



St Helen's Local Plan Examination

Lovell Partnerships Ltd's Response to Matter 7 – Specific Housing Needs and Standards

Land at Chapel Lane

On behalf of Lovell Partnerships Ltd.
May 2021

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1. INTRODUCTION

- 1.1 This Hearing Statement has been prepared by Asteer Planning on behalf of Lovell Partnerships Limited ('Lovell') in relation to **Matter 7 – Specific Housing Needs and Standards**. Lovell are working closely with the landowners (previously promoting the site) and have an agreement in place to promote the land at Chapel Lane, Sutton Manor ('the site') which is proposed to be removed from the Green Belt and designated as a safeguarded site for housing (Site 6HS) through the Local Plan (Policy LPA06: Safeguarded Land).
- 1.2 This Hearing Statement is issued following the conclusion of Week 1 Hearings in respect of Matters 1, 2 and 3 (25-27 May 2021). In the Matter 2 and 3 sessions, we identified two overarching soundness failures in respect of (a) affordable housing provision and (b) housing land supply.
- 1.3 Lovell's proposed development is a direct response to both.
- 1.4 Lovell are seeking to bring forward a high quality, sustainable residential development for 100% affordable housing on the site, delivering 150 affordable homes early in the plan period through its joint venture partnership (Lovell Together) with Together Housing Group, a Registered Social Landlord. Lovell – Together Corporate Joint Venture LLP is an existing special purpose vehicle under which this site would be delivered. Together Housing Group are a Homes England Strategic partner and have an existing £53m of Homes England grant allocation secured to give greater certainty on delivery.
- 1.5 It is proposed that the site will deliver 50% affordable rent and 50% shared ownership using existing grant funding. As a consequence of the funding, the site is highly deliverable and would make a significant positive contribution towards meeting both affordable housing and overall housing needs early in the Plan period.
- 1.6 Lovell are requesting main modifications to Policy LPA05 (Meeting St.Helens Borough's Housing Needs) and Policy LPA06 (Safeguarded Land) to convert the safeguarded site allocation back into a full allocation. This would effectively return the site to the status it held in the draft development plan documents as recently as 2017 as set out in previous representations made at Preferred Options stage. The Site is located adjacent to the settlement boundary of the St Helens Core Area, identified by Policy LPA02, as supplemented by the Council's submission as the most sustainable location for growth – and the appropriate location to address major current issues of deprivation.
- 1.7 This Statement responds directly to the Inspectors' MIQs, however, it should be read in conjunction with previous representations issued on these issues, including many by other parties that have identified significant flaws in the Council's claimed housing land supply. Where relevant, the comments made are assessed against the tests of soundness established

by the National Planning Policy Framework ('NPPF'), as supplemented by the National Planning Practice Guidance ('PPG').

- 1.8 This Statement focusses upon the question of affordable housing supply as a component of the overall supply of housing land. As explained at the Matter 2 hearing, in response to Q6f, the plan assessed as a whole, will not make sufficient provision to meet affordable housing needs, especially taking into account under-provision since 2016. The twin soundness failures are inextricably linked.
- 1.9 Separate representations are being submitted in respect of the following matters and should be read in conjunction with this Statement:
- Matter 1 – Introduction to the Hearings, Legal Compliance, Procedural, Requirements, and the Duty to Cooperate;
 - Matter 2 - Housing and Employment Needs and Requirements;
 - Matter 3 – Spatial Strategy and Strategic Policies;
 - Matter 4 – Allocations, Safeguarded Land and Green Belt Boundaries; and,
 - Matter 5 – Housing Land Supply.

2. LOVELL'S RESPONSE TO MATTER 7

- 2.1 This section of this statement sets out the relevant Matter 7 issues and questions within the Inspectors' MIQs to which Lovell wishes to provide a response, including identifying elements/issues that render the plan unsound in the context of paragraph 35 of the NPPF, and how these should be resolved to make the plan sound.
- 2.2 Lovell's comments are confined to Issue 3: Affordable Housing, specifically Questions 12 and 14.
- 2.3 We make the following preliminary observations.
- 2.4 First, Lovell's response to Matter 5 has explained why the Council will be unable to demonstrate a 5 year supply of housing land upon adoption of the Plan. A Local Plan review would therefore be required immediately upon adoption. This is clearly not a sound approach to plan making. It is directly contrary to NPPF 59, 68 and 73, and the broader provisions of NPPF 11b, 20 and 35a-d. In order to ensure that a 5-year housing land supply can be demonstrated and thus avoid an immediate review of the Local Plan, the Council must allocate additional deliverable sites now, such as the Chapel Lane site.
- 2.5 Second, we refer to the earlier evidence submitted in respect of Matter 2, Tetlow King's detailed analysis of affordable housing need in St Helens in the 'Affordable Housing Need Statement (Appendix I to Lovell's response to Matter 2) and Tetlow King's analysis of affordable housing supply within its Affordable Housing Supply Statement (May 2021). This was contained as an Appendix to our Matter 5 statement, and we re-attach this to this Hearing Statement for Matter 7.
- 2.6 The Tetlow King Affordable Housing Need Statement for Matter 2 identified that as backlog needs had accrued since 2016, there was a clear need for at least 176 net affordable homes per annum for the first five years of the plan period (Total 880 units). Since submission of the Affordable Housing Need Statement as part of Lovell's Matter 2 response, the Council has extended the period of the Plan to 2037 and provided a figure of 276 affordable dwellings as being those completed in the monitoring period 2020/2021. On this basis, the annual net need is now 144 dwellings per annum in the first five years. This figure is set out in the Tetlow King Affordable Housing Supply Statement (**Appendix I** to this statement). We shall refer to this again under Q12 below.
- 2.7 Third, we have noted the Council's submissions on the basis of Kings Lynn and West Norfolk BC [2015] EWHC 2464 (Admin) (**Appendix II**), to the effect that there is no requirement that affordable housing need should be met in full through the housing requirement. This submission is based upon [32]-[35] of that judgment.

