

## Appendix EP1 – Disputed Sites

For Gladman Developments Limited | 24-465

The erection of up to 90 dwellings at land off Scamps Hill, Lindfield  
PINS ref: APP/D3830/W/24/3350075



Project: 24-465  
Site Address: Land off Scamps Hill, Lindfield  
Client: Gladman Developments Limited  
Date: 18 November 2024



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# 1. Brookleigh (previously known as Northern Arc)

1.1 Two parts of this site are listed in the Council's 5YHLS position (my appendix **EP6**) and are challenged:

Ref: 1125 – Brookleigh, care element - capacity = 60 dwellings, Council's 5YHLS = 60 dwellings, Appellant's 5YHLS = 0 dwellings, Difference = 60 dwellings

and

Ref: 493 – Brookleigh, Burgess Hill (remainder) - capacity = 2,731 dwellings, Council's 5YHLS = 635 dwellings, Appellant's 5YHLS = 0 dwellings, Difference = 635 dwellings

## Background

- 1.2 This very large site is allocated in the District Local Plan (adopted March 2018) under policy DP9: "Strategic allocation to the north and north-west of Burgess Hill". It was called "Northern Arc" and is now called "Brookleigh". The allocation is for a strategic mixed-use phased development including approximately 3,500 homes, 25 ha of land for a business park, 2 primary schools and a secondary school, a centre for community sport, Gypsy and Traveller pitches and a new Northern Link Road connecting through the Strategic Allocation Area from the A2300 to the A273 Isaacs Lane.
- 1.3 The trajectory in the District Plan (adopted March 2018) claims that all 3,500 dwellings would be delivered in the plan period 2014-31. It claims that 605 dwellings were deliverable on the Northern Arc allocation in the 5YHLS period from 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2022. However, 0 dwellings were completed on the site by 31<sup>st</sup> March 2022.
- 1.4 At the time the Site Allocations DPD was examined, the Council relied on a Statement of Common Ground (SoCG) between the Council and the owner of the site and key master developer, Homes England dated 9<sup>th</sup> June 2021<sup>1</sup>. This document explained that the site was no longer expected to deliver in full in the plan period to 2031. Only 2,770 dwellings were predicted to be completed in the plan period (2,310 at Northern Arc and 460 at part of the site known as Freeks Farm; a difference of 730 dwellings (21%) compared to the trajectory in the District Plan).

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<sup>1</sup> Appendix **EP17A**



1.5 The SoCG (June 2021) explains that at that time:

- The land to the west of Freeks Farm had detailed planning permission for 460 dwellings (outline ref: DM/18/0509 – approved 24<sup>th</sup> July 2019 and reserved matters ref: DM/19/3845 approved 19<sup>th</sup> December 2019), had been sold to Countryside and work commenced on site preparation during 2020. The first completions were expected at Freeks Farm in 2021;
- Outline planning permission for 3,040 dwellings on the remainder of the site was approved in October 2019 (ref: DM/18/5114);
- A full planning application for the Eastern Bridge and Link Road, which will link the Freeks Farm site with Isaacs Lane, was approved in January 2020 (ref: DM/19/3313) and reserved matters for the Western Link Road, which will link the A2300 with Sussex Way, was approved in July 2020 (ref: DM/20/0254);
- Homes England had entered into a contract with Bellway to deliver 247 dwellings at Phase 1B (east of Isaacs Lane);
- Homes England was in “advanced contract negotiations” for phase 1C with a Modern Method of Construction (MMC) specialist partner. The MMC specialist partner is not named. However, an example of Homes England using MMC developer partners is provided with reference made to Urban Splash and Sekisui House. Both Urban Splash and Sekisui House UK have since gone into liquidation; and
- Minimum acceleration clauses in the building leases had been made with a minimum construction pace of 8 homes per month for Countryside at Freeks Farm and a minimum construction pace of 6 homes per month for Bellway at phase 1B.

1.6 The SoCG (June 2021) then provides the anticipated delivery rates at both Freeks Farm and Northern Arc. As can be seen in the tables below, the anticipated delivery rates provided in June 2021 were very significantly greater than the actual delivery on the site:

**Table 1.1 – Actual delivery rates at Freeks Farm (ref: 969) compared to anticipated delivery rates in the June 2021 SoCG**

	Predicted completions in the 2021 SoCG	Actual net completions	Difference
2021/22	56	0	-56
2022/23	138	50	-88
2023/24	120	91	-31
<b>Total</b>	<b>314</b>	<b>141</b>	<b>-173</b>



**Table 1.2 – Actual delivery rates at Northern Arc / Brookleigh (ref: 493) compared to anticipated delivery rates in the June 2021 SoCG**

	Predicted completions in the 2021 SoCG	Actual net completions	Difference
2021/22	0	0	0
2022/23	135	0	-135
2023/24	172	0	-172
<b>Total</b>	<b>307</b>	<b>0</b>	<b>-307</b>

1.7 Table 1.1 confirms that the first completions at Freeks Farm were not until 2022/23. In total (i.e. tables 1.1 and 1.2 combined), delivery is 480 dwellings below the anticipated delivery rate, which the Council relied on at the time of the Site Allocations DPD examination.

**Position at the Albourne Inquiry (August 2023)**

1.8 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 752 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023) is set out below:

**Table 1.3 – Council’s trajectory for Northern Arc / Brookleigh at 1<sup>st</sup> April 2023**

	Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
493 Northern Arc/ Brookleigh (remainder)	0	48	166	238	300	752

1.9 For the avoidance of doubt, the trajectory in table 1.3 above includes the extra care element. It does not include either Phase 1A (460 dwellings at Freeks Farm – Countryside / Vistry) or Phase 1B (249 dwellings – Bellway). The trajectory for these sites were provided in the 5YHLS position at 1<sup>st</sup> April 2023 as follows:



**Table 1.4 – Council’s trajectory for Phase 1A (Freeks Farm – Vistry) and Phase 1B (Bellway) at 1<sup>st</sup> April 2023**

	Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
969 Phase 1A (Freeks Farm – Vistry)	92	96	96	96	30	410
493 Phase 1B (Bellway)	50	120	79	0	0	249

1.10 At the time of the Albourne Public Inquiry, the Council relied on a SoCG between the Council and Homes England dated July 2023<sup>2</sup>. The July 2023 SoCG explained that:

- Phase 1A (Freeks Farm / Oakhurst) – the first completions took place in 2022 and there had been 50 completions by July 2023;
- Phase 1B - reserved matters for 249 dwellings had been approved for Bellway and work commenced on site in March 2023;
- Phase 1C – procurement has taken place for approximately 270 homes, including 60 extra care homes. A developer partner has been selected and Homes England is currently in the process of contracting. The developer partner is in pre-application discussions with the Council and a planning application is expected in late summer / early autumn 2023;
- Phase 1Da - Homes England is in the process of procuring developer partners for the western end of the site which will include the Western Neighbourhood Centre (Phase 1Da). A Developer Partner has been chosen to develop the first western parcel (Phase 1Da), which includes the neighbourhood centre and approximately 255 homes. Pre-application discussions are at an advanced stage and a Reserved Matters application is anticipated in Autumn 2023;
- Phase 1Db was on the market for 34 homes but there was limited interest and will be re-marketed once a new procurement process has been put in place; and
- Reserved matters application for the next pieces of road infrastructure were anticipated to be made in Autumn 2023.

<sup>2</sup> Appendix EP9



1.11 The applications referred to on phases 1C 1Da and for the additional road infrastructure have not been made over a year later.

1.12 The SoCG (July 2023) then provides the anticipated delivery rates at both Freeks Farm and the remainder of Northern Arc / Brookleigh. For Freeks Farm, the build rate proposed was 92 dwellings in 2023/24 followed by 96 dwellings per annum in 2024/25 to 2026/27 and 30 dwellings in 2027/28. For the Northern Arc / Brookleigh, the projected completions were as follows over the period 2023/24 to 2028/29:

- 2023/24 – 50 dwellings;
- 2024/25 – 168 dwellings;
- 2025/26 – 245 dwellings;
- 2026/27 – 300 dwellings;
- 2027/28 – 278 dwellings; and
- 2028/29 – 268 dwellings.

1.13 The trajectory provided in the bullet points above include Phase 1B (Bellway) but not Freeks Farm (Phase 1A). No dwellings were delivered on the site (including on phase 1B) in 2023/24. The trajectory is out of date.

1.14 The deliverability of the remainder of Northern Arc / Brookleigh at 1<sup>st</sup> April 2023 was challenged by the Appellant at the Albourne appeal (core document **5.1**). Paragraphs 83-85 of the appeal decision state:

83. This is a category B site with outline permission for a comprehensive mixed use to include 3,040 dwellings. As a large strategic allocated site, it will be divided into 5 parcels with delivery agreements to be drawn up between Homes England and the delivery partners; 2 of the 5 are in place and they are at an advanced pre-application stage working towards **reserved matters applications later this year**. The Appellant suggests that the delays in delivery has led to expected build rates being reduced at regular intervals. With only 2,298 dwellings being the latest anticipated yield. As such the Appellant is challenging the delivery rates.

