivery would likely commence in 2025/26, and removed 400 dwellings from the supply.
- 3.29 Relevant to my assessment of site later in my evidence, the Inspector also removed 34 dwellings from the supply from the Land at Wey Hill site, stating that there are a number of occupiers who require relocating and the Council’s Estates Team had indicated that the submission of a planning application was some time off.

Appeal Ref: APP/R3650/W/22/3302987 Hawthorns, Hale Road, Farnham, Surrey GU9 9RL (Feb 2023) (Core Document CD5/1d)

- 3.30 The Council acknowledged that it could not demonstrate a deliverable 5 year supply; however, the Inspector disagreed with the degree of the shortfall, with paragraph 36 of the appeal decision stating that the deliverable supply was closer to **3.46 years**:

“The Council agrees that it cannot demonstrate a 5 years’ supply of housing land. Although there is some disagreement about the amount that it can demonstrate. Although it was not necessary to examine matters to a great extent, given the Council’s overall position, it seems to me that the Council’s suggested delivery for some sites has not been demonstrated. In these circumstances I consider that supply would be short of the Council’s figure of 4.9 years and closer to the appellant’s figure of 3.46 years.”

Appeal Ref: APP/R3650/W/22/3302544, Tree Tops, Mapledrakes Road, Ewhurst, GU6 7QW (March 2023) (Core Document CD5/1o)

- 3.31 Paragraph 43 of the appeal decision confirms that it was common ground that the Council could not demonstrate a five year supply of deliverable housing, although the extent was in dispute.

- 3.32 At paragraph 44, the Inspector relies on previous appeal decisions in the Borough, stating that the deliverable supply could be 4.01 years.

Appeal Ref: APP/R3650/W/22/3310793, Lower Weybourne Lane, Farnham, GU9 9LQ (May 2023) (Core Document CD5/1p)

- 3.33 Paragraph 64 of the appeal decisions confirms that whilst both parties disagreed on the Council's supply position, they agreed it was between 3.53 and 4.28 years.

- 3.34 At paragraph 66 the Inspector confirms that the shortfall has persisted over a considerable period. Whilst the LPP2 had been adopted, the Inspector commented that:

"..... its housing site allocations are geographically constrained and relatively small in a wider Borough context. There is little concrete evidence to demonstrate that the Council has a credible strategy, including progressing through an agreed timetable for updating the Local Plan Part 1, that will address the housing land supply issues of the Borough on a wider basis anytime soon. In these circumstances, the Appellant is correct to characterise the shortfall in housing land supply as significant."

- 3.35 Paragraph 77 of the decision confirms that whilst the housing delivery picture is better when the Housing Delivery Test was considered and there has been improvement in delivery in recent years, this could not be used to justify or offset what was "a poor housing land supply situation".

Appeal Ref: APP/R3650/W/22/3311941, Land West of and Opposite Old Compton Lane, Waverley Lane, Farnham, Surrey, GU9 8ET (July 2023) (Core Document CD5/1e)

- 3.36 At paragraphs 55 of the appeal decision the Inspector considered the Council's deliverable housing land supply position. Whilst not determining the exact level of the shortfall, the Inspector confirms that the supply is likely to be lower than the Council's suggested figure of 4.28 years, and **closer to the 3.34 years stated by the appellant:**

"The Council submits that it has 4.28 years supply, whereas the appellant considers the supply to be closer to 3.34 years. This results in a shortfall of between 558 and 1,292 dwellings. I agree with the parties that given the acknowledged shortfall by the Council it is not necessary to determine the precise extent of the shortfall."

- 3.37 Relevant to my future consideration of sites included in the Council's supply, the Inspector identifies, at paragraph 56 of the decision, that the Council has overstated the deliverable supply from a number of sites that have planning permission, including the Dunsfold Park site:

"Evidence in relation to housing land supply was presented to the Inquiry. The most significant difference between the parties concerns large sites with outstanding planning permission. The Council considers that these will deliver 2,325 dwellings, whereas the appellant believes that they will only deliver 1,784 dwellings. On the basis of the evidence submitted to the Inquiry, including the evidence in relation to Dunsfold Park, I consider that the figure is likely to be closer to the appellant figure of 3.34 years, but in any event, even the Council's figure of 4.28 years represents a significant shortfall and adds substantial weight in favour of the proposal." (my emphasis)

Appeal Decisions in Waverley: Conclusions

- 3.38 It is clear from my summary of the above recent appeal decisions that, when the Council's five year housing land supply is challenged, Inspectors typically find the supply to be substantially lower than that being claimed by the Council.
- 3.39 Furthermore, there is a persistent record of the Council seeking to claim that the same sites are deliverable, despite many Inspectors concluding that such sites do not meet the NPPF definition and should be removed from the Council's supply.
- 3.40 I will draw on these previous appeal decisions, as relevant to my assessment, when I come onto consider the Council's supply. Where Inspectors have found that sites do not meet the definition of deliverable and where there is no material change in the evidence being presented by the Council, a consistent approach should be taken in this Appeal in my view.

4. The Council's housing delivery performance to date and its track record of over-predicting the level of housing to be delivered across a five-year period

The Council's Housing Delivery Performance to Date

- 4.1 Within this section of my evidence, I consider the Council's housing delivery performance in the plan period from 2013 to date.
- 4.2 I have considered both the Council's housing delivery compared to its housing requirement in the LPP1 and also compared to its local plan trajectory.
- 4.3 The table below, Table JRT1, sets out the agreed position on delivery in the Borough in the plan period to date:

Table JRT1 – Delivery in Waverley in the Plan Period to Date				
Year	Requirement	Delivery ⁶	Shortfall/ Surplus	Cumulative Shortfall/ Surplus
2013/14	590	143	-447	-447
2014/15	590	242	-348	-795
2015/16	590	342	-248	-1,043
2016/17	590	321	-269	-1,312
2017/18	590	602	+12	-1,300
2018/19	590	475	-115	-1,415
2019/20	590	614	+24	-1,391
2020/21	590	695	+105	-1,286
2021/22	590	828	+238	-1,048
2022/23	590	965	+375	-673
TOTAL	5,900	5,227	-673	-673