- 2.8 In Matter 2, it was noted that this was a s288 challenge to an Inspector's decision in respect of the NPPF 2012 wording. In Matter 3, it was submitted on behalf of the Council that the wording had not altered in the NPPF 2018/2019 versions.
- 2.9 *Kings Lynn* is self-evidently not a judgment about the approach to affordable housing need at a Local Plan examination in the current era. The claim dates from the pre-standard method era, and the calculation of FOAN at appeal. The ground of challenge in question relates to whether the Inspector was entitled to make an allowance for vacancies and second homes in the setting the FOAN, see notably paragraph 17. The Conclusions section of the judgment, paragraph 27 to 35 then examines the wording of the then NPPF, notably NPPF 159. These were not directed at the specific question in issue, and are described simply as "background at paragraph 36. It is formally *obiter dicta* commentary on a separate issue, i.e. not part of any binding legal precedent. However, in any event, the remarks relate to a different statutory format (the s78 appeal process) and a different national policy era, that which existed pre-2018.
- 2.10 Dove J, notwithstanding his experience, was not sitting as a Planning Inspector. His remarks notably at [32] are therefore made simply in the abstract. He did not and could not consider the specific level of unmet affordable housing need, nor how this would be delivered. In particular he refers to delivery through open-market schemes, but makes no reference to the possibility of 100% affordable housing schemes. At [33], it is notable that he described affordable housing needs as "an important influence increasing the derived FOAN since they are significant factors in providing for housing needs within an area." Furthermore, [35] notes "*When a planning authority has undertaken or commissioned a SHMA, that will obviously be an important piece of evidence, but it is not in and of itself conclusive. It will be debated and tested at the local plan examination or (as in the present case) in appeals within the development control process.*"
- 2.11 The question for this examination is therefore an immediate and practical one: to identify how to ensure a sufficient level of affordable housing should be for the plan period, taking into account (a) current national policy and guidance, (b) the specific evidence submitted by the Council and examination participants in respect of current affordable housing needs and those due to arise over the plan period, (c) the specific evidence submitted on affordable housing supply.
- 2.12 The Council's submission on *Kings Lynn* is necessarily limited, to state that there is no obligation to meet affordable housing needs "in full". That is far as the submission can be taken. It is plain from the policy wording and as a basic matter of planning practice that affordable housing needs are a matter of fundamental importance to plan-making. In the s78 appeal context, Inspectors almost universally accord the provision of affordable housing "very significant" or "very substantial" weight.

- 2.13 In assessing the soundness of the plan, it is plainly necessary pursuant to NPPF 61 and PPG 2a-024 to consider (a) the correct level at which to set the housing requirement; (b) any policies in respect of developer contributions, but also most importantly (c) whether additional specific allocations should be made to provide for identified affordable housing needs early within the plan period (e.g. within the first five years).

Issue 3: Affordable Housing

12. Is the zonal approach to the provision of affordable housing within Policy LPC02 positively prepared and justified by proportionate evidence including the EVA?

- 2.1 Lovell consider that the zonal approach is not positively prepared, effective, justified or consistent with national planning policy – because it will not lead to the delivery of sufficient affordable housing over the plan period, and especially within the next five years. The Tetlow King Affordable Housing Land Supply Statement (**Appendix I**) assesses the realistic supply of affordable housing in the Borough for the period 2021/22 to 2036/2037, including large sites within the trajectory and the proposed allocations and also taking into account commuted sums and Right to Buy (RTB) losses.
- 2.2 Even where sites are delivering affordable houses, the greatest numbers would not be delivered until the latter part of the trajectory period.
- 2.3 When considering future affordable housing delivery against the expected delivery undertaken by the applicants, the Council would make a **loss** in the number of gross affordable dwellings per annum, over the next five years (-7 or -50) and over the length of the Local Plan period would make either a very marginal gain or a greater loss of affordable dwellings (+41 or -63).
- 2.4 Clearly these future supply figures fall significantly short of the 144 per annum figure (720 over the first five years) required when backlog needs are addressed in line with the Sedgfield approach, or the 117 per annum figure thereafter.
- 2.5 When average losses as a result of the RTB are taken into account, it is clear that the Council is facing a bleak prospect of delivering very few additional affordable dwellings and is not in any meaningful way seeking to boost the supply of affordable housing, based on Tetlow King's analysis of the available sites.
- 2.6 In order to address this critical issue, the Council must allocate sites which can deliver affordable housing early in the plan period. As set out in detail in Lovell's response to Matter 4, the Chapel Lane site offers a rare and unique opportunity to deliver a 100% affordable scheme, contributing to meeting the Borough's critical affordable housing needs through an already established joint venture between a reputable housebuilder and RP. Furthermore, this opportunity is even more notable as the site sits within the Bold Ward where deprivation is a real issue and adjoins the St Helens Core Area, which, as acknowledged by the Council at the

Matter 3 hearing session, is the greatest area of deprivation, and the most sustainable location in the Borough.