84. As a phased development, the Council is relying upon 752 units within the next 5 years. I am mindful that housing delivery for this strategic site was considered in the Bolney appeal and also assessed through the Examination process for the recently adopted Site Allocations DPD and found sound. I attach significant weight to the finding of the Inspector who examined the issue of housing delivery in the Site Allocations DPD. **Substantive evidence has not been provided to me to indicate that at this early stage the housing delivery trajectory envisaged in the DPD is flawed.**

85. Whilst it will require higher build out rates than other sites in Mid Sussex, the Lichfields research indicates that greenfield sites do build out at a higher rate. Given





the strategic significance of the Northern Arc which is a flagship site for Homes England with public investment to deliver infrastructure and open up the area for development, along with the contractual mechanisms, I am satisfied that at this stage there is clear evidence that this site will deliver the 752 dwellings within the 5-year period and so should be retained within the HLS calculation.” (emphasis added)

1.15 As I have set out above, the reserved matters applications which the Council had expected to be made in Autumn 2023 as referred to by the Albourne Inspector have still not been submitted. As I have also set out above, housing delivery is already significantly behind the trajectories in both the District Plan and the Site Allocations DPD.

### The Council’s case

1.16 The Housing Topic Paper (July 2024 – core document **6.2**) provides the following trajectory for phases 1A (Freeks Farm – Vistry) and 1B (Bellway):

**Table 1.5 – Council’s trajectory for Phase 1A (Freeks Farm – Vistry) and Phase 1B (Bellway) at 1<sup>st</sup> April 2024 (Housing Topic Paper)**

	Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
969 Phase 1A – Freeks Farm (Vistry)	45	108	106	60	0	319
493 Phase 1B - Brookleigh PH 1.5 and Pt 1.6 (Bellway)	104	96	49	0	0	249

1.17 The Topic Paper also provides the following trajectory for the remainder of the site:



**Table 1.6 – Council’s trajectory for Northern Arc / Brookleigh (remainder) and Care Element at 1<sup>st</sup> April 2024 (Housing Topic Paper)**

	Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
493 Northern Arc (Brookleigh) remainder	0	45	202	213	175	635
1125 Brookleigh, Care Element, (Hill), 1C	0	0	0	0	60	60

1.18 The Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**) includes the same trajectories as set out in the Topic Paper and summarised in tables 1.5 and 1.6 above.

1.19 I asked the Council to provide me with the clear evidence it relies on for the inclusion of this site in the 5YHLS. The Council responded with the following comments (as set out in appendix **EP5**):

“Phase 1a is under construction; 141 completions as at 1/4/24. Progress on delivering remaining phases: REM DM/21/3870 - Phase 1.3, 1.5 & 1.6 for 249 dwellings – DCOND applications ongoing. Ongoing applications for community facilities and services confirming deliverability (ie. DM/24/2010 – Foul pumping station PCO; DM/24/0222 – SuDS and drainage infrastructure PCO; DM/23/3182 – Centre for Community Sports PER).

SoCG with Homes England for Albourne appeal accepted by Inspector.

1 April 2024 – 695 commitments for 2024 5YS”

1.20 The Council also provided the following comments as set out in my appendix **EP7**:

“2018 District Plan Strategic Site allocation DP9 (for 3,500 dwellings).

Outline application for mixed-use development comprising approximately 3,040 dwellings including 60 units of extra care accommodation (Use Class C3).

Part of allocation under construction (Abbeville Park for 460 dwellings, DM/19/3845. Countryside Properties)



Quantum of dwellings in April 2024 5YS reflects contributions from Phases 1c, 1d(a)&(b) and 2a-c coming online and contributing completions.”

### The Appellant’s case

1.21 For the avoidance of doubt, I do not challenge the inclusion of either the remaining 319 dwellings at Freeks Farm (phase 1A – Vistry) or the 249 dwellings at Phase 1B (Bellway). The inclusion of 635 dwellings at the remainder of Northern Arc / Brookleigh and 60 dwellings at the care element are challenged because the Council has not provided clear evidence for their inclusion.

### Current planning status

1.22 As above, the site is allocated in the 2018 District Plan. The disputed parcels only have outline planning permission for a mixed-use development comprising approximately 3,040 dwellings including 60 units of extra care accommodation was submitted on 24 December 2018 and approved on 4<sup>th</sup> October 2019 (ref: DM/18/5114).

1.23 Reserved matters applications had not been made on the disputed parcels at the base date (1<sup>st</sup> April 2024), when the topic paper was published (July 2024) or when the Council provided its 5YHLS position statement to the Appellant (7<sup>th</sup> November 2024). They have not been made at the time of writing.

### Firm progress being made towards the submission of an application?

1.24 There is no clear evidence to demonstrate that firm progress is being made towards the submission of reserved matters applications for either 635 dwellings on the wider site or 60 dwellings on the care element.

1.25 The Council’s comments (appendix **EP5**) refer to the SoCG between the Council and Homes England, which is dated 5<sup>th</sup> July 2023 (please see my appendix **EP9**) and was accepted by the Albourne Inspector. However, as I have set out above, the July 2023 SoCG is out of date. The applications it claims would be made on parcels 1C and 1Da in summer and autumn 2023 have not been made.

1.26 Homes England produce regular Community newsletters for the Brookleigh site. The May 2024 newsletter<sup>3</sup> explains that the Hill Group have been appointed by Homes England to deliver the next phase of housing at the site. This would be for 266 homes. 30% of these (80 dwellings) would be affordable and of these 60 will be for extra care. The May 2024 newsletter explains that the Hill Group’s proposals will be published in summer 2024 and the reserved matters application will be made in Autumn 2024. That did not happen.

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<sup>3</sup> Appendix **EP17B**



1.27 The latest newsletter is from September 2024<sup>4</sup>. It states that the Hill Group will publish their proposals for public consultation later this year and feedback on their designs will be taken into account before a planning application is submitted. No timescales are provided for the submission of the reserved matters application.

1.28 No reference is made in the newsletter to Phase 1Da, 1Db or 2a-c, which are also relied on by the Council. The developer(s) of those phases is not known and there is no clear evidence of any progress being made towards the submission of reserved matters on those parcels.

**Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

1.29 A written agreement between the LPA and the developers of phases 1C, 1Da, 1Db or 2a-c has not been provided. The developer(s) of phases 1Da, 1Db or 2a-c are not known.

1.30 I have appended to my evidence the June 2021 and July 2023 SoCGs the Council has relied on with Homes England. However, neither provide a written agreement with the developer(s) involved in the parcels the Council relies on and both are significantly out of date.

1.31 Further, the anticipated delivery rates provided in both documents are unfounded based on actual experience on other parts of the site.

1.32 As set out above, the Council's position at 1<sup>st</sup> April 2023 – based on the July 2023 SoCG was that 50 dwellings would be delivered on Phase 1B in 2023/24. No dwellings were delivered on that site in 2023/24. The Council's latest position now claims that 104 dwellings will be delivered in 2024/25. That is unrealistic:

- The September 2024 newsletter (appendix EP17C) explains that since the May 2024 newsletter, the first homes have been completed and the first occupants will be moving in within the next couple of months; and
- Bellway have confirmed to me that only 7 private homes have been completed to date (i.e. November 2024) and the first affordable homes have not yet been transferred to the registered provider. 30% of the 249 dwellings in total will be affordable.

1.33 As above, I do not dispute the inclusion of 249 dwellings on Phase 1B (Bellway) in the 5YHLS to 31<sup>st</sup> March 2029, but the build rate applied by the Council is unrealistic.

1.34 It is also of note that the reserved matters application on the Bellway parcel was made on 5<sup>th</sup> November 2021, approved in May 2022 and the first completions made by September 2024 (i.e. almost 3 years after

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<sup>4</sup> Appendix **EP17C**



the reserved matters application was submitted and more than 2.25 years after the reserved matters were approved).

- 1.35 The first completions at Freeks Farm were in October 2022. This was 3 years after the submission of reserved matters in September 2019 (ref: DM/18/3845). 141 dwellings had been completed by the base date and the newsletters confirm that the majority of these were affordable homes. The May 2024 newsletter explains that 131 affordable homes had been handed over to the registered provider. Indeed, 50% of the 460 homes at Freeks Farm are affordable. The Council's own trajectory for 2024/25 is that just 45 dwellings will be delivered in the current year.

#### **Firm progress with site assessment work?**

- 1.36 No clear evidence of firm progress in relation to site assessment work regarding phases 1C, 1Da, 1Db or 2a-c have been provided by the Council.

#### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

- 1.37 The July 2023 SoCG states that:

“Pre-application discussions are at an advanced stage for the next pieces of road infrastructure including:

- Between the A2300 and the western Bridge over the river Adur
- From the western bridge over the river Adur to Isaacs Lane (Northern Arc avenue Central Section)
- A2300 and Jane Murray Way improvements

Reserved Matters applications are anticipated for all these pieces of infrastructure in Autumn 2023 and these phases will unlock access to serviced parcels later in the programme.”

- 1.38 However, reserved matters applications for the provision of the above infrastructure have not been submitted to date.