⁶ Taken from the Council's 2021-2022 Annual Monitoring Report (page 10), published July 2023: [https://www.waverley.gov.uk/Portals/0/Documents/services/planning-and-building/planning-strategies-and-policies/2021-22%20AMR%20\(updated\)%20\(1\).pdf?ver=LaAlc9RHRfsMuv53pk2rzw%3d%3d](https://www.waverley.gov.uk/Portals/0/Documents/services/planning-and-building/planning-strategies-and-policies/2021-22%20AMR%20(updated)%20(1).pdf?ver=LaAlc9RHRfsMuv53pk2rzw%3d%3d), with the exception of 2022/23 delivery, which is taken from the Council's 2013-2023 completions data, published April 2023: <https://www.waverley.gov.uk/Services/Planning-and-building/Planning-strategies-and-policies/Housing-supply-and-delivery/Five-year-housing-supply>

- 4.4 As can be seen, the Council has, throughout the plan period, always had a significant level of cumulative under-deliver against its LPP1 housing requirement. As of 1st April 2023, the Council's under-delivery in the plan period to date, 2013 to 2023, stands at **673 homes**. This is a figure that has been agreed with the Council in the Five Year Housing Land Supply SOCG. It clearly represents a very significant level of under-delivery to date, over 1.5 years' worth of its LPP1 housing requirement.
- 4.5 However, it is also relevant to consider what the Council also expected to have delivered by now, as set out in the trajectory provided within the LLP1. Table JRT2 below compares delivery against the Housing Trajectory at Appendix C of the LPP1 (**Core Document CD6/1d**).

Table JRT2 – Delivery in Waverley in the Plan Period to Date Against LPP1 Trajectory				
Year	LPP1 Trajectory	Delivery	Shortfall/Surplus	Cumulative Shortfall/Surplus
2013/14	590	143	-447	-447
2014/15	615	242	-373	-820
2015/16	637	342	-295	-1,115
2016/17	655	321	-334	-1,449
2017/18	677	602	-75	-1,524
2018/19	692	475	-217	-1,741
2019/20	693	614	-79	-1,820
2020/21	684	695	+11	-1,809
2021/22	624	828	+204	-1,605
2022/23	570	965	+395	-1,210
Total	6,437	5,227	-1,210	-1,210

- 4.6 The above table shows that as of 1 April 2023 delivery has fallen significantly behind the LPP1 housing trajectory, with a cumulative shortfall of 1,210 homes against expected delivery to date. This is equivalent to c. 2 years' of the LPP1 housing requirement. So, not only has the Council under-delivered by 673 homes compared to its LPP1 requirement, it has also under-delivered by an even greater extent when compared to its LPP1 trajectory. Indeed, if it had achieved its delivery trajectory, instead of an under-delivery of 673 homes, it should instead have a surplus of 537 homes. Those homes have not been delivered as expected and it is clear that the Council's housing delivery strategy has failed to date.

Delivery at the End of the Five Year Period Against the LPP1 Housing Requirement

- 4.7 I have also considered what the Council's housing delivery position will be at the end of the five year period (2028).

- 4.8 Using the Council's own claimed deliverable supply figures, Table JRT3, below, shows that a substantial cumulative under-delivery will still remain at the end of 5 year period.

Table JRT3 – Delivery in Waverley in the Plan Period to Date Against LPP1 Trajectory with Estimated Delivery for 2023/24 to 2027/28				
Year	Requirement	Delivery	Shortfall/Surplus	Cumulative Shortfall/Surplus
2013/14	590	143	-447	-447
2014/15	590	242	-348	-795
2015/16	590	342	-248	-1,043
2016/17	590	321	-269	-1,312
2017/18	590	602	+12	-1,300
2018/19	590	475	-115	-1,415
2019/20	590	614	+24	-1,391
2020/21	590	695	+105	-1,286
2021/22	590	828	+238	-1,048
2022/23	590	965	+375	-673
2023/24	2,950	2,939	-11	-684
2024/25				
2025/26				
2026/27				
2027/28				
Total	8,850	8,166	-684	-684

- 4.9 The above table shows that even with the Council's anticipated delivery over the 5 year period, which I dispute in Section 6 of my evidence, there would be no reduction in the significant cumulative shortfall in delivery to date. Indeed, that shortfall would slightly rise to **684 homes**, even if the Council's delivery were achieved.
- 4.10 At that point, there is only 4 years of the Council's plan period remaining and it will still, on its own delivery figures, have a significant short against its minimum housing requirement.

Waverley Borough Council's Track Record of Over-predicting the Level of Housing Delivery

- 4.11 As well as a track record of under-delivery in the plan period to date (against both its housing requirement and its LPP1 housing trajectory), the Council has a clear track record of over-predicting the number of homes it expects to deliver in any five year period.

- 4.12 My team has undertaken an analysis of the Council's previously published Annual Monitoring Reports since 2006/07 and compared predictions against actual delivery in five year period. The results are provided at **Appendix JR1**.
- 4.13 The results show that over the past 16 monitoring years, stretching back to 2007, the Council has over estimated delivery by an average of 15.9%. There has been a constant over estimation of housing delivery in each of the Council's Five Year Housing Land Position Statements stretching back to 2016. In the more recent years where there is full delivery information available for a full five year period the amount by which the Council has over-estimated delivery has increased. In its 2016 Five Year Housing Supply Position Statement it over-estimated delivery for the period 2016/17-2020/21 by 18.8%. In the most recent period where delivery information is available for a full 5 year period (its 2018 Five Year Housing Land Position Statement, which covers the period 2018/19-2022/23), the amount by which the Council has over-estimated delivery increased to 32.2%.
- 4.14 It is this type of record of claiming that homes will deliver on sites in the five year period which then subsequently do not materialise that is, in my view, one of the reasons why the Government amended the definition of a deliverable site – it wanted to see supplies of 'deliverable sites' that would actually lead to the completion of homes on the ground, not speculative predictions that homes might deliver and then not materialise with resultant planning harm. There is little benefit in over-predicting the supply of homes – it leads to an under-provision of homes and the potential for worsening affordability.
- 4.15 Despite this, the Council's supply (despite accepting that there isn't a sufficient 5 year housing land supply in the Borough) is, in my view, a continuation of past trends where sites are included where the potential for delivery remains nothing more than speculation and lacking in any clear evidence that homes will actually be delivered.