- 2.7 We have set out the intended timescale at **Appendix III**. Lovell are ready to submit an application at the point of plan adoption and then proceed rapidly to deliver the full 150 units within 5 years between 2023/24 and 2025/26.

14. Is Policy LPC02 sufficiently flexible to take into account that circumstances will vary site-by-site (Section 4 refers)?

- 2.8 As explained at the Matter 2 hearing, in response to Q6f, the plan assessed as a whole, will not make sufficient provision to meet affordable housing needs, especially taking into account under-provision since 2016.
- 2.9 Regardless of how flexible or otherwise Policy LPC02 is, as demonstrated by the Tetlow King work, and as set out in this statement and Lovell's response to Matter 5, the Council's approach to affordable housing will simply not deliver enough affordable housing to address the identified overarching soundness failure in respect of affordable housing provision.
- 2.10 In order to address this critical issue, the Council must allocate sites which can deliver affordable housing early in the plan period.

Comments on Soundness in respect of Issue 3

- 2.11 When considering the tests of soundness set out in Paragraph 35 of the NPPF, the Plan as submitted is not sound for two fundamental reasons:
- Firstly, Paragraphs 67 and 73 of the NPPF, the Council is unable to demonstrate a 5 year supply of housing land upon adoption of the Local Plan; and,
 - Secondly, the Council's approach to delivering affordable housing will fall substantially short of meeting the over-riding current need for affordable housing in the context of NPPF Paragraph 61 and Paragraph 2a-024 of the PPG¹).
- 2.12 These are simply not issues that can be addressed through a statutory review of the local plan (full or partial) after 5 years.
- 2.13 In accordance with the requirements of Policy LPA05 as drafted (including the Council's proposed schedule of Main Modifications in SHBC010), a Local Plan review would be required immediately upon adoption of the Plan. This is clearly not a sound approach to plan making.

¹ Reference ID: 2a-024-20190220

- 2.14 In order to ensure that the plan is sound, the Council must allocate additional deliverable sites now, such as the Chapel Lane site which will deliver 150 affordable dwellings in the first 5 years of the plan period.
- 2.15 In order to address the current affordable housing crisis, which will only be exacerbated by the Council's proposed approach to the provision of affordable housing, the Council must allocate deliverable sites that will provide a significant proportion of affordable housing, particularly in the areas of the Borough adjacent to the St Helens Core Area which is the greatest area of deprivation, and the most sustainable location in the Borough as acknowledged by the Council at the Matter 3 hearing session.

**APPENDIX I – TETLOW KING’S AFFORDABLE HOUSING SUPPLY
STATEMENT (MAY 2021)**

Affordable Housing Supply Statement

Land off Chapel Lane, St Helens

Affordable Housing Supply Statement

Land off Chapel Lane, St Helens

Lovell Partnerships Ltd

May 2021

OUR REF: M20/1201-02.RPT

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Introduction

Section 1

- 1.1 **Tetlow King Planning** are instructed by **Lovell Partnerships Ltd** to prepare a Statement in respect of the supply of Affordable Housing within St Helens Borough, in relation to their proposals for land off Chapel Lane, St Helens. This Statement is in addition to Tetlow King Planning's Affordable Housing Statement.
- 1.2 This site is proposed to be delivered as a **100% affordable scheme**, with 50% affordable rent and 50% shared ownership using existing grant funding. As a consequence of the funding, the site is considered to be highly deliverable.
- 1.3 This Statement assesses the realistic supply of affordable housing in St Helens Borough for the period 2021/22 to 2036/2037, the proposed revised period of the emerging Local Plan (the submission plan previously covered the period 2020/21 to 2034/2035).

Affordable Housing Planning Policy

Section 2

Adopted Policy on Affordable Housing

- 2.1 The currently adopted Development Plan is the St. Helens Local Plan Core Strategy (adopted October 2012) which covers the period from 2003 to 2027.
- 2.2 Policy CH2 of the Core Strategy seeks to meet St. Helens' housing needs and states that this will be achieved by the delivery of Affordable Housing including by requiring all private sector development on sites of 5 or more units to comply with a Borough-wide target of at least 30% of the total capacity of the new residential development. Any relaxation of the requirement will only be considered if fully justified by an independent site-specific economic viability study.

Emerging Policy on Affordable Housing

- 2.3 Emerging Policy LPC02 (Affordable Housing) of the Submission Draft Local Plan sets out in detail the requirements for affordable housing of different tenures and in different areas of the Borough.
- 2.4 It requires that proposals for new open market housing developments of 10 units or more will be required to contribute as follows:
- a) at least 30% of new dwellings provided on greenfield sites in Affordable Housing Zones 2 and 3 must fall within the definition of 'affordable housing';
 - b) at least 10% of new dwellings provided on brownfield sites in Affordable Housing Zone 3 must fall within the definition of 'affordable housing'.
- 2.5 The policy goes on to state that provision of affordable housing may vary on a site-by-site basis taking into account evidence of local need and where appropriate, the economic viability of the development but that any relaxation of the affordable housing requirements will only be supported if:
- a) it is fully justified by an independent site-specific viability appraisal; and

- b) the benefits of proceeding with the development outweigh the failure to provide the full affordable housing contribution.