#### **Summary of Appellant's case**

- 1.39 The disputed parts of the site only have outline planning permission. The onus is on the Council to provide clear evidence of deliverability. The evidence the Council has provided (my appendix **EP5** and appendix **EP7**) and relies on (appendix **EP9**) is not clear evidence.
- 1.40 Reserved matters applications have not been submitted to date and there is no clear evidence of firm progress being made towards the submission of reserved matters applications. The July 2023 SoCG with



Homes England claimed that they would be made in Summer and Autumn 2023 and this position was accepted by the Albourne Inspector but applications have still not been made at the time of writing.

- 1.41 The position on this site is comparable to the Houghton Regis site in Central Bedfordshire (core document **5.14**) where the Inspector in that case concluded that clear evidence had not been provided for the inclusion of subsequent parcels (paragraph 16 of core document **5.14**).
- 1.42 In the absence of “clear evidence that housing completions will begin on site within five years.”, the disputed parts of the site fail to meet the definition of “deliverable” as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **60 dwellings** and **635 dwellings** from the Council’s supply.



## 2. Ref 832 – Land west of Selsfield Road, Ardingly

Capacity = 35 dwellings, Council’s 5YHLS = 35 dwellings, Appellant’s 5YHLS = 0 dwellings, Difference = 35 dwellings

### The Council’s case

2.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 35 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 2.1 – Council’s trajectory for land west of Selsfield Road, Ardingly**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	0	10	25	0	35

2.2 The deliverability of the site at 1<sup>st</sup> April 2023 was challenged by the Appellant in the Albourne appeal (core document **5.1**). Paragraphs 86-87 of the appeal decision state:

“86. This is a category B site with outline planning permission for 35 dwellings granted in March 2023. The Council’s evidence indicates that the developer promoted the site through the development plan process and pursued it through the permission stage. The Appellant contends that having an outline permission is insufficient to demonstrate deliverability. I note the reference to the Nantwich appeal decision, however, it is not clear from that decision what the anticipated timescale for reserved matters would be for outline permissions in Nantwich or the wider Cheshire East area. As such I cannot be satisfied that the position adopted in that appeal is relevant to Mid Sussex and this case.

87. In this case, the Council has the baseline analysis to understand their housing and infrastructure delivery lead in and build out times. This analysis indicates that for a site of this size, the reserved matters would be forthcoming within 2.4 years and a build out rate of 30 dwellings per annum. Given that the outline has only recently been granted there is nothing to indicate that reserved matters would not be forthcoming within a timescale similar to the Council’s baseline analysis. It is a modest number of dwellings which remains capable of being delivered within the 5-year period and as such the 35 dwellings should remain within the HLS calculation.”



- 2.3 Reference is made in paragraph 86 of the Albourne decision to the Nantwich appeal decision (core document **5.2**). Whilst I did not appear at the public inquiry for the Nantwich decision, I did assist the Appellant in providing the post-inquiry evidence in relation to Cheshire East’s 5YHLS, which is referred to in paragraph 7 of the Secretary of State’s decision letter and listed in Annex A.
- 2.4 Cheshire East’s standard lead-in times and build rates were set out in table 3.1 of its Housing Monitoring Update (HMU base date 1<sup>st</sup> April 2018)<sup>5</sup>, which was submitted to the Secretary of State on 24<sup>th</sup> April 2019 as explained in paragraph 7 of the Decision Letter.
- 2.5 Paragraphs 3.24 and 3.25 of Cheshire East’s HMU at 1<sup>st</sup> April 2018 explain that assumptions were applied where no site specific supporting evidence was provided “having regard to the size of site and progress made through the planning process”. The HMU explains that the assumptions are reviewed and tested annually. Appendix 4 of the HMU includes details of consultation on the draft HMU and assumptions with consultees and stakeholders. Appendix 5 of the HMU then included data relating to the lead-in times and build rates experienced on other sites in Cheshire East. It is similar to the analysis prepared by Mid Sussex in Appendix 1 and Appendix 2 of its Topic Paper (core document **6.2**).
- 2.6 Cheshire East assumed that for a site with outline planning permission, completions would be delivered in year 3 of the 5YHLS period based on the average lead-in times as set out in table 3.1 of the HMU. However, as explained in paragraph 21 of the decision letter, the Secretary of State removed “sites with outline planning permission which had no reserved matters applications and no evidence of a written agreement”.
- 2.7 The topic paper (core document **6.2**) provides the following trajectory for the Ardingly site in the 5YHLS:

**Table 2.2 – Council’s trajectory for land west of Selsfield Road, Ardingly**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	0	10	25	0	35

- 2.8 The Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**) has the same trajectory for this site as shown in the topic paper. As can be seen when comparing tables 2.1 and 2.2, the Council has simply pushed the anticipated delivery on this site back by 1 year from the position at 1<sup>st</sup> April 2023.
- 2.9 The Council has provided the following clear evidence for this site in appendix **EP5**:

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<sup>5</sup> Appendix **EP18C**





“Site Allocations DPD SA25

Site was actively promoted by Savills (OBO Charterhouse) through DPD process. Inspector considered deliverable within years 6-10 (2026/27 to 2030/31).

Outline Application DM/22/1575 submitted May 2022 – Recommended for approval at committee 16/03/23 and Approved 08/06/2023.

Variation of Condition application to amend Access Plan (approved 29/02/24) demonstrates active progress by developer through the planning process.

The Inspector for the Albourne appeal noted site is within timeframe for receiving RM and first completions based on local analysis and being a modest sized site. Concluded that site remains capable of being delivered within the 5-year period.

1 April 2024 - Recorded as 35 units Commitment as at April 2024 and in B-List Major Sites with Outline Permission in 5YS.”

2.10 The Council’s evidence set out at appendix **EP7** also states:

“Site Allocations DPD allocation SA25.

Outline application for 35 dwellings (indicative - all houses).

Approved at Committee (16/3/2023: went with recommendation for approval; Granted planning permission subject to Section 106)”

### The Appellant’s case

#### Current planning status

2.11 The site is allocated in the Site Allocations DPD and has outline planning permission.

2.12 An outline planning application for 35 dwellings was submitted on 17<sup>th</sup> May 2022 and approved on 8<sup>th</sup> June 2023 (ref: DM/22/1575)<sup>6</sup>. The outline planning application was made by Charterhouse Strategic Land and the South of England Agricultural Society.

2.13 The Council refers to a variation of condition application which was made in December 2023 and approved on 29<sup>th</sup> February 2024 (ref: DM/23/3250) for:

“Variation of condition nos. 2 and 11 relating to planning application DM/22/1575 - to replace existing plans with Access Plan - Ref 196651-002 Rev A Location Plan SK001 Rev B and Location Plan MP001 Rev B.”

2.14 No further applications have been made since the variation of condition application was approved. No reserved matters applications have been submitted to date.

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<sup>6</sup> Appendix **EP18A**



### **Firm progress being made towards the submission of an application?**

- 2.15 There is no clear evidence to demonstrate that firm progress is being made towards the submission of any reserved matters applications.

### **Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

- 2.16 A written agreement between the LPA and the developer confirming their anticipated start and build-out rates has not been provided. It is not clear who the developer is.
- 2.17 I note that Charterhouse's website<sup>7</sup> states:

“Introduced to Charterhouse by a national firm of land agents on behalf of their charity landowner we successfully secured an allocation for 35 homes in the Site Allocations DPD, adopted June 2022. Outline planning permission was granted June 2023 and the site currently in the process of being sold to a regional housebuilder.”

- 2.18 The Council has not provided any evidence as to who the regional housebuilder is or what their timescales for delivering the site are.

### **Firm progress with site assessment work?**

- 2.19 No clear evidence of firm progress with any site assessment work has been provided. The outline planning permission is subject to 26 conditions, 12 of which are pre-commencement conditions. There is no clear evidence to demonstrate that firm progress is being made towards discharging any pre-commencement conditions.

### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

- 2.20 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

### **Summary**

- 2.21 The site only has outline planning permission. No reserved matters applications have been submitted to date, nor is there any clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application. There is no written agreement with the developer. It is not known who the developer is.

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<sup>7</sup> Appendix **EP18B**



2.22 The Council has not provided “clear evidence that housing completions will begin on site within five years.” The site fails to meet the definition of “deliverable” as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **35 dwellings** from the Council’s supply.



### 3. Ref: 1113 – Linden House, Southdowns Park, Haywards Heath

Capacity = 14 dwellings, Council’s 5YHLS = 14 dwellings, Appellant’s 5YHLS = 0 dwellings, Difference = 14 dwellings

#### The Council’s case

3.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 14 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 3.1 – Council’s trajectory for Linden House (base date 1<sup>st</sup> April 2023)**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	0	7	7	0	14

3.2 The deliverability of the site at 1<sup>st</sup> April 2023 was challenged by the Appellant in the Albourne appeal. Paragraphs 81-82 of the appeal decision state:

“81. This is a category B site with outline planning permission for a 14-unit apartment block granted in 2021. The Appellant argues that without any evidence relating to the submission of reserved matters, this site should not be included in the HLS. I do not find this argument persuasive as a starting point given that it is based predominantly on a general perspective rather than the individual circumstances of each site. The Appellant uses the same argument for many of the contested sites.