5. The Council's latest position on Five Year Housing Land Supply

The Council's latest Five Year Supply Position Statement

- 5.1 The Council's latest five year supply position statement comprises the position 1 April 2023, published October 2023 (**Core Document CD6/4c**).
- 5.2 This Statement sets out a breakdown of the Council's anticipated supply (as at 1 April 2023) in the site information contained within the Appendices. It confirms that the Council believes that it has a supply of **2,939 homes**.
- 5.3 Against a requirement of 3,775 homes, this equates to a supply of only 3.89 years, a **shortfall of 836 homes**.
- 5.4 Whilst I dispute a number of sites within the Council's claimed deliverable supply and the extent of the overall shortfall, it is common ground that Waverley Borough Council **is unable to demonstrate a sufficient housing land supply in accordance with paragraph 74 of the NPPF**.
- 5.5 In addition, it has also been agreed in the Five Year Statement of Common Ground that, even if the Inspector were to agree with the Council that it can demonstrate a 3.89 years, this represents a serious and significant shortfall.

6. Assessment of Waverley Borough's Five Year Housing Land Supply

Introduction

6.1 As detailed earlier in this evidence, in order to demonstrate the extent of housing supply in Waverley Borough, my evidence is based on a number of key steps as follows:

1. Determining the appropriate five year period for assessing five year supply.
2. Identification of the starting point for assessing five year supply – the housing requirement.
3. Identifying the appropriate buffer in accordance with paragraph 73 of the NPPF.
4. Identifying a realistic and deliverable supply in accordance with the NPPF definition of a deliverable site.
5. Calculating the Council's housing land supply using the steps above.

6.2 I take each of these steps in turn below.

Step 1: The appropriate five year period for assessing five year supply

6.3 The NPPF requires Local Planning Authorities to provide an update on five year land supply annually.

6.4 The Council's latest position, as set out in its latest five year supply position statement published in October 2023, uses a base date of 1 April 2023 and covers a five year period 1st April 2023 to 31 March 2028. I agree that this is the appropriate five year supply period for the purposes of this Appeal.

Step 2: Identification of the starting point for assessing five year supply – the housing requirement

6.5 The Waverley Local Plan Part 1 (LPP1) was adopted in February 2018. Policy ALH1 of the LPP1 confirms a housing requirement equivalent to 590 dwellings per annum.

6.6 However, as the Borough Council adopted its strategic policies over 5 years ago, it is agreed between the two parties that, in accordance with paragraph 74 of the National Planning Policy Framework (NPPF), the Council's Five Year Housing Land Supply Position should be based on the Council's local housing need derived from the Government's standard methodology calculation.

6.7 Waverley Borough calculate this, in its latest October 2023 Position Statement to be **719 dwellings per annum**. I adopt that figure for my evidence.

- 6.8 Whilst it is also common ground that the Council has under-delivered against its LPP1 housing requirement in the plan period to date (considered in section 5 above), it is agreed that the Council does not need to adjust (increase) its Five Year Supply Position, because the standard method figure includes an affordability adjustment that is meant to take into account any under or over-delivery to date.

Step 3: Identifying the appropriate buffer in accordance with paragraph 74 of the NPPF

- 6.9 It is agreed that, in accordance with Paragraph 74 of the Framework, a 5% buffer should be applied as the Council has passed the Housing Delivery Test (HDT) and so a 5% buffer is therefore applied to the five year supply calculation.

Step 4: Identifying a realistic and deliverable supply in accordance with the NPPF definition of a deliverable site

- 6.10 Here, my evidence critically assesses sites included by the Council in its 5-year supply trajectory in order to determine the realistic potential for the delivery of new homes from those sites within the 5-year period.

- 6.11 The 2023 NPPF provides the definition of a ‘deliverable’ site (within the Glossary at Annex 2), as follows:

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

- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, 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.**” (my emphasis).*

- 6.12 Consideration of what constitutes ‘clear evidence’ that completions will begin within five years is set out in further detail in PPG. The PPG sets out that this evidence 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.

6.13 Having considered the definition of a deliverable site, and the type of evidence that may constitute clear evidence (noting how this has also been considered in previous appeals summarised in Section 3 of my evidence, I now turn to assess what sites are deliverable in Waverley Borough in order to contribute towards the Council's five year supply.

6.14 In order to undertake this assessment, I have reviewed the information provided by the Council within its 'Five Year Housing Land Supply Position Statement (October 2023) (**Core Document CD6/4c**). I have done so noting previous Inspector's finding that the Bures Hamlet Inspector set out, at paragraph 66, that:

"Where there is to be a reliance on an annual assessment then that clear evidence should logically be included in that published assessment or at least published alongside it. That would quality as publicly available in an accessible format as the PPG requires...That is not to say there should be publication of every email or every note of a meeting or telephone conversation. The information can be provided in summary form but there needs to be some means of identifying the basis for the conclusion reached."

6.15 I have also then undertaken a review of the planning status of the site to identify its policy status, whether there are any planning applications lodged on the site or whether an application has been determined; or whether there is any further evidence available that would indicate a progression of the site or otherwise.

6.16 Having done this, a trajectory of all sites included in the Council's supply is provided at **Appendix JR4**. This sets out the Council's claimed five year trajectory for that site and also the trajectory that I consider reasonable based on the evidence. A summary of the reasons for any reductions are provided in the final column, although there are also provided in this main proof of evidence. Where any evidence is relied on to support those conclusions, this is provided within the evidence that I have collated and provided at **Appendix JR5**.