2.6 Table 1 below sets out the proposed Affordable Housing Zone requirements¹ and a plan (taken from Figure 6.1 in the Submission Draft Plan) is included at **Appendix 1** for reference.

Affordable Housing Zone	Areas	Affordable Housing Requirement
1	Town Centre and Parr wards	No affordable housing requirement due to viability constraints
2	Blackbrook, Bold, Earlestown, Haydock, Sutton, Thatto Heath, West Park Billinge & Seneley Green, Moss Bank, Newton, Windle	30% requirement on greenfield sites 0% requirement on brownfield sites
3	Eccleston, Rainford, Rainhill	30% requirement on greenfield sites 10% requirement on brownfield sites

Table 1 - Affordable Housing Zones

2.7 Justification for the proposed Affordable Housing Zones is detailed with the Economic Viability Assessment (December 2018) which was prepared by Keppie Massie and forms part of the Local Plan Evidence Base.

¹ Derived from Table 6.3 of the Submission Draft Local Plan (January 2019).

Past Delivery

Section 3

Past Affordable Housing Delivery

- 3.1 As identified in the Affordable Housing Statement, since 2005/06 there have been a total of 7,707 overall housing completions and 1,680 gross affordable housing completions, equivalent to an average of just 112 gross affordable dwellings per annum. When losses as a result of the Right to Buy are taken into account, the Council achieved a total of just 1,161 affordable dwellings, or just 75 dwellings per annum.
- 3.2 The number of affordable homes compared with overall completions is, at an average of only 15.1% significantly below the Core Strategy's target of 30%.

Identified Net Annual Needs

- 3.3 As identified in the Affordable Housing Statement, there have been a range of assessments of housing need in St Helens in recent years. The most relevant is the Strategic Housing Market Assessment Update in January 2019.
- 3.4 The SHMA provides an update for St Helens Borough Council to the Mid Mersey Strategic Housing Market Assessment produced in 2016 (referred to in the Local Plan).
- 3.5 The 2019 analysis has been based on meeting affordable housing need over the 17-year period from 2016 to 2033 taking into account current need, newly forming households and existing households falling into need, less the supply of affordable houses from vacant stock and the development pipeline.
- 3.6 At figure 5.22 of the SHMA, it calculates an overall need for affordable housing of **117** units per annum over the period to 2033 in St Helens for subsidised housing at a cost below that to access the private rented sector (i.e. for households unable to access any form of market housing without some form of subsidy).
- 3.7 The future delivery of affordable housing is highly uncertain. Past delivery has fluctuated considerably and the delivery of a high number of affordable homes one year does not guarantee this will continue for future years. The supply of affordable housing is affected by local market factors, including the numbers of sites with planning permission and also wider national factors including availability of public funding.

- 3.8 Although the SHMA seeks to deal with the backlog over the period that it assesses, any shortfall in delivery should be dealt with within the next five years in accordance with the 'Sedgefield' approach. This is also the approach set out within the PPG.
- 3.9 Figure 3.1 (taken from the Affordable Housing Statement) provides an illustration of the annual affordable housing need when the Sedgefield approach is applied, addressing backlog needs within the first five years.
- 3.10 This shows that when backlog needs accrued since 2016 are taken into account (-293 dwellings), there is a need for 176 net affordable homes per annum for the submitted five-year period between 2020/21 and 2024/25.

Figure 3.1 – Net annual need in St Helens taking into account Sedgefield based on the submitted plan period of 2020/21 to 2035/36

A	Net Affordable housing need identified in the 2019 SHMA update (per annum)	117
B	Net Affordable housing need for the period 2016/17 – 2019/20 (A x 4)	468
C	Affordable housing completions for the period 2016/17 – 2019/20	175
D	Shortfall/backlog of affordable housing against need for the period 2016/17 – 2019/20 (B – C)	293
E	Backlog affordable housing need required to be addressed over the 5-year period 2020/21 – 2024/25 (D / 5) (per annum)	59
F	Full affordable housing need required over the period 2020/21 – 2024/25 (E + A) (per annum)	176

- 3.11 Since submission of the Affordable Housing Statement, the Council has extended the period of the Plan to 2037 and provided a figure of 276 affordable dwellings as being those completed in the monitoring period 2020/2021. On this basis the annual net need over the five-year period is set out in Figure 3.2.

Figure 3.2 – Net annual need in St Helens taking into account Sedgefield based on the revised Plan period

A	Net Affordable housing need identified in the 2019 SHMA update (per annum)	117
B	Net Affordable housing need for the period 2016/17 – 2020/21 (A x 5)	585
C	Affordable housing completions for the period 2016/17 – 2020/21	451
D	Shortfall/backlog of affordable housing against need for the period 2016/17 – 2020/21 (B – C)	134
E	Backlog affordable housing need required to be addressed over the 5-year period 2021/22 – 2025/26 (D / 5) (per annum)	27
F	Full affordable housing need required over the period 2021/22 – 2025/2026 (E + A) (per annum)	144