82. A revised application for 17 units is currently awaiting a decision. The Council indicated that there were no fundamental matters outstanding. As the scheme is for an apartment block it would be expected to be delivered in one phase. From CDD.5 there is still time for the submission of reserved matters on the existing outline permission if wanted. Consequently, there is a clear intention and progress towards the delivery of this modest scheme. It would seem reasonable to include the 14 units within the HLS calculation.”

3.3 In my main proof of evidence, I refer to several cases where Inspectors and the Secretary of State have removed sites with only outline planning permission and no clear evidence relating to the submission of



reserved matters applications. I have provided the evidence that was considered in several cases and rejected by Inspectors and the Secretary of State.

3.4 Whilst the Albourne Inspector concluded there was still time for a reserved matters application to be made, this did not happen and the outline planning permission has **expired**.

3.5 The topic paper (core document **6.2**) includes the following trajectory for this site. This is the same as the trajectory in the Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**):

**Table 3.2 – Council’s trajectory for Linden House**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	7	7	0	0	14

3.6 The Council’s evidence for the inclusion of this site is set out at appendix EP5 as follows:

“Expired 02/06/2024 – still ok for April 2023 and 2024 HLS.

New Scheme for 17 units (DM/23/0890) Rec'd 30.03.23 - went to committee in March 2024 with recommendation to approve.

At 1st April 2024 permission for 14 units was an extant Commitment – evidence of deliverability as at April 2024 5YS demonstrated by a subsequent Planning Committee resolution to grant a new application for 17 units that will supersede that earlier permission for 14 units.”

3.7 It also stated at appendix **EP7**:

“Outline Application for 14-unit apartment block.

Lewis & Co. Planning OBO Linden House Developments Ltd

Decision Date: 02.06.21

DM/23/0890 – Full application submitted for a new scheme for **17 units** (Pending consideration. Rec’d: 30.03.2023).

Went to Planning Committee (14.03.2024) with recommendation to approve. Resolution to grant planning permission subject to S106 and amendment of condition 21”



## The Appellant's case

### Current planning status

- 3.8 The site does not have planning permission.
- 3.9 An outline planning application for 14 dwellings was submitted in January 2018 and approved almost 3.5 years later on 2<sup>nd</sup> June 2021 (LPA ref: DM/18/0421)<sup>8</sup>. No reserved matters applications were made and the consent **expired** in June 2024.
- 3.10 At the base date, the site had outline planning permission but there was no clear evidence that it was going to be implemented. By the time the topic paper was published in July 2024, outline planning permission had expired.
- 3.11 A revised full planning application for 17 dwellings was submitted on 30<sup>th</sup> March 2023 but a decision notice has not been issued over 1.5 years later (ref: DM/23/0890). The application was determined at planning committee on 14<sup>th</sup> March 2024 where it was recommended for approval subject to the signing of a Section 106 agreement to secure the following:
- Primary education: £18,500
  - Secondary education: £19,910
  - Libraries: £5,587
  - TAD: £34,544
  - Equipped play: £12,303
  - Kickabout facilities: £10,334
  - Formal sport: £14,090
  - Community buildings and infrastructure: £27,371
  - Affordable housing contribution of £362,000
- 3.12 However, the Section 106 agreement has been signed to date, over 8 months since the resolution to grant planning permission was made.
- 3.13 The latest document on the Council's website is a Viability Review, which was uploaded on 4<sup>th</sup> October 2024 and states:

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<sup>8</sup> Appendix **EP19**



“2.1.4 The current proposals are for nil affordable housing, however, on the basis that as part of the planning submission the proposed development (without any affordable housing) is not considered sufficiently viable.

2.1.5 The Council’s Housing Enabling Manager has stated that in this case the Council would be prepared to accept a commuted sum of £362,000 in lieu of on-site affordable housing.

2.1.6 We understand that (notwithstanding the position stated in the FVA) the applicant has offered to pay a reduced financial contribution towards off-site affordable housing of £118,000...

...4.1.8 In conclusion, ‘stepping back’ and reviewing the proposal in the round, we consider that the scheme is on the margins of viability and delivers a sub-optimal profit when the above-noted S106 contributions and affordable housing contribution of £362,000 are included. Even with the assumption of a minimal BLV and the offered affordable housing contribution of £118,000 our review indicates that the applicant will be reliant on an improvement in the build costs/values position to achieve what would typically be considered a suitable level of profit.”

- 3.14 Therefore, it is unclear whether the developer will be able to pay the required S106 contributions and still maintain development viability and it is not known at the time of writing if or when the S106 will be signed.

#### **Firm progress being made towards the submission of an application?**

- 3.15 There is no clear evidence to demonstrate that firm progress is being made towards the discharge of pre-commencement conditions.

#### **Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

- 3.16 No evidence has been provided. The start and build-out rates have not been confirmed by a developer.

#### **Firm progress with site assessment work?**

- 3.17 No evidence has been provided. There is no evidence to demonstrate that firm progress is being made towards discharging any pre-commencement conditions.

#### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

- 3.18 No documentary evidence has been provided by the Council in terms of viability, ownership constraints or infrastructure provision. However, the viability of the scheme is in the process of being considered.

#### **Summary**

- 3.19 The site does not have planning permission. The site had outline consent at the base date, however this expired in June 2024. A full planning application has been pending determination for over 1.5 years. Whilst



a recommendation for approval was made in March 2024, the S106 agreement is still outstanding. A viability report was issued in October 2024 which indicates that the development may not be viable if the requested S106 contributions are required. Therefore, it is unknown whether or when the S106 will be signed.

- 3.20 The Council has not provided “clear evidence that housing completions will begin on site within five years.” The site fails to meet the definition of “deliverable” as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **14 dwellings** from the Council’s supply.





## 4. Ref: 470 – Wealden House, Lewes Road, Ashurst Wood

Capacity = 50 dwellings, LPA’s 5YHLS = 50 dwellings, Appellant’s 5YHLS = 0 dwellings, difference = 50 dwellings

### The Council’s case

4.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 50 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 4.1 – Council’s trajectory for Wealden House at 1<sup>st</sup> April 2023**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	10	30	10	0	50

4.2 The Council’s topic paper (core document **6.2**) and the 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**) provides the following trajectory for the site at 1<sup>st</sup> April 2024:

**Table 4.2 – Council’s trajectory for Wealden House at 1<sup>st</sup> April 2024**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	0	10	30	10	50

4.3 As can be seen from the above tables, the Council has pushed the anticipated delivery at this site back by a year in its 1<sup>st</sup> April 2024 position compared to the position at 1<sup>st</sup> April 2023.

4.4 The Council’s evidence for the inclusion of this site as set out in appendix **EP5** is as follows:

“Expired 11/11/2023.



New Reserved Matters Planning Application DM/22/2832 (pending Decision) approved subject to S106 at District Planning Cmt. (01/06/2023) - Communication between CO and Agent ongoing.

1 April 2024 - Neighbourhood allocation and pending application; moved to B-List Commitment in April 2024 5YHLS.”

4.5 The Council’s evidence for the inclusion of this site at appendix **EP7** states:

“Ashurst Wood Neighbourhood Plan allocations: AS9 (Wealden House (EDF site)) and ASW10 (Wealden House (LIC)). Went to District wide Planning Cmt (01.06.23) with recommendation to approve. Resolution to grant planning permission subject to S106. Trajectory reflects that existing buildings need to be demolished and is a flatted development.”

### The Appellant’s case

#### Current planning status

4.6 The site is allocated in the made Ashurst Wood Neighbourhood Plan (made March 2016). The site does not have planning permission.

4.7 The site had planning permission for 54 dwellings which had been allowed at appeal on 11<sup>th</sup> November 2020 (LPA ref: DM/19/1025). That permission was not implemented and **expired** in November 2023.

4.8 A full planning application for the demolition of the existing buildings and erection of 15 apartments and 35 houses was submitted on 12 September 2022 and a decision notice has not been issued, over 2 years later (ref: DM/22/2832).

4.9 The application was heard at planning committee on 1<sup>st</sup> June 2023<sup>9</sup> and was recommended for approval subject to the signing of a Section 106 agreement to secure the following:

- Library provision: £21,163
- Primary education: £198,343
- Secondary education: £213,467
- 6<sup>th</sup> form education: £50,006
- TAD: £91,987
- Children’s play space: £50,920
- Kickabout: £42,773

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<sup>9</sup> Appendix **EP20**



- Format sport facilities: £58,099
- Community buildings and infrastructure: £78,064
- Sussex Police: £23,569.94
- NHS Sussex: £83,328
- SAMM and SANG contributions.

4.10 The S106 agreement has been signed to date, almost 1.5 years later.

**Firm progress being made towards the submission of an application?**

There is no clear evidence to demonstrate that firm progress is being made towards the submission of any applications to discharge conditions.

**Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

4.11 No evidence has been provided. The start and build-out rates have not been confirmed by a developer. The Council's evidence simply states that the trajectory reflects that the existing buildings need to be demolished and the proposal is a flatted development. However, it is noted that only 15 of the proposed dwellings are flats, with the remaining 35 proposed as houses.

**Firm progress with site assessment work?**

4.12 No evidence has been provided. The Council's evidence states that there are 36 proposed conditions, including 12 pre-commencement conditions. As above, there is no clear evidence to demonstrate that firm progress is being made towards discharging these conditions.

**Clear relevant information about viability, ownership constraints or infrastructure provision?**

4.13 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

**Summary**

4.14 The site does not have planning permission. The site had full planning permission which expired before the base date.

4.15 A new full planning application was submitted over 2 years ago. Whilst the application was recommended for approval at planning committee in June 2023, this was subject to the signing of a S106 agreement to secure over £900,000 in contributions, as well as SAMM and SANG mitigation. The S106 agreement has not been signed to date. There is no written agreement with the developer.



4.16 The Council has not provided “clear evidence that housing completions will begin on site within five years.” The site fails to meet the definition of “deliverable” as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **50 dwellings** from the Council’s supply.



## 5. Ref: 827 – Land south of 96 Folders Lane, Burgess Hill

Capacity = 40 dwellings, Council’s 5YHLS = 40 dwellings, Appellant’s 5YHLS = 0 dwellings, Difference = 40 dwellings

### The Council’s case

5.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 40 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 5.1 – Council’s trajectory for Folders Lane at 1<sup>st</sup> April 2023**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	0	0	35	5	40

5.2 The topic paper (core document **6.2**) and the Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**) provide the following trajectory for this site:

**Table 5.2 – Council’s trajectory for Folders Lane at 1<sup>st</sup> April 2024**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	0	10	30	0	40

5.3 The Council’s evidence for the inclusion of this site is set out at appendix **EP5** as follows:

“Site Allocations DPD SA12

Site was actively promoted by RE Planning (OBO Jones Homes) through DPD process.

Full Application for 40 dwellings was received on 24/02/2023 – Pending decision.

Recent statutory (re)consultation launched 10/10/24 on amended FRA demonstrating active progress by developer through planning process. No objection from WSCC.



Modest number of dwellings. Local analysis indicates average 2.4 years from receipt of application to first completion.”

5.4 The Council’s evidence in appendix **EP7** states:

“Site Allocation DPD - Site was actively promoted by RE Planning (OBO Jones Homes) through DPD process. Inspector reported extensively on the representations and detailed discussions at the examination hearings, on SA12 and SA13. Considered majority of joint site deliverable with years 1-5 (2021/22 to 2025/26), with part of SA13 within years 6-10 (2026/27 to 2030/31).

Other information

Trajectory reflects that promoter (developer) showed continued progress from allocation to submitting a planning application. Permission sought under a detailed application. DPD examining Inspector concluded potential for early delivery.”

### The Appellant’s case

#### Current planning status

5.5 The site is allocated in the Site Allocations DPD and does not have planning permission.

5.6 A full planning application for 40 dwellings was submitted on 24 February 2023 and is still pending determination, over 1.75 years later (ref: DM/23/0532). The application is subject to a high level of public objection. It is unknown whether or when the application will be approved.

#### Firm progress being made towards the submission of an application?

5.7 As above, a full planning application has been pending determination for over 1.75 years. It remains undetermined.

5.8 The determination deadline on the Council’s website is 26<sup>th</sup> May 2023, which is **almost 1.5 years ago**.

#### Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

5.9 No evidence has been provided. The start and build-out rates have not been confirmed by a developer. The Council’s evidence states:

“Trajectory reflects that promoter (developer) showed continued progress from allocation to submitting a planning application. Permission sought under a detailed application. DPD examining Inspector concluded potential for early delivery.”

5.10 However, a written agreement with Jones Homes has not been provided.



### **Firm progress with site assessment work?**

- 5.11 No evidence has been provided. There is no clear evidence to demonstrate that firm progress is being made towards discharging any pre-commencement conditions.

### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

- 5.12 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

### **Summary**

- 5.13 The site does not have planning permission. A full planning application has been pending determination for over 1.75 years and is subject to a high level of public objection. It is unknown whether the application will be approved or when.
- 5.14 The Council has not provided “clear evidence that housing completions will begin on site within five years.” The site fails to meet the definition of “deliverable” as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **40 dwellings** from the Council’s supply.



## 6. Ref: 840 – Woodfield House, Isaacs Lane, Burgess Hill

Capacity = 29 dwellings, Council’s 5YHLS = 29 dwellings, Appellant’s 5YHLS = 0 dwellings, Difference = 29 dwellings

### The Council’s case

6.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 29 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 6.1 – Council’s trajectory for Woodfield House at 1<sup>st</sup> April 2023**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	0	0	10	19	29

6.2 The deliverability of the site at 1<sup>st</sup> April 2023 was challenged at the Albourne appeal. Paragraph 92 of the appeal decision states:

“These sites have been assessed through the Examination process for the recently adopted Site Allocations DPD and found sound. The Council indicated that there has been some progress on some of these sites since Examination. In relation to Woodfield House, pre application discussions are in progress and there is now a SoCG with Homes England. The owners of Hammerwood Road have identified a housebuilder. The housebuilder in control of the Old Police House has requested pre-application advice. As such in relation to these 3 sites I do not accept the argument that there has been no progress towards delivery. Progress is underway and having regard to the evidence on delivery timescales in Mid Sussex I am satisfied that delivery within the 5-year period is reasonable. These 3 sites and their anticipated unit yield should remain within the HLS calculation.”

6.3 The topic paper (core document **6.2**) and the Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**) provide the following trajectory for this site at 1<sup>st</sup> April 2024:





**Table 6.2 – Council’s trajectory for Woodfield House at 1<sup>st</sup> April 2024**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	0	0	10	19	29

6.4 As set out in appendix **EP5**, the Council provided the following evidence to support the inclusion of this site:

“Site Allocation DPD – SA17

Site bought by Homes England contracted out to Bellway Homes to develop. Bellway to build out adjacent permitted site (DM/21/3870-phases 1.5 and 1.6 of Brookleigh strategic site)

1 April 2024 - Full Application for 30 dwellings (DM/24/0487), received 23/02/2024; pending consideration - Communication between CO and Agent ongoing. Moves to B-List ‘Major Allocated Sites with Application Submitted’.

6.5 The Council’s evidence for the inclusion of this site is also set out at appendix **EP7** and states:

“Site Allocations DPD allocation: SA17

Full application for **30 dwellings** (29 net) (6xflats, 24x houses) (pending consideration).

Previously had outline permission, expired September 2022. Pre-application November 2022.

Site bought by Homes England contracted out to Bellway Homes to develop. Bellway to build out adjacent permitted site (DM/21/3870-phases 1.5 and 1.6 of Brookleigh strategic site).”

### The Appellant’s case

#### Current planning status

6.6 The site is allocated in the Site Allocations DPD and does not have planning permission.

6.7 An outline planning application for 30 dwellings was approved on 11 September 2020, however reserved matters applications were not made and the permission **expired** in September 2023 (ref: DM/19/3769)<sup>10</sup>.

<sup>10</sup> Appendix **EP21A**



6.8 A full planning application for 30 dwellings was subsequently submitted on 23 February 2024 and is pending determination (ref: DM/24/0487). The application is subject to several objections, summarised as follows:

- LLFA (31 October 2024)<sup>11</sup>: “We maintain our objection to this planning application in the absence of an acceptable FRA & Drainage Strategy, as it is not in accordance with the NPPF, PPG Flood risk and coastal change or local policies.”
- Ecology (24 September 2024)<sup>12</sup>: Holding objection pending further information on European Protected Species - “We are still not satisfied that there is sufficient ecological information available for determination of this application.”
- Burgess Hill Town Council (29 August 2024)<sup>13</sup>: Recommend refusal based on concerns over a lack of internal ventilation – design necessitating windows which could not be opened due to the location of the site is not of high quality and would have a detrimental effect on future residents.
- Flood Risk (11 July 2024)<sup>14</sup>: “The principle of the proposed surface water drainage strategy appears likely to be acceptable. However, the system is reliant on a connection to a watercourse located outside of the redline boundary and therefore outside of the applicants control. Please could the applicant provide evidence that, in principle, the adjacent landowner will allow the proposed connection.”

6.9 It is unknown whether these outstanding issues will be addressed or when.

**Firm progress being made towards the submission of an application?**

There is no clear evidence to demonstrate that firm progress is being made towards the submission of any applications to discharge conditions.

**Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

6.10 No evidence has been provided. The start and build-out rates have not been confirmed by a developer. The Council’s evidence states that the site is contracted out to Bellway Homes to develop.

**Firm progress with site assessment work?**

6.11 No evidence has been provided. There is no clear evidence to demonstrate that firm progress is being made towards discharging any pre-commencement conditions.