6.17 Having assessed, in detail, the Council's five year supply trajectory as contained in its October 2023 Five Year Supply Position Statement, I set out why it is appropriate to make adjustments to the predicted delivery figures on a number of sites, as follows:

Dunsfold Aerodrome

6.18 This site, known as Dunsfold Park, is a new settlement allocated for the development of 2,600 dwellings in the LPP1 under Policy SS7. It has a chequered planning history and, as referred to in Section 3 of this Evidence, previous appeal Inspectors have found the site to either be not deliverable or have found the delivery trajectory to be unrealistic and have reduced delivery from the site in the five year period.

- 6.19 In short, I find that the site should not be included in the Council’s deliverable housing land supply in the next five years because the Council has not provided the requisite level of clear evidence for this site to meet the definition of deliverable. A summary of the reasoning for this is provided below, and more detailed analysis of the site is included in **Appendix JR3** to this evidence.

Dunsfold Park: The Existing Planning Permission

- 6.20 The site has hybrid planning permission under reference WA/2015/2395. That consent was granted by the Secretary of State in March 2018 and granted outline consent for a new settlement comprising 1,800 homes, a care home, a new local centre and business uses, open space, a primary school, non-residential institution uses and infrastructure including, roads, energy plant and drainage systems. Full planning permission was granted for the demolition of some of the buildings on the site and the retention of others for future uses specified in the permission (none of which are residential). To date. A copy of the decision notice is included as part of **Appendix JR3**.
- 6.21 This site is, therefore, a limb b) site under the definition of deliverable in the NPPF and so *“should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years”*.

Dunsfold Park: Ownership

- 6.22 Of note, and important to the Inspector’s consideration in respect of actual housing delivery, the outline permission was obtained by Dunsfold Airport Limited (DAL) and Rutland (DAL) Limited. The site is owned by Trinity College Cambridge has owned Dunsfold Park since December 2013 and the website for the future development confirms that they have owned the site since 2013⁷. Trinity College Cambridge is not a housebuilder and whilst there have been attempts to sell the site to bring it forward for development, as I detail below, this sale fell through and there still remains no housebuilder appointed on the site.

Dunsfold Park: Progress Towards Actual Housing Delivery on Site

- 6.23 Looking at progress on site to actual housing delivery, and the availability of clear evidence that it will happen in the five year period:
- i. Limited progress has been made towards the discharge of a number of important conditions on the hybrid consent. Whilst some conditions have been discharged (see details in **Appendix JR3**), there are conditions that remain to be discharged that require the submission and approval of additional details before development can commence that still require discharge. Of particular note are:
 - **Condition 8** requires the submission and approval of a masterplan document before any reserved matters application for any building can be approved. No such document has yet been submitted to the Council for consideration. The Dunsfold Park webpage simply states that a “We will

⁷ <https://www.dunsfoldparkmasterplan.com/faqs/> - “Who owns Dunsfold Park? Trinity College Cambridge has owned Dunsfold Park since December 2013.”

make a formal planning application for approval of the masterplan design: this is required as a condition of the outline planning permission. The application will be based on what you see here, your feedback and further ideas". The only evidence relied on by the Council to support the deliverability of the site is a *"Position Statement: Update on delivery of Dunsfold Park New Settlement"* prepared by Bidwells (agents for the site) which is contained at Appendix 6, page 64, of **Core Document CD6/4c** – that Position Statement provided no firm detail on the preparation and submission of the masterplan simply stating that *"The next focus on delivery of the DPGV is the clearance of additional site wide conditions and preparing a further RMA to the next phase of infrastructure delivery and then the Housing RMA."* I am also aware from my previous inquiry involvement in Waverley⁸ that the Dunsfold Park website previously suggested a masterplan would be submitted for approval in early 2020. Clearly that has not materialised.

- **Conditions 18 and 19** prevent any residential development on site, except enabling works, prior to the construction of a new spine road from the A281, a new roundabout on the A281 and other highway works being completed. Whilst full planning permission has been granted for the spine road and its junction in November 2019 and reserved matters consent have been approved for the roundabout on the A281, these highway works have not yet been completed.
- ii. Crucially to the progression and completion of actual homes on the site, no reserved matters application has been submitted for residential development at the site. The Bidwell's Position Statement relied on by the Council claims that a reserved matters application for the first phase of residential development will be submitted by the end of 2023. I find this to be wholly unrealistic, and not backed by any actual credible evidence, given that:
 - No masterplan has been prepared and submitted to the Council. As referred to above, conditions on the hybrid permission require the approval of this masterplan before reserved matters consent for residential phases can be approved.
 - As referred to below, there is no evidence that any housebuilder has yet been appointed or has acquired any interest in the site. I find it unrealistic that a reserved matters application could be submitted by the end of 2023 without a housebuilder appointed. An agreement would need to be reached with a housebuilder to deliver the first phase so that said housebuilder could draft a proposed layout based on their house types and undertake the necessary technical work to inform that layout. I would also expect a housebuilder on a large, complex site of this nature to enter into pre-application discussions with the Council ahead of an RM submission and to potentially undertake community consultation on its intended proposals. Overall, it is unrealistic to think that all the necessary work in this regard

⁸ Appeal Ref. APP/R3650/W/19/3237359 (**Core Document CD5/1q**)

can be undertaken before the end of 2023 and the suggestion that this will be achieved is entirely speculation and lacking in any credible evidence. Again, I am aware from my previous appeal involvement in 2019/20 in Waverley that the Dunsfold Park webpage previously suggested that first homes would be commenced in mid-2021 with first completion in 2022. Again, that has been shown to be entirely inaccurate and any current suggestion on when applications may come forward and homes delivered should require a very careful consideration of the actual (clear) evidence to support that, if any.