Sources of Supply/Loss of Affordable Housing

Section 4

- 4.1 This Section of the report sets out the various sources of supply from which the council expects affordable housing to be delivered, and sets out Tetlow King Planning's methodology for assessing the realistic supply of affordable housing from each source, plus additional sources Tetlow King Planning has identified (i.e. Commuted Sums). We also take into account losses from Right to Buy losses.
- 4.2 The Council published its most recent (May 2021) version of its Housing Trajectory for the period 2021 – 2037 with a base date of 31.03.2021, including an update to all 2017 SHLAA sites and any new sites with planning permission.
- 4.3 The Council's overall supply comprises the following sources:
- 1) Large Sites - planning permission not started (including SHLAA 2017 sites that have since gained planning permission but not started);
 - 2) Large sites - planning permission under construction (including SHLAA 2017 and new large sites with planning permission and under construction);
 - 3) Large sites - SHLAA sites (including SHLAA 2017 sites with planning permission that has now expired);
 - 4) Local Plan Allocations (including those previously counted as SHLAA sites, 3HA, 6HA, 9HA and 10HA); and,
 - 5) Small sites allowance (93 dwellings per annum).
- 4.4 We have analysed these sites to establish the likely level of affordable housing to be delivered from each of these sources.
- 4.5 We have then identified when within the trajectory the affordable houses are likely to be delivered, with particular emphasis on the first five years.

Sites in the Council's Large Site Trajectory 2021/22 – 2036/37 (sources 1-3 above)

Sites with Extant Planning Permission (sources 1 and 2 above)

- 4.6 Where these sites have extant planning permission, we have used the number of affordable houses secured by that permission (through a condition or s106) to establish the likely number of affordable houses to be delivered.
- 4.7 Affordable Housing delivery may vary on a site-by-site basis taking into account the economic viability of the development. In some cases, a relaxation of the affordable housing requirements will be supported if it is fully justified by an independent site-specific viability appraisal and the benefits of proceeding with the development outweigh the failure to provide the full affordable housing contribution.
- 4.8 Alternatively, some sites may provide more affordable housing than required by policy LPC02, where the applicant is a Registered Provider and the total number of affordable houses are secured by planning condition or s106.

SHLAA Sites (source 3 above)

- 4.9 Where sites in the trajectory do not have planning permission, we have assessed the likely number of affordable houses to be delivered, based on the requirements of Emerging Policy LPC02 (Affordable Housing) of the Submission Draft Local Plan 2021-2037.
- 4.10 As identified in Section 2 above, the emerging policy sets out in detail the requirements for affordable housing of different tenures and in different areas of the Borough based on their viability and requires that proposals for new open market housing developments of 10 units or more will be required to contribute at least 30% of new dwellings as affordable units on greenfield sites in Affordable Housing Zones 2 and 3; and at least 10% of new dwellings provided on brownfield sites in Affordable Housing Zone 3. No affordable housing is required for proposals of less than 10 units or within Housing Zone 1, or on Brownfield sites in Housing Zone 2.
- 4.11 Where sites are within both greenfield and previously-developed land, we have assessed the site to establish whether it is predominantly brownfield or greenfield to identify the correct requirement.
- 4.12 We have also then assessed the likelihood of each site to be delivered based on the comments within the 2017 SHMAA and the site's planning history available on the Council's website. We provide two trajectories, one based on the Council's

assessment of sites to be delivered (**Appendix 2**) and one based on our own assessment (**Appendix 3**).

Local Plan Allocations (source 4 above)

- 4.13 Tetlow King Planning have carried out analysis of the likely supply of overall housing and affordable housing from the Council's 10 proposed allocations. This analysis is presented at **Appendix 4**.

Windfalls and Small Sites (source 5 above)

- 4.14 All 465 windfall/small site dwellings in the claimed five-year housing land supply would be from sites below 10 dwellings capacity and would therefore not meet the ten dwelling threshold in the proposed policy wording (or the current policy's 15 dwelling threshold for on-site provision).
- 4.15 The Small Sites Windfall Allowance as a source of supply would not therefore deliver any affordable housing over the first five years of the plan period or for the rest of the period.

Commuted Sums

- 4.16 The current adopted Core Strategy policy CH2 details the Council's policy regarding affordable housing. It sets a threshold of 5 units, making clear that proposals of between 5 and 15 units would only normally be expected to provide an off-site commuted sum. The dwellings purchased by the Council from these funds would be a further source of affordable housing supply. Emerging Policy LPC02 however only requires contributions for proposals of 11 or more dwellings.

Average Annual Right to Buy losses

- 4.17 As we identified in the Affordable Housing Statement, it is important that losses through the Right to Buy are taken into account, to reflect the actual level of affordable houses available.
- 4.18 We have noted the response given by GL Hearn on behalf of the Council during Matter 2 and respond to this in Chapter 5.
- 4.19 Data is available on Right to Buy losses from the MCHLG's Private Registered Provider Social Housing Stock in England: Statistical Data Returns.
- 4.20 As shown by Figure 4.1, for the four-year period since the base date of the SHMA (2016/17 to 2019/20), there were a total of 291 affordable houses lost to the Right to

Buy over that period, an annual average of 73. 2019/20 is the most recent data available.

Figure 4.1 – Right to Buy losses 2016/17 to 2019/20

Year	Affordable Housing Completions <u>gross</u> of Right to Buy	Right to Buy losses	Affordable Housing Completions <u>net</u> of right to buy
2016/17	66	76	-10
2017/18	80	63	17
2018/19	128	76	52
2019/20	192	76	116
	466	291	175

Source: St Helens Annual Monitoring Reports, Private Registered Provider Social Housing Stock in England: Statistical Data Returns

- 4.21 When calculating the number of affordable homes likely to be delivered over the period 2021/22 to 2036/37, this average number should be used to give an indication of Right to Buy losses. Over 16 years this amounts to 1,168 affordable dwellings lost.