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<sup>11</sup> Appendix EP21B

<sup>12</sup> Appendix EP21C

<sup>13</sup> Appendix EP21D

<sup>14</sup> Appendix EP21E



### Clear relevant information about viability, ownership constraints or infrastructure provision?

6.12 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

#### Summary

6.13 The site does not have planning permission. A full planning application was submitted in February 2024; however this is subject to a number of outstanding objections from consultees. It is unknown whether these matters will be satisfactorily addressed. There is no written agreement between the Council and the developer.

6.14 Therefore, the Council has not provided “clear evidence that housing completions will begin on site within five years.” The site fails to meet the definition of “deliverable” as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **29 dwellings** from the Council’s supply.



## 7. Ref: 479 – Land at Hanlye Lane East and Ardingly Road, Cuckfield

Capacity = 55 dwellings, Council’s 5YHLS = 55 dwellings, Appellant’s 5YHLS = 0 dwellings, Difference = 55 dwellings

### The Council’s case

7.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 29 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 7.1 – Council’s trajectory for Hanlye Lane East at 1<sup>st</sup> April 2023**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	0	25	30	0	55

7.2 The topic paper (core document **6.2**) and the Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**), provide the following trajectory for this site at 1<sup>st</sup> April 2024:

**Table 7.2 – Council’s trajectory for Hanlye Lane East at 1<sup>st</sup> April 2024**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	0	25	30	0	55

7.3 The Council’s evidence for the inclusion of this site is set out in appendix **EP5**, which states:

“Site Allocation DPD – SA23

Examining Inspector satisfied that Policy addresses potential impacts on AONB and deliverable at the time (2021/22 – 2025/26).

Full application for 55 dwellings DM/23/2610 submitted 09/10/2023 so “pending” at 1st April 2024 with amended scheme (to 50 dwellings) received on 24/06/24 (so not affecting Apr’24 HLS).



1 April 2024 – progress demonstrated with submission of planning application and recent amendments showing continued progress through planning process.

Moves to B-List ‘Major Allocated Sites with Application Submitted’.

Communication between CO and Agent ongoing.”

7.4 The Council’s evidence for the inclusion of this site is set out at appendix **EP7** and states:

“Planning application submitted October 2023 as Full. Moves from ‘major allocation with no planning application’ to Major allocation with ‘Planning Application submitted’.  
Pending decision as at 1<sup>st</sup> April 2024.

7.5 The Council’s evidence also refers to an email from the site promoter dated May 2023 which confirmed the exchange of contracts with a regional housebuilder (included in my appendix **EP9**).

### The Appellant’s case

#### Current planning status

7.6 The site is allocated in the Site Allocations DPD and does not have planning permission. A full planning application for 50 dwellings was submitted on 9<sup>th</sup> October 2023 by Sigma Homes and is still pending determination, over 1 year later (ref: DM/23/2610).

7.7 The application is subject to several objections, including from Cuckfield Parish Council (29 July 2024)<sup>15</sup> who objects on 6 grounds, including layout and design, biodiversity, highway access and safety.

#### Firm progress being made towards the submission of an application?

There is no clear evidence to demonstrate that firm progress is being made towards the submission of any applications to discharge conditions.

#### Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

7.8 No evidence has been provided. The start and build-out rates have not been confirmed by a developer. The Council’s evidence states that the trajectory reflects that the site is still on track to have first completions in 2024/25. However, the Council’s trajectory states that the site is not expected to deliver until 2026/27.

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<sup>15</sup> Appendix **EP22**



### **Firm progress with site assessment work?**

- 7.9 No evidence has been provided. There is no clear evidence to demonstrate that firm progress is being made towards discharging any pre-commencement conditions.

### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

- 7.10 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

### **Summary**

- 7.11 The site does not have planning permission. A full planning application was submitted in October 2023 and is still pending determination, over 1 year later. The application is for 50 dwellings rather than 55 dwellings. It is not known when the application is to be determined. The determination deadline on the Council's website is 15<sup>th</sup> January 2024.
- 7.12 No written agreement has been provided between the Council and the developer.
- 7.13 The Council has not provided "clear evidence that housing completions will begin on site within five years." The site fails to meet the definition of "deliverable" as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **55 dwellings** from the Council's supply.



## 8. Ref: 196 – Land south of Crawley Down Road, Felbridge

Capacity = 198 dwellings, Council’s 5YHLS = 170 dwellings, Appellant’s 5YHLS = 0 dwellings, Difference = 170 dwellings

### The Council’s case

8.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 170 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 8.1 – Council’s trajectory for land south of Crawley Down Road at 1<sup>st</sup> April 2023**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	20	50	50	50	170

8.2 The Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**) lists this site under the heading “Major allocated sites with planning application submitted”. The Council’s trajectory for the site is as follows:

**Table 8.2 – Council’s trajectory for land south of Crawley Down Road at 1<sup>st</sup> April 2024**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	20	50	50	50	170

8.3 As can be seen, the Council’s trajectory for the site has been pushed back a year from its position at 1<sup>st</sup> April 2023.

8.4 The Council’s evidence for the inclusion of this site is set out at appendix **EP5** as follows:

“Site Allocations DPD SA19

Full Application DM/23/0810 recently went to Planning Committee (19.09.2024); resolution to grant pending S106.



Communication between CO and Agent ongoing.

Lead in time and build-out rates are in accordance with Council's evidence base for a site of this scale (2 years from application received to first completion at average 48 dpa)."

8.5 The Council's comments in appendix **EP7** and state:

"Site Allocations DPD allocation: SA19

Full application for **200 dwellings** (198 net) (40 x flats and 160 x houses): pending consideration. (Amended plans and additional information July 2023 – Jan 2024).

Boyer Planning OBO Barratt David Wilson.

Received Date: 23/3/2023"

### The Appellant's case

#### Current planning status

8.6 The site is allocated in the Site Allocations DPD and does not have planning permission.

8.7 A full planning application for the demolition of existing structures and the erection of 200 dwellings was submitted on 23 March 2023 and a decision notice has not been issued, over 1.5 years later (ref: DM/23/0810). The application was considered at planning committee on 19 September 2024 where it was recommended for approval subject to the signing of a Section 106 agreement to secure the following:

- Primary education: £724,507
- Secondary education: £779,742
- 6<sup>th</sup> form education: £182,658
- Libraries: £78,598
- TAD: £719,605
- NHS Sussex: £303,599
- Children's playing spaces: £148,444
- Formal sport provision: £204,285
- Community buildings: £122,858

8.8 Paragraph 3.2 of the committee report states:

"if the applicants have not entered into a satisfactory s106 Legal Agreement to secure the affordable housing, biodiversity net gain and infrastructure payments and highway works by 12th December 2024, then the application should be refused at the discretion of Assistance Director Planning and Sustainable Economy"





8.9 A Section 106 agreement has not been signed to date.

**Firm progress being made towards the submission of an application?**

8.10 The Council's evidence states that there are 37 proposed planning conditions, including 9 pre-commencement conditions. There is no clear evidence to demonstrate that firm progress is being made towards the submission of any applications to discharge conditions.

**Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

8.11 No evidence has been provided. The start and build-out rates have not been confirmed by a developer.

8.12 It is unclear why the Council claims delivery on this site will start in 2025/26 when its own lead-in time analysis as set out in the topic paper (core document **6.2**, pages 26-27) shows that the time taken from a reserved matters approval to the first completions for sites of this size is over a year.

**Firm progress with site assessment work?**

8.13 No evidence has been provided. There is no clear evidence to demonstrate that firm progress is being made towards discharging any pre-commencement conditions.

**Clear relevant information about viability, ownership constraints or infrastructure provision?**

8.14 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

**Summary**

8.15 The site does not have planning permission. A full planning application was submitted in March 2023 and is still pending determination, over 1.5 years later. Whilst the application was recommended for approval at planning committee in September 2024; the S106 agreement has not been signed since. There is no written agreement with the developer so it is not known what the lead in time and build rates are.

8.16 The Council has not provided "clear evidence that housing completions will begin on site within five years." The site fails to meet the definition of "deliverable" as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **170 dwellings** from the Council's supply.



## 9. Ref: 770 – Land south and west Imberhorne Upper School, East Grinstead

Capacity = 550 dwellings, Council’s 5YHLS = 150 dwellings, Appellant’s 5YHLS = 0 dwellings, Difference = 150 dwellings

### The Council’s case

9.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 75 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 9.1 – Council’s trajectory for land south and west of Imberhorne Upper School at 1<sup>st</sup> April 2023**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	0	0	25	50	75

9.2 The Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**) lists this site under the heading “Major allocated sites with planning application submitted”. The Council’s trajectory for the site is as follows:

**Table 9.2 – Council’s trajectory for land south of west of Imberhorne Upper School at 1<sup>st</sup> April 2024**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	0	25	50	75	150

9.3 The deliverability of the site at 1<sup>st</sup> April 2023 was challenged at the Albourne appeal. Paragraph 90 of the appeal decision states:

“This is a category B, allocated site for 550 dwellings. The Appellant contends that, as there was no update on progress given at the round table session of the Inquiry, this site fails the delivery test. The Council tendered written correspondence for the timescale for the delivery of this site confirmed by the developer, including the submission of a hybrid application. The construction of the residential phases is indicated to commence in mid-2025. The Council is only relying upon 75 dwellings for



this current 5-year supply period. It was assessed through the Examination process including in relation to delivery rates in the recently adopted Site Allocations DPD and found sound. As dwellings from this site would be built out towards the end of the 5-year period, I see no reason to doubt at this very early stage that the anticipated 75 dwellings would be delivered within the 5-year period and so should be retained within the HLS calculation.”