- The 15 March 2023 letter indicates that a further reserved matters for enabling infrastructure works will be submitted ahead of the reserved matters for the first residential phase. The letter states that the enabling works reserved matters was planned to be submitted during Q2 2023, but this has not been submitted. Again, this undermines the credibility of anything that is said regarding timescales for progression on the site.
- iii. There is no housebuilder appointed to deliver the residential phases of development. The site owners had elected to sell the site and invite a new party to deliver the development. Columbia Threadneedle Investments were due to buy the site⁹ and become the master developer, but that sale has fallen through¹⁰. The Bidwell's Position Statement suggests that Dunsfold Airport Limited (DAL) who are a wholly owned subsidiary of Trinity College Cambridge will act as the master developer for the site and claims that *"There have been discussions with housebuilders for some time and housebuilders remain highly interested to be part of DPGV"* – this is a sweeping statement that, whilst easy to make (and it is clearly in the interests of Bidwell for DAL to do so), that is no actual evidence of housebuilder interest.
- iv. There is conflicting evidence provided by the Council and DAL relating to timescales for delivery of the site. Dates for milestones relating to the development on the site on the Developer's website for the Dunsfold Park development¹¹ conflict with dates provided in the Bidwells March Position Statement, on which the Council has based its trajectory. The Position Statement states that the access road was to be completed by May 2023, whereas the "News" section of the website (which was updated on 24 March 2023) states that the access road will be completed in September 2023. There is only 9 days between the date of the 15 March 2023 letter and the 24 March 2023 update on the Developer's website. Given the significant difference between the two dates given for completion of the access road, and the fact the dates of the updates are so close together, I consider that the evidence provided by DAL on which the Council is relying on to inform its trajectory cannot be relied upon.
- v. The Council has a history of persistent over-estimation of the delivery of this site. I have included a table in **Appendix JR3** to this evidence that compares the Council's

⁹ This was announced in September 2021

¹⁰ With news of the deal collapse being confirmed in Summer 2022

¹¹ <https://www.dunsfoldparkmasterplan.com/masterplan/what-next/>

trajectory for the site in its previous Five Year Housing Land Supply Position Statements over the period 2020 to 2023. The table shows that over the past 5 Five Year Housing Land Supply Position Statements the Council has consistently pushed back the delivery of the site. In each of the Five Year Housing Land Supply Position Statements the Council has assessed that the site would start delivering in year three of the five year period (with the exception of the February 2023 Five Year Housing Land Supply Position Statements which estimated that delivery would start in year 2). The Council's persistent over-estimation of the delivery of the site therefore brings into question the validity of the most recent trajectory for the site in the October 2023 Five Year Housing Land Supply Position Statement.

- vi. A number of Inspectors have considered the deliverability of the site in previous appeals where the Council's 5 year housing land supply has been considered. I have summarised the findings of these appeals in relation to the site in **Appendix JR3** of this evidence. In these appeals, the Inspectors have either significantly reduced the delivery from the site in the five year period or have removed the site from the supply entirely. In the most recent appeal (Appeal Ref: APP/R3650/W/22/3311941, Land West of and Opposite Old Compton Lane, Waverley Lane, Farnham, Surrey, GU9 8ET, dated July 2023), the Inspector removed the site from the supply entirely. The other evidence referred to in my Proof of Evidence shows that there has been no progress with the site (nor any material change in the evidence presented by the Council) since that appeal decision was issued. I therefore consider that the Inspector's findings in the Land West of and Opposite Old Compton Lane appeal to still be relevant and therefore agree that the site should be removed from the five year supply.

- 6.24 The above evidence, and the more detailed evidence relating to this site in **Appendix JR3**, shows that there is still a significant amount of work required on behalf of the site developer before the site will start delivering homes. The history of the site, including previous inaccurate claims that progress would be made, and first homes would come forward, means that evidence presented on this site should be carefully scrutinized. With this context in mind, there is, in my view, an absence of the necessary clear evidence required that first homes will be delivered in the five year period. The site should therefore be removed from the 5 year deliverable supply, as set out in Table JRT4 below.

Table JRT4: Dunsfold Park						
	2023/24	2024/25	2025/26	2026/27	2027/28	Total
Council	0	0	50	120	120	290
JR Delivery	0	0	0	0	0	0
						-290

Land at Coxbridge, Farm, Farnham

- 6.25 The Council's Planning Committee resolved to grant outline planning permission for 320 dwellings, subject to the signing of a Section 106 Agreement in May 2021 and outline

planning permission was finally granted on 29 June 2023 (after the 1st April 2023 base date). This site is, therefore, a limb b) site under the definition of deliverable in the NPPF and so should only be considered deliverable where there is clear evidence that first homes will be delivered in the five year period.

- 6.26 The only evidence presented by the Council (at Appendix 7, page 79 of the Council's Position Statement (**Core Document CD6/4c**)) is a copy of the decision notice. As I set out in Section 3 of my evidence, the Inspector in the Bures Hamlet appeal found that *"Where there is to be a reliance on an annual assessment then that clear evidence should logically be included in that published assessment or at least published alongside it."* I do not know if any further evidence will be relied on by the Council but, given that the Council's most recent Position Statement was published in October, some 6 months after the base date then any clear evidence relied on by the Council should have been included by the Council in that Position Statement.
- 6.27 No conditions have been discharged and no reserved matters application has been submitted. In addition, the applicants for the outline planning application were listed as V.M Kenward, K Kenward, P. Fry and Surrey County Council (Vestal Developments Ltd and Vivid Housing Ltd). No evidence has been presented on whether it is the intention of any of the applicants to progress development on the site (Vivid Housing Ltd is an affordable provider, but it is not clear if they intend to build the affordable component of the development, or indeed all or none of the site) or whether the site (in whole or in part) will need to be sold to a house builder.
- 6.28 There is no evidence at all to indicate when conditions may be discharged or when a reserved matters application may be submitted. Even when a reserved matters application is submitted, we do not know what issues may be raised and when the application can be expected to be granted (if at all), when a development on site may start or what a final developer's anticipated delivery trajectory is for the site. The Council suggest 60 homes are considered deliverable in the five year period, but provide no information to show when 60 homes are expected to come forward, or why this level of delivery has been assumed in the five year period.
- 6.29 There is absolutely no clear evidence at all presented by the Council and so this site should not be considered to be deliverable and should be removed from the Council's supply. The resultant reductions are shown in Table JRT5, below.