Analysis of Supply

Section 5

- 5.1 Tetlow King Planning has analysed the likely future supply of affordable housing in St Helens Borough for the period 2021/22-2036/37. Our assessment has focused on the large sites (10+ dwellings) in the Council's trajectory, together with the potential additional source of supply from commuted sums.
- 5.2 The analysis undertaken using methodology set out in Section 4 has been undertaken.
- 5.3 Of the 75 Large Sites included the trajectory, 22 would provide affordable housing between 2021-2037. A breakdown of the sites is illustrated at Figure 3.1 and a full breakdown is available at **Appendix 2** (based on the Council's trajectory) and **Appendix 3** (reflecting what we believe to be a more realistic position).
- 5.4 The emerging policy proposes that no affordable housing is sought for proposals within Zones 1 and (on brownfield site) in Zone 2. This change means that many sites that had to make 30% provision (or a commuted sum) under the current adopted policy would under the emerging policy make no provision for affordable housing at all.
- 5.5 Figure 5.1 demonstrates a total of 471 affordable dwellings will be brought forward from Large Sites over the sixteen-year period, this figure may be lower because of demolitions.

Figure 5.1 – Analysis of Affordable Housing from Large Sites 2021/22-2036/37

Site Ref	Status	Site	Total Capacity	AH Capacity	AH 2021 to 2025/26	AH 2026/27 to 2036/37
10	PP not started	Land at Junction of Sunbury Street and Fir Street	30	30	30	0
16	SHLAA Site	Land at Egerton Street	12	12	12	0
27	SHLAA site	Farmer Bethell Mission Bowling Green, Marsden Avenue	10	3	0	3
36	PP not started	Land & Premises at Lords Foods	55	3	3	0
60	SHLAA site	Vacant Land adjacent to Rail Line, Elephant Lane	112	34	0	34
82	SHLAA site	Land adjacent Laffak Rd and Carr Mill Rd	150	45	0	45
87	SHLAA site	Land West of Vista Road	33	10	0	10
89	PP not started	Land rear of 64-94 Marshalls Cross Road	32	32	32	0
91	SHLAA Site	Milton Street	25	8	0	8
96	SHLAA site	Land rear of 350 Warrington Road	11	3	3	0
NT06	PPUC	Phase 4 Land Site Of Former Vulcan Works Wargrave Road	86	9	9	0
134	SHLAA site	Land at Littler Road	11	4	0	4
135	SHLAA site	Land at Newby Place	13	4	0	4
150	SHLAA site	Former Red Quarry, Chester Lane	57	80	0	80
NT03	PP not started	Land to side and rear of 41- 49 Old Wargrave Road	20	6	0	6
HL525	PP not started	Fishwicks Industrial Estate, Baxters Lane	93	6	0	6
PR12	PP not started	Land adjacent to Bold Miners Site, WA9 2NH	50	50	50	0
HL651	PPUC	Emmanuel Church, Elephant Lane, St Helens	18	18	18	0
HL713	PPUC	Land between Sutton Road, Lancot Lane and Dismantled Railway Line	63	63	63	0
HL706	PP not started	The Club, 337 to 341 Church Road, Haydock	9	3	3	0
HL708	PP not started	1 Milwood Avenue, Eccleston	36	36	36	0
HL723	PP not started	The Phoenix Hotel, Canal Street, St Helens	12	12	12	0
TOTALS			939	471	271	200

Windfalls and Small Sites

- 5.6 As identified above, it is not considered that these sites would contribute to affordable housing supply.

Proposed Allocation Sites

- 5.7 Analysis of the Council's ten proposed housing allocations and how much they will contribute to the overall supply of housing and the supply of affordable housing is included at **Appendix 4**. In terms of affordable housing, this is summarised in Figure 5.2 below.

Figure 5.2 – Affordable houses from Proposed Allocations

	2021/22 to 2025/26	Rest of Plan Period	Total
1HA Land South of Billinge Road, Garswood	6	59	65
2HA Land at Florida Farm (South of A580), Slag Lane, Blackbrook	0	0	128
3HA Former Penlake Industrial Estate, Reginald Road, Bold	7	0	7
4HA Land bounded by Reginald Road/Bold Road/Travers Entry/Gorse Lane/Crawford Street, Bold (Bold Forest Garden Suburb)	0	126	126
5HA Land South of Gartons Lane and former St. Theresa's Social Club, Gartons Lane, Bold	7	148	155
6HA Land East of City Road, Cowley Hill, Town Centre	0	0	0
7HA Land West of the A49 Mill Lane and to the East of the West Coast Mainline railway line, Newton-le-Willows	3	25	28
8HA Land South of Higher Lane and East of Rookery Lane, Rainford	7	71	78
9HA Former Linkway Distribution Park, Elton Head Road, Thatto Heath	0	0	0
10HA Moss Nook Urban Village, Watery Lane, Moss Nook	0	0	0
Total	30	557	587

- 5.8 Based on the analysis at **Appendix 4**, the ten proposed allocations will likely deliver just **587 affordable dwellings over the plan period**.
- 5.9 Turning to the supply of affordable housing from the allocations within the 5YHLS, the allocations will likely deliver just **30 affordable dwellings over the first five years of the plan period**.
- 5.10 This leaves a substantial shortfall that the other sources of supply will need to make up if the Council is to deliver the required affordable housing.