9.4 The Council’s evidence for the inclusion of this site as set out in my appendix **EP5** is:

“Site Allocation DPD – SA20

Hybrid – Outline for 550 dwellings received on 06/10/2023 for 445 houses, 105 x flats and Full for playing fields and SANG. Currently pending decision.

Additional ecology evidence submitted 22.05.24.

Albourne Appeal Inspector (as at April 2023 base date) concluded 75 dwellings deliverable “towards end of 5-year period” being to 2027/28 at the time.

As at April 2024 updated to include additional 75 units in 2028/29 year.”

9.5 The evidence provided for the Albourne email comprises an email from the planning agent dated 17<sup>th</sup> May 2023 (included in my appendix **EP9**), which states that the anticipated programme for the delivery of the site is as follows:

- “• Planning Submission: Mid-June 2023
- Decision Notice: December 2023
- Completion of Phase 1 (Primary Infrastructure / Sports Provision / SANG): Mid 2026
- Commence Construction of Residential Phases: 2025
- First Housing Occupations: Mid 2026
- Completion of Scheme:2031”

9.6 This evidence is out of date. The planning application was not submitted until October 2023 and the decision notice was not issued in December 2023. The planning application is still pending determination at the time of writing.

### The Appellant’s case

#### Current planning status

9.7 The site is allocated in the Site Allocations DPD and does not have planning permission.

9.8 A hybrid planning application seeking outline planning permission for a mixed-use development comprising up to 550 dwellings, a care village of up to 150 C2 dwellings, a primary school, mixed-use neighbourhood centre, and full planning permission for playing fields, a sports pavilion and SANG provision



was submitted by Wellbeck Strategic Land on 6<sup>th</sup> October 2023 and is still pending determination, over 1 year later (ref: DM/23/2699).

- 9.9 The Council's application portal states that consultation on the submission is underway until 3<sup>rd</sup> December 2024.

**Firm progress being made towards the submission of an application?**

- 9.10 There is no clear evidence to demonstrate that firm progress is being made towards the submission of any reserved matters applications or any applications to discharge conditions. This is not surprising given that the outline permission has not yet been issued.

**Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

- 9.11 No evidence has been provided. The start and build-out rates have not been confirmed by a developer. It is not known who the developer of this site will be or what their start and build-out rates will be.
- 9.12 The evidence the Council relied on at the Albourne Inquiry (my appendix **EP9**) is out of date.

**Firm progress with site assessment work?**

- 9.13 No evidence has been provided. There is no clear evidence to demonstrate that firm progress is being made towards discharging any pre-commencement conditions.

**Clear relevant information about viability, ownership constraints or infrastructure provision?**

- 9.14 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

**Summary**

- 9.15 The site does not have planning permission. A hybrid planning application seeking outline permission for 550 dwellings has been pending determination for over 1 year. It is unknown whether or when the application will be approved. Indeed, the consultation period is still ongoing.
- 9.16 Even if the application is approved, reserved matters applications would still need to be submitted to and approved by the Council and the pre-commencement conditions discharged, a start on site made, and infrastructure put in place before any dwellings would be completed on the site.
- 9.17 The Council has not provided "clear evidence that housing completions will begin on site within five years." The site fails to meet the definition of "deliverable" as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **150 dwellings** from the Council's supply.



# 10.Ref: 246 – Hurst Farm, Hurstwood Lane, Haywards Heath

Capacity = 375 dwellings, Council’s 5YHLS = 215 dwellings, Appellant’s 5YHLS = 0 dwellings, Difference = 215 dwellings

## The Council’s case

10.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 215 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 10.1 – Council’s trajectory for Hurst Farm at 1<sup>st</sup> April 2023**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	0	40	75	100	215

10.2 The deliverability of the site at 1<sup>st</sup> April 2023 was challenged at the Albourne appeal. Paragraph 89 of the appeal decision states:

“The SoCG with Homes England provides written evidence of the future of this site, the SoCG anticipates delivery from 2025/26. Homes England acquired the site and will use contractual arrangements to ensure delivery at higher-than-normal delivery rates through the use of modern methods of construction on the site. Based on the written evidence before me, I have no reason to doubt that this site would not be delivered within the 5-year period and as such the 215 dwellings should be included in the HLS calculation.”

10.3 The SoCG with Homes England which the Council submitted to the Albourne Inquiry is provided in my appendix **EP9**. It is out of date as it relies on the submission of reserved matters application(s) in July 2024. This did not happen. The site still does not have outline planning permission.

10.4 The topic paper (core document **6.2**) and the Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**) provide the following trajectory for this site:



**Table 10.2 – Council’s trajectory for Hurst Farm at 1<sup>st</sup> April 2024**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	0	40	75	100	215

10.5 As can be seen, the Council has pushed the start date back from this site by 1 year compared to the position at 1<sup>st</sup> April 2023.

10.6 The Council’s evidence for the inclusion of this site is set out at appendix **EP5** and states:

“Haywards Heath Neighbourhood Plan allocation, made 15 December 2016.

Outline Application for <375 dwellings under DM/22/2272 PCO (Received 19/07/22) – Committee resolution to grant pending S106 (August 2023).

The Inspector for the Albourne appeal noted Homes England’s involvement as landowner and the contractual arrangements to achieve higher delivery rate (set out in SoCG with Homes England, July 2023).

Inspector concluded that the site remains capable of delivering 215 dwellings within the 5-year period.

Oct’24 - Case Officer confirms S106 with MSDC Legal for sign-off with no known issues outstanding.”

10.7 The Council’s evidence for the inclusion of this site is also included in my appendix **EP7** and states:

“Haywards Heath Neighbourhood Plan allocation Policy H1

Outline application (environmental statement) for **375 dwellings** (311x houses, 64x flats): pending consideration.

Went to District Cmt. (10.08.23) with recommendation to approve. Resolution to approve subject to S106.

S106 with WSCC for finalising no issues raised.”

## The Appellant’s case

### Current planning status

10.8 The site is allocated in the Haywards Heath Neighbourhood Plan and does not have planning permission.

10.9 An outline planning application for 375 dwellings was submitted on 19 July 2022 and is still pending determination, over 2 years later (ref: DM/22/2272). The application was considered at planning



committee on 10 August 2023 where it was recommended for approval subject to the signing of a Section 106 agreement to secure the following:

- Primary education: £525,000
- 2FTE primary school: £2,650,000
- Special Support Centre: £225,000
- Secondary education: TBC
- Sixth form education: TBC
- Libraries: TBC
- TAD: TBC
- Sussex Police: £70,289
- NHS: £575,534
- Sport England: £376,902
- Formal sport facilities: £459,286
- Community buildings: £263,414

10.10 The Section 106 agreement has not been signed to date, over 1 year later.

10.11 The Council's evidence states that in October 2024 the S106 was with the Council for sign off but it has still not been signed at the time of writing (18<sup>th</sup> November 2024).

#### **Firm progress being made towards the submission of an application?**

10.12 The Council's evidence states that there are 33 proposed planning conditions, including 19 pre-commencement conditions. There is no clear evidence to demonstrate that firm progress is being made towards the submission of any applications to discharge conditions; nor is there any evidence to suggest that progress is being made towards the submission of a reserved matters application. This is not surprising given that the outline permission has not yet been issued.

#### **Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

10.13 There is no written agreement between the LPA and the developer. It is not known who the developer is.

10.14 The Council's evidence refers to a Statement of Common Ground with Homes England dated 3<sup>rd</sup> July 2023 (my appendix **EP9**), which sets out the key milestones for the site as follows:

- Resolution to grant outline permission – August 2023
- Appointment of development partner – March 2024



- Engagement on pre-application advice on RM applications – April 2024
- Submission of RM applications – July 2024
- Determination of RM applications – December 2024
- Commence on site – May 2025

10.15 This timescale and evidence is out of date.

#### **Firm progress with site assessment work?**

10.16 No clear evidence with site assessment work has been provided. There is no clear evidence to demonstrate suggest that firm progress is being made towards discharging any pre-commencement conditions.

#### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

10.17 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

#### **Summary**

10.18 The site does not have planning permission. An outline planning application has been pending determination for over 2 years. The application was recommended for approval at planning committee in August 2023 subject to the signing of a S106 agreement. However, the S106 has been signed over a year later. Even if the permission is issued, reserved matters applications would still need to be prepared, submitted and approved by the Council. There is no written agreement with the developer of this site. It is not known who the developer is.

10.19 The Council has not provided “clear evidence that housing completions will begin on site within five years.” The site fails to meet the definition of “deliverable” as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **215 dwellings** from the Council’s supply.