Table JRT5: Land at Coxbridge Farm, Farnham						
	2023/24	2024/25	2025/26	2026/27	2027/28	Total
Council			60			60
JR Delivery			0			0
						-60

Land at Wey Hill Youth Campus, Haslemere

- 6.30 The Land at Wey Hill Youth Campus is allocated in the LPP2 for 34 dwellings. It is also included on the Council's Brownfield Register (**Core Document CD6/4i**). As such, this site falls within limb b) of the definition of a deliverable site, and so should only be

considered deliverable where there is clear evidence that first completions will commence within the 5 year period.

- 6.31 As set out above and at Section 3 of my evidence, the Inspector in the Bures Hamlet appeal found that *“Where there is to be a reliance on an annual assessment then that clear evidence should logically be included in that published assessment or at least published alongside it.”* The Council’s October 2023 5 Year Housing Land Supply Position Statement (**Core Document CD6/4c**) only includes this site under Appendix 4 ‘LPP2 Site Allocations’ and provide no other evidence, let alone any clear evidence to demonstrate that the site will deliver homes within the 5 year period.
- 6.32 The site does not have planning permission, and no planning application has been submitted for housing development at the site.
- 6.33 The allocation in the LPP2 (DS04) indicates that the site is owned by the Council, but there is no evidence in the October 2023 5 Year Housing Land Supply Position Statement to show that any discussions have taken place with developers or housebuilders.
- 6.34 In the Land off Scotland Lane appeal decision (**Core Document CD5/1n, paragraph 88**), the Inspector removed the site from the deliverable supply, stating that there are a number of occupiers of the site who require relocation. No evidence has been provided by the Council to show that these operators have now been relocated or any timings for it. There has been no material change in the evidence on this site since this previous appeal decision.
- 6.35 There is therefore no clear evidence that the site will deliver homes in the 5 year period. The site does not therefore meet the definition of deliverable in the Framework and should be removed from the Council’s supply.

Table JRT6: Land at Wey Hill Youth Campus						
	2023/24	2024/25	2025/26	2026/27	2027/28	Total
Council			34			34
JR Delivery			0			0
						-34

The Old Grove, High Pitfold, Hindhead

- 6.36 The site is allocated in the LPP2 for 18 dwellings and an outline planning application with all matters except access reserved proposing up to 18 dwellings was submitted in August 2021 and validated in November 2021 (LPA ref: WA/2021/02876). The application was submitted on behalf of ‘Voyage 1 Limited t/a Voyage Care’. It is not clear if the applicant is a developer or is only promoting the site.
- 6.37 That application remains undetermined, however, some 2 years later.
- 6.38 This appears, in part, to be due to an objection from Natural England (provided in **Appendix JR5**) relating to insufficient information submitted with the application to

assess the impact of development on the Wealden Heaths Phase II Special Protection Area (SPA). The Natural England objection was first raised in January 2022. The applicant responded to this objection in June 2023, but that response still has not satisfied Natural England, which commented on the application again in July 2023 maintaining its objection (provided in [Appendix JR5](#)).

- 6.39 The Council's October 2023 5 Year Housing Land Supply Position Statement ([Core Document CD6/4c](#)) only includes this site under Appendix 4 'LPP2 Site Allocations' and provide no other evidence, let alone any clear evidence to demonstrate that the site will deliver homes within the 5 year period.
- 6.40 Given that the site does not have planning permission with a clear objection from Natural England as the competent authority, I consider that there is not the necessary clear evidence for this site to be considered deliverable. Indeed, even if and when this site proceeds to obtain outline permission, this site will remain a Limb B site where the onus will remain on the Council to provide clear evidence. The resultant reduction is shown in Table JRT7, below.

Table JRT7: The Old Grove, High Pitfold, Hindhead						
	2023/24	2024/25	2025/26	2026/27	2027/28	Total
Council			18			34
JR Delivery			0			0
						-18

Land at Highcroft, Milford

- 6.41 The site is allocated in the LPP2 for 7 dwellings. Whilst only a small site, it does not have any permission in place (outline nor details) and so falls within limb b) of the definition of deliverable. It can only be included in the Council's supply where there is clear evidence that completions will commence within the 5 year period.
- 6.42 No planning application has been submitted for the site, and there is no evidence at all for the site included in the Council's October 2023 5 Year Housing Land Supply Position statement ([Core Document CD6/4c](#)). The site should be removed from the Council's deliverable supply as it does not meet the definition of deliverable.

Table JRT8: Land at Highcroft, Milford						
	2023/24	2024/25	2025/26	2026/27	2027/28	Total
Council			7			7
JR Delivery			0			0
						-7