Commuted Sums

- 5.11 The Annual Monitoring Report 2020 identifies that between 2015/16 and 2019/20 the Council received £1,764,869 in commuted sums for affordable housing in lieu of on-site provision.
- 5.12 The Government consultation (August 2018) on the “*Use of receipts from Right to Buy sales*” attached as **Appendix 5**, indicated that the cost of building an affordable home in the North West to be £122,000.
- 5.13 Therefore, based on the total £1,764.869 collected this would only deliver 14 affordable homes over 5 years (47 over 16 years).
- 5.14 The emerging policy sets a threshold of 11 units for affordable housing and does not continue the previous requirement for commuted sums for schemes of between 11 and 15 dwelling proposals. Therefore, the number of commuted sums is likely to be fewer than in previous years.
- 5.15 For the purposes of this assessment, we have assumed a similar number (14 dwellings) can be used for supply from this source for the period 2021/2022 to 2036/37, with the caveat that even this figure is too high.

Average Annual Right to Buy Losses

- 5.16 As identified above there are likely to be losses of affordable houses every year of an average of 73 affordable dwellings through the Right to Buy.
- 5.17 The net addition to affordable housing stock is directly affected by the loss of stock available, to help house those in housing need, by the sale of properties covered by the Government’s Right to Buy scheme.
- 5.18 The losses made in St Helens need to be replaced on a one-for-one basis – over the 16 year period of the emerging Plan this amounts to a requirement for 1,168 additional affordable dwellings, just to make up for those lost to the Right to Buy.

- 5.19 Just to replace the dwellings lost through Right to Buy the Authority would need to deliver 3,893 market dwellings, assuming 30% of these would be affordable. In reality it would be a much greater number given that provision in the Borough is not 30% and varies between 0% and 30%. This is just to stand still, before any inroad is made into meeting the housing need.
- 5.20 We have noted the responses given by GL Hearn on behalf of the Council during Matter 2, to the effect that a Right to Buy purchase is completed by an individual who remains in the property and therefore there should be no impact on the calculation of the *requirement* figure.
- 5.21 This approach is not consistent with well-established approaches to affordable housing as a specific type of housing.
- 5.22 However, it is particularly inapt when calculating future affordable housing supply. The house purchased through Right to Buy is lost to future occupiers and cannot then form part of the future supply.
- 5.23 It has been established across a number of Inspector's appeal decisions that RTB losses must be deducted from the supply, because of the specific nature of the withdrawal of such dwellings. We refer in particular to the appeal decision at North Worcestershire Golf Course (appeal reference APP/P4605/W/18/3192918) where the right to buy losses also resulted in significant reductions to the net affordable housing completions. The Inspector noted at paragraph 9.49 of the appeal decision:
- "Mr Stacey's evidence on affordable housing provision was not challenged. Table 7.1 of his proof shows that, over the first 6 years of the plan period 2,757 new affordable homes were provided against a target provision of 5,820 (6x970). When the losses of social rented dwellings through right to buy purchases is taken into account that equates to a net provision of only 151 new affordable homes over that period (Mr Stacey's Tables 7.2 & 7.3) against an identified need for 970 affordable homes each year. This represents only 1% of all completions over those 6 years and 3% of the affordable housing need for that period. It has also resulted in a net delivery shortfall of 5,669 affordable homes over the plan period to date"*
- 5.24 Similarly in the appeal at Land off Darnhall School, Winsford, Cheshire West and Chester (reference APP/A0665/W/14/2212671) at **Appendix 6**, the Inspector recognised (at paragraph 409) that *"affordable homes have continually been lost from the stock as a result of the 'right to buy'".*

- 5.25 Furthermore, a one-for-one approach in respect of replacements for those lost through the Right to Buy has been taken in Strategic Housing Market Assessments and very recently in Local Housing Needs Assessments (LHNA).
- 5.26 For example, the Cotswold District Council SHMA Further Update, Affordable Housing (April 2016), at Table 2.5, identified that *“the requirement for 711 Affordable Rented and 365 new social rented homes is the net increase required and so any loss of this stock through Right-to-Buy will also need to be replaced with equivalent dwellings.” (our emphasis).*
- 5.27 More recently, the LHNA undertaken in Middlesbrough in January 2021 identified (at paragraph 4.70) that:
- “Any losses from the current stock (such as demolition or clearance, or sales through Right to Buy) would also increase the number of affordable dwellings needed by an equivalent amount. Only then is it possible to consider how the number of homes identified within the affordable housing need can be delivered on qualifying sites to establish the relevant percentage.” (our emphasis).*
- 5.28 Losses as a result of the Right to Buy are a significant problem locally and nationally. The national and regional sales arising from the Right to Buy scheme are set out in quarterly MHCLG Statistical releases. The most recent statistical release was published on 21 January 2021, covers the period October to December 2020.
- 5.29 The release provides a brief history of the Right to Buy Scheme and indicates, *“The Right to Buy scheme was introduced in 1980 and gives qualifying social tenants the opportunity to buy their rented home at a discount. The scheme is open to secure tenants of local authorities and non-charitable PRPs, and to those assured tenants of PRPs who have transferred with their homes from a local authority as part of a stock transfer. To qualify for the Right to Buy scheme, a social tenant must have accrued at least three years public sector tenancy. This does not need to be continuous, nor does it need to have been accrued whilst living in the tenant’s current property.”*
- 5.30 Furthermore, the release at Table 1 (replicated below) identifies the quarterly and annual number of Right to Buy sales since 2006/7. Whilst a total is not provided there have been 134,460 sales in just under 15 years. The annual average of sales is 8,964 homes over the 15 years between 2006/07 and 2020/21.