# 11.Ref: 807 – Land south of The Old Police House, Birchgrove Road

Capacity = 25 dwellings, Council’s 5YHLS = 25 dwellings, Appellant’s 5YHLS = 0 dwellings, Difference = 25 dwellings

## The Council’s case

11.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 20 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 11.1 – Council’s trajectory for land south of the Old Police House at 1<sup>st</sup> April 2023**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	0	0	10	10	20

11.2 The deliverability of the site at 1<sup>st</sup> April 2023 was challenged at the Albourne appeal. Paragraph 92 of the appeal decision states:

“These sites have been assessed through the Examination process for the recently adopted Site Allocations DPD and found sound. The Council indicated that there has been some progress on some of these sites since Examination. In relation to Woodfield House, pre application discussions are in progress and there is now a SoCG with Homes England. The owners of Hammerwood Road have identified a housebuilder. The housebuilder in control of the Old Police House has requested pre-application advice. As such in relation to these 3 sites I do not accept the argument that there has been no progress towards delivery. Progress is underway and having regard to the evidence on delivery timescales in Mid Sussex I am satisfied that delivery within the 5-year period is reasonable. These 3 sites and their anticipated unit yield should remain within the HLS calculation.”

11.3 The topic paper (core document **6.2**) and the Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**) provide the following housing trajectory for this site:



**Table 11.2 – Council’s trajectory for land south of the Old Police House at 1<sup>st</sup> April 2024**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	0	5	10	10	25

11.4 The Council’s evidence for the inclusion of this site is set out at appendix **EP5** and states:

“Site Allocation DPD - SA28

Application for 25 dwellings DM/23/2172 – Planning Committee resolution to grant pending S106 (11/01/24).

1 April 2024 – Moves to B-List ‘Major Allocated Sites with Application Submitted’ for 25 units in 2024 5YS”

11.5 **EP7** and states:

“Site Allocation DPD allocation SA28

Full application for 25 dwellings (14x houses, 11x flats): pending decision.

Amended plans and additional information November 2023. Went to Planning Cmt. (11.01.24) with recommendation to approve. Resolution to approve subject to S106”

### The Appellant’s case

#### Current planning status

11.6 The site is allocated in the Site Allocations DPD and does not have planning permission.

11.7 A full planning application for 25 dwellings was submitted on 18 August 2023 and is still pending determination, over 1 year later (ref: DM/23/2172).

11.8 The application was considered at planning committee on 11 January 2024 where it was recommended for approval subject to the signing of a Section 106 agreement to secure the following:

- Primary education: £58,435
- Secondary education: £68,890
- Libraries: £8,046
- TAD (Sustainable Transport): £77,583

11.9 The S106 agreement has been signed to date. Six extension of time agreements have been requested to allow the completions of the S106 agreement, as follows:



- 15 April 2024 – EoT agreed to 11 June 2024
- 12 June 2024 – EoT agreed to 30 August 2024
- 07 August 2024 – EoT agreed to 11 September 2024
- 12 September 2024 - EoT agreed to 11 October 2024
- 02 October 2024 - EoT agreed to 11 November 2024
- 14 November 2024 – EoT agreed to 29 November 2024

#### **Firm progress being made towards the submission of an application?**

11.10 The Council’s evidence states that there are 40 proposed planning conditions, including 11 pre-commencement conditions. There is no evidence to demonstrate that firm progress is being made towards the submission of any applications to discharge conditions.

#### **Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

11.11 No evidence has been provided. The start and build-out rates have not been confirmed by a developer.

#### **Firm progress with site assessment work?**

11.12 No evidence has been provided. There is no evidence to suggest that progress is being made towards discharging any pre-commencement conditions.

#### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

11.13 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

#### **Summary**

11.14 The site does not have planning permission. An application has been pending determination for over 1 year, and whilst it was recommended for approval in January 2024, the Section 106 agreement has still not been signed. 6 extension of time agreements have been signed since April 2024, with the latest extending the period of determination to 29 November 2024. The Council has not explained why the S106 has not been signed almost a year after the resolution to grant was made.

11.15 The Council has not provided “clear evidence that housing completions will begin on site within five years.” The site fails to meet the definition of “deliverable” as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **25 dwellings** from the Council’s supply.



## 12.Ref: 477 – Land adjacent to Cookhams, South of Top Road

Capacity = 13 dwellings, Council’s 5YHLS = 13 dwellings, Appellant’s 5YHLS = 0 dwellings, Difference = 13 dwellings

### The Council’s case

12.1 In its 5YHLS position at 1<sup>st</sup> April 2023, the Council claimed that this site was deliverable and that 50 dwellings should be included in the 5YHLS to 31<sup>st</sup> March 2028. The trajectory in its position statement (base date 1<sup>st</sup> April 2023 – core document **6.1**) is as follows:

**Table 12.1 – Council’s trajectory for land adjacent to Cookhams at 1<sup>st</sup> April 2023**

Year 1 2023/24	Year 2 2024/25	Year 3 2025/26	Year 4 2026/27	Year 5 2027/28	Total 5YHLS
0	0	0	10	3	13

12.2 The topic paper (core document **6.2**) and the Council’s 5YHLS position at 1<sup>st</sup> April 2024 (my appendix **EP6**) provide the following trajectory for this site at 1<sup>st</sup> April 2024:

**Table 12.2 – Council’s trajectory for land adjacent to Cookhams at 1<sup>st</sup> April 2024**

Year 1 2024/25	Year 2 2025/26	Year 3 2026/27	Year 4 2027/28	Year 5 2028/29	Total 5YHLS
0	0	10	3	0	13

12.3 The Council’s evidence for the inclusion of this site is set out at appendix **EP5** and states:

“DM/22/1384 – Pending Decision – Approval subject to completion of S106.

Oct’24 - Case Officer confirms S106 with Developer’s Solicitor for completion with no known issues outstanding.

Trajectory reflects that site is being promoted by a developer, it is a relatively small site, and S106 sign off expected shortly. Modest sized site.”



12.4 The Council's evidence for the inclusion of this site is set out at appendix **EP7** and states:

"West Hoathly Neighbourhood Plan allocation WHCS\_06

Full application for 13 dwellings (all houses): pending decision. Went to Planning Committee (15.06.2023) with recommendation to approve. Resolution to approve subject to S106.

Awaiting completion of S106 – is with applicant. No issues raised."

### The Appellant's case

#### Current planning status

12.5 The site is allocated in the West Hoathly Neighbourhood Plan and does not have planning permission.

12.6 A full planning application for 13 dwellings was submitted on 29 April 2022 and is still pending determination, over 2.5 years later (ref: DM/22/1384).

12.7 The application was recommended for approval at planning committee on 15 June 2023 subject to the signing of a Section 106 agreement to secure the following:

- Primary education: £56,888
- Secondary education: £61,226
- 6<sup>th</sup> form education: £14,342
- Libraries: £5,620
- TAD: £46,931
- Equipped play: £13,488
- Kickabout facilities: £11,330
- Formal sport facilities: £15,447
- Community buildings and infrastructure: £17,710

12.8 However, a S106 has been signed to date, **over 1.25 years later**.

#### Firm progress being made towards the submission of an application?

12.9 The Council's evidence states that there are 21 proposed planning conditions, including 7 pre-commencement conditions. There is no clear evidence to demonstrate that firm progress is being made towards the submission of any applications to discharge conditions.



**Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

12.10 No evidence has been provided. The start and build-out rates have not been confirmed by a developer.

**Firm progress with site assessment work?**

12.11 No evidence has been provided. There is no clear evidence to demonstrate that firm progress is being made towards discharging any pre-commencement conditions.

**Clear relevant information about viability, ownership constraints or infrastructure provision?**

12.12 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

**Summary**

12.13 The site does not have planning permission. An application has been pending determination for over 2.5 years. Whilst the application was recommended for approval in June 2023, a Section 106 agreement has not been signed to date, over 1.25 years later.

12.14 The Council has not provided “clear evidence that housing completions will begin on site within five years.” The site fails to meet the definition of “deliverable” as set out on page 69 of the Framework and should be removed from the supply. This results in a reduction of **25 dwellings** from the Council’s supply.



## 13.Ref: 847 – Former East Grinstead Police Station

Capacity = 22 dwellings, Council's 5YHLS = 22 dwellings, Appellant's 5YHLS = 0 dwellings, difference = 22 dwellings

- 13.1 This site did not have planning permission at the base date. A planning application had not been made at the base date.
- 13.2 A full planning application was made in May 2024 (i.e. after the base date) for:
- “Proposed change of use of existing redundant Police Station to create 33 residential apartments. Demolition of existing south and west blocks to new build, re-use of existing east block including associated landscaping, parking, bin and cycle stores”
- 13.3 The full planning application is pending determination and the latest position is that the Council has sought agreement for an extension of time until February 2025.
- 13.4 The Council has not provided clear evidence of deliverability for this site. It is not known what clear evidence the Council had at the base date for concluding this site was deliverable then or since that time. There is no written agreement with a developer.
- 13.5 The planning application is pending determination, is subject to outstanding objections and has not been determined.
- 13.6 In the absence of clear evidence, this site should not be included in the 5YHLS and **22 dwellings** should be removed.



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