Land at Secretts, Hurst Farm, Milford

- 6.43 A hybrid planning application has been submitted for this site which seeks full planning permission for 216 dwellings. The full description of development is as follows:
- “Hybrid application comprising of: Full planning application for the erection of 216 dwellings, a new farm shop (Use Class E), change of use of existing farm shop building to rural business hub (Use Class E), provision of public open space, new sports pitches and associated infrastructure, landscaping, drainage arrangements, parking and formation of new access points following the demolition of existing buildings. Outline application (with all matters reserved except access) for the erection of a new health hub following demolition of the existing black barn (as amended/amplified by additional information received 13/02/2023, 13/03/2023 and 20/03/2023).”*
- 6.44 The hybrid application was submitted by Ptarmigan Land, Bellway Homes and FA Secretts Ltd, suggesting that there is housebuilder on board to deliver at least some of the homes once the site is in a position to deliver homes, although it is not clear what Bellway’s exact position on the site is.
- 6.45 The application was validated in August 2022. On 23 August 2023, the Council’s planning committee resolved to grant planning permission subject to conditions and the signing of a Section 106 Agreement. A decision notice has yet to be issued, indicating that the Section 106 Agreement is yet to be signed.
- 6.46 Whilst the site has a resolution to grant planning permission, it does not yet benefit from planning permission and so it is a limb b) site under the definition of deliverable and, it is also clear from other sites in the Borough (see for example Cox Bridge Farm, above) that it can take many years to complete a s106 and, as noted from the committee report (provided at [Appendix JR5](#)), there are many provisions to be agreed in the S106 including the delivery of affordable housing, the delivery and maintenance of open space including sports pitches, the provision of the health facility, the provisions of travel plans, the provision of a public right of way through the site and footway and highway improvements.
- 6.47 Even when the S106 is agreed and planning permission is granted, I note that there are a number of pre-commencement conditions that will need to be discharged (as included as conditions at the end of the committee report ([Appendix JR5](#))) including the need for a phasing plan for the site to be agreed (draft condition 5), the agreement of and implementation of a programme of archaeological work (draft condition 9), the need to provide information on the diversion of the water main (draft condition 10) and the need to undertake further investigation and risk assessment in respect of potential contamination (draft condition 22), a need to submit and agree details for the Neighbourhood Equipped Area of Play (draft condition 25) and the need to submit and agree details of the surface water scheme. In my experience, it can take time to prepare the necessary information for submission of discharge of condition applications and to then discharge them.
- 6.48 The Council should only be including this site in its deliverable supply if it is able to provide the necessary clear evidence that first homes will be delivered in the five year period. The only evidence presented is a single page at Appendix 11 (page 110) of the

October Statement confirming that the site has achieved a resolution to grant. That does not provide the clear evidence necessary for this site to be considered deliverable. As and when the site proceeds to receive permission (following completion of the S106), then the site can be considered deliverable, but the Council should not be including this site in its deliverable supply at the current time.

- 6.49 The resultant reductions in delivery are shown in Table JRT9, below.

Table JRT9: Land at Secretts, Hurst Farm, Milford						
	2023/24	2024/25	2025/26	2026/27	2027/28	Total
Council			168			168
JR Delivery			0			0
						-168

The National Trust Car Park, Hindhead

- 6.50 The site is allocated in the LPP2 for 13 dwellings, it is capable of falling within limb b) of the definition of a deliverable site, subject to their being clear evidence that completions will commence within the 5 year period.
- 6.51 No planning application has been submitted for the site, and there is no evidence at all for the site included in the Council's October 2023 Five Year Housing Land Supply Position statement. The site should be removed from the Council's deliverable supply as it does not meet the definition of deliverable.

Table JRT10: Land at Highcroft, Milford						
	2023/24	2024/25	2025/26	2026/27	2027/28	Total
Council			13			13
JR Delivery			0			0
						-13

- 6.52 Following my review of Waverley's claimed supply, I have identified many sites that do not come close to meeting the clear evidence threshold as required by the NPPF.
- 6.53 The below Table JRT11 sets out the reductions in supply that I consider reasonable in the Borough. I have also included a column (the right hand-most column) which shows the Council's cumulative shortfall in supply as a result of the removal of each sites claimed delivery.

Table JRT11– Overall Reductions in Waverley’s Housing Land Supply

	Council’s Delivery	My Delivery	Difference in Delivery	Cumulative Surplus/Shortfall in Supply
Current Shortfall Claimed by Council	n/a	n/a	n/a	-836
Dunsfold Aerodrome	374	0	-374	-1,210
Land at Coxbridge, Farm, Farnham	60	0	-60	-1,270
Land at Wey Hill Youth Campus, Haslemere	34	0	-34	-1,304
The Old Grove, High Pitfold, Hindhead	18	0	-18	-1,322
Land at Highcroft, Milford	7	0	-7	-1,329
Land at Secretts, Hurst Farm, Milford	168	0	-168	-1,497
The National Trust Car Park, Hindhead	13	0	-13	-1,510
Total	674	0	-674	-1,510

- 6.54 Based on the Council’s claimed deliverable supply of 2,939 homes and my reductions of 674 homes, this results in an overall reduced deliverable supply of 2,265 homes.

Step 7: Calculating the Council’s Five Year Housing Land Supply

- 6.55 Overall, having carefully analysed all sites that the Council lists as delivering housing in the five-year period, my assessment of delivery at **Appendix JR4** and in my evidence above indicates that approximately 2,265 homes are deliverable in the five year period, 711 fewer than predicted by the Council.

- 6.56 Using this assessment of deliverable sites, Table JRT12 sets out the five year housing land supply position:

Table JRT12: Calculation of the Five Year Supply Requirement		
Step		
A	Annual Housing Requirement	719 homes
B	Initial Five Year Requirement (Ax5)	3,595 homes
C	Requirement plus buffer (B x 1.05)	3,775 homes
D	My Assessed Deliverable Supply	2,265 homes
E	Five Year Supply	3.0 years
F	Extent of Shortfall	-1,510 homes

- 6.57 As demonstrated in the table above, the Council fall significantly short of its minimum five year housing land supply requirement. Only a **3.0 year supply** can be shown, a **shortfall of 1,510 homes**.
- 6.58 The Council has already agreed that the identified shortfall in supply against its own claimed deliverable supply (of 836 homes) is a serious and significant shortfall in supply.
- 6.59 My assessment of the Council's supply shows that the extent of the shortfall to be considerably greater whereby, in my view, urgent action must be taken to address these serious shortfalls.

7. How long may the shortfall in housing land supply persist and any steps being taken by the Council to address its housing delivery shortfalls?

- 7.1 My evidence has shown that, to date, there has been a significant shortfall against the housing requirement in the plan over the period 2013/14-2022/23, amounting to **673 dwellings**.
- 7.2 The Council also acknowledge that there will also be a shortfall in delivery over the next 5 year period against its housing requirement calculated using the Government's standard method. The Council themselves has estimated a **shortfall of 836 dwellings** against its five year housing land supply requirements. Based on my evidence, that shortfall against the Council's five year requirement is actually **1,510 homes**.
- 7.3 In respect of whether there will improvements to the Council's supply it is relevant to note that even if the Council's delivery predictions over the next 5 years are correct (which they are not, in my view), then the shortfall in housing delivery in the plan period to date will not decrease and, indeed, they will **rise to 684 homes**. Based on my assessment of delivery in the next five years, that shortfall would **increase to 1,385 homes**. Whilst the Council will continue to use the standard method requirement where that under-delivery will not result in any adjustment (upwards) of its requirement, it remains an important material consider in respect of how long over shortfalls in housing delivery will last – shortfalls in housing delivery against the Council's minimum LPP1 housing requirement will still be in place for at least the next 5 years and, given the scale of under-delivery at the end of the five year period, it is likely to persist for much longer.
- 7.4 It is also pertinent to note that the Council's deliverable supply already includes claimed delivery from the sites allocated for housing in the LPP2. Therefore, even with the inclusion of the supply from these sites, there is no 5 year housing land supply and there would remain a significant shortfall in housing delivery against the LPP1 housing requirement at the end of the five year period in 2028. It is clear, therefore, that the LPP2 is not the answer to the Council's housing delivery shortfalls.
- 7.5 In the previous appeal I was involved in Waverley in 2019¹², I identified that the Government's Housing Delivery Test "HDT" (Feb 2019) showed that the Council achieved less than 85% of its housing requirement over the previous 3 years. As a result of that HDT score, the Council was required to produce an Action Plan under what was at the time, paragraph 75 of the February 2019 National Planning Policy Framework. The Council did not however, produce an action plan at that time, failing to meet the Government's requirements.
- 7.6 The subsequent HDT in Feb 2020 again confirmed a delivery of 85% against the Council's housing requirement over the previous 3 years, again requiring the Council to prepare

¹²Appeal Ref. APP/R3650/W/19/3237359 (**Core Document CD5/1q**)

an Action Plan. An action plan was published in December 2020 (**Core Document CD6/4j**). The Action Plan identified 7 actions that the Council hoped would improve housing delivery, however, all of these actions related to speeding up the planning application process, rather than tackling a lack of sites. It is clear though that, coming up to 3 years later, the Council has continued to have a persistent record of not being able to demonstrate a sufficient housing land supply and the Council accepts that significant shortfalls in delivery still persist - the Action Plan clearly hasn't resolved the issue.

- 7.7 The Council has now "passed" the latest (2021) HDT. It is therefore no longer required to publish a new Action Plan; however, there remains an acceptance by the Council that there has been significant under-delivery against its housing requirement over the LPP1 Plan period to the extent that there is now a considerable cumulative shortfall against that requirement, and it is unable to demonstrate a five year supply of deliverable housing land.
- 7.8 As is shown in Section 3 of my evidence, the Council continues to refuse planning permission on housing sites and leaves it to the Planning Inspectorate to grant planning permission on appeal. From my review, the majority of the sites for which the Planning Inspectorate has granted planned consent are greenfield sites. The Council has been, and continues to be, reliant on the Planning Inspectorate granting planning permission on appeal for greenfield sites for its housing delivery.
- 7.9 Appeal Inspectors have identified that the Council has been persistent in its under-delivery of housing and it is unlikely that this will change in the short term future. The Inspector in the Land off Green Lane, Badshot appeal (appeal ref: APP/R3650/W/23/3316848) (**Core Document CD5/1r**), stated the following (paragraph 31 of the decision):
- "Across Waverley I also heard that there has been a persistent under delivery of housing, and it is agreed in the statement of common ground that there is a pressing need for affordable housing. Consequently, Waverley has a very high affordability ratio. **There is nothing before me to suggest that these shortfalls are likely to improve in the short term.**"* (my emphasis)
- 7.10 Overall, the evidence shows that shortfall in under-delivery will rise over the 5 year period and that shortfalls will likely persist for many year after that with no clear action plan or remedy in place.

8. Summary and Conclusions

- 8.1 The Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements.
- 8.2 My evidence has shown that the Council has a persistent record of cumulative delivery in the Borough since 2013¹³ and that those shortfalls will increase over the next 5 years¹⁴. Against the Council's LPP1 housing trajectory, the Council's track record is even worse, and there has been an under-delivery against that expectation to date of 1,210 homes.
- 8.3 The Council acknowledges that it is not able to demonstrate a five year supply of deliverable housing land. In its October 2023 Housing Land Supply Position Statement it claims to have only a 3.89 year supply, a shortfall of 836 homes. That is already a serious and significant shortfall in my view, but still remains a considerable over-estimate of actual deliverable supply in the Borough in my view.
- 8.4 My evidence considers what sites should be considered deliverable based on the definition of a deliverable site contained within the Glossary at Annex 2 of the Framework. In particular, I disagree with the Council's assessment of sites that fall into limb b) of the definition of a deliverable site, i.e. those that place the onus on the Council to provide clear evidence that first home completions will commence in the five year period. That clear evidence is not available on many sites in the Council's supply.
- 8.5 Haven undertaken a thorough assessment of deliverable sites in Waverley, my evidence concludes that approximately 2,265 homes are deliverable within the next five years (674 fewer than predicted by the Council). This equates to a 3.0 year supply (a shortfall of 1,510 homes). In my view, urgent action must be taken to address these serious shortfalls.
- 8.6 It is clear from my evidence that Waverley Borough Council cannot demonstrate a five year housing land supply in accordance with paragraph 74 of the Framework. The shortfalls in supply in the Borough are very serious and significant.
- 8.7 My evidence shows that shortfalls in supply are expected to be persistent and the Council's previous attempts to implement an action plan to address its housing delivery shortfalls have failed. The only remedy is to grant more sites that can assist with the delivery of additional homes.

¹³ Standing at 673 homes in the plan period to 1st April 2023

¹⁴ To 684 homes

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