Table 1: Quarterly Right to Buy sales, England 2006-07 to Q3 2020-21

Year	Q1	Q2	Q3	Q4	Total
2006-07	4,655	4,538	4,470	4,021	17,684
2007-08	3,553	3,454	2,954	2,082	12,043
2008-09	1,286	851	455	277	2,869
2009-10	293	532	789	761	2,375
2010-11	657	689	714	698	2,758
2011-12	615	764	693	566	2,638
2012-13	442	1,041	2,010	2,451	5,943
2013-14	2,178	2,833	2,847	3,374	11,232
2014-15	2,852	2,845	3,294	3,318	12,310
2015-16	2,779	2,939	3,253	3,280	12,251
2016-17	3,417	3,251	3,469	3,304	13,442
2017-18	3,017	3,054	3,272	3,272	12,616
2018-19	2,607	2,575	2,887	2,842	10,910
2019-20	2,514	2,731	2,545	2,782	10,572
2020-21	1,560	1,732	1,525		4,817

Source: MHCLG Right to Buy Sales in England: October to December 2020

- 5.31 The seriousness of the impact was considered in a Newspaper article in the Independent newspaper on 21 June 2020. The reporter considered how Council housing sell-off continues as government fails to replace most homes sold under Right to Buy.
- 5.32 It advised that, *“Two-thirds of the council homes sold off under Right to Buy are still not being replaced by new social housing despite a promise by the government, official figures show.”*
- 5.33 It went on to say that *“Housing charities warned that enough “desperately needed” genuinely affordable housing is simply not being built, with an overall net loss of 17,000 homes this year from social stock. Since the policy was updated in 2012-13, 85,645 homes have been sold through the policy, but only 28,090 built to replace them, statistics from the Ministry of Housing, Communities and Local Government show”.*

- 5.34 The article goes on to quote Jon Sparkes, chief executive at homelessness charity Crisis, who said: *“These statistics demonstrate just how serious the current housing crisis is. What few social homes that are available are largely being removed from the market as part of Right to Buy, and the supply is not being replenished in line with this. People in desperately vulnerable circumstances are being left with dwindling housing options as a consequence of our threadbare social housing provision. This is all the more worrying considering the rise we expect in people being pushed into homelessness as a result of the pandemic.”*

Total Number of Affordable Houses To Be Delivered

- 5.35 Taking all these factors together we estimate that the number of affordable housing that would be delivered in total, based on the Council’s trajectory, are a net gain of only 41 affordable dwellings over the length of the Local Plan period, when Right to Buy losses are taken into account.

Figure 5.3 – Likely Affordable Housing Delivery 2021/22 to 2036/37 based on the Council’s Trajectory

	2021/22 to 2025/26	Rest of Plan Period 2026/27 to 2036/37	Total 2021/22 to 2036/37
Large Sites within Trajectory	314	261	575
Proposed Allocation Sites	30	557	587
Commuted Sums	14	33	47
Minus Average Annual Right to Buy losses	-365	-803	-1,168
Total	-7	48	41

Source: SHBC Trajectory Updated May 2021, Private Registered Provider Social Housing Stock in England: Statistical Data Returns

- 5.36 However, based on our analysis of sites to be included in the trajectory, the number of affordable houses delivered would be even less with a net loss over the length of the plan period of -63 dwellings:

Figure 5.4 - Likely Affordable Housing Delivery 2021/22 to 2036/37 based on Tetlow King Planning's Trajectory

	2021/22 to 2025/26	Rest of Plan Period 2026/27 to 2036/37	Total 2021/22 to 2036/37
Large Sites within Trajectory	271	200	471
Proposed Allocation Sites	30	557	587
Commuted Sums	14	33	47
Minus Average Annual Right to Buy loses	-365	-803	-1,168
Total	-50	-13	-63

Source: SHBC Trajectory Updated May 2021, Private Registered Provider Social Housing Stock in England: Statistical Data Returns (2012 to 2020)

Affordable Housing Delivery Against Identified Needs

- 5.37 Clearly, both figures fall very substantially short of the needs identified in the St Helens Strategic Housing Market Update December 2019 (Examination Library reference HOU001).
- 5.38 Even where sites are delivering affordable houses, the greatest numbers would not be delivered until the latter part of the trajectory period, after five years.
- 5.39 When considering future affordable housing delivery against the expected delivery undertaken by Tetlow King Planning, the Council would make a loss in the number of gross affordable dwellings per annum, over the next five years (-7 or -50) and over the length of the Local Plan period would make either a very marginal gain or a greater loss of affordable dwellings (+41 or -63).
- 5.40 Clearly these future supply figures fall significantly short of the 144 per annum figure (720 over the first five years) required when backlog needs are addressed in line with the Sedgefield approach and the 117 figure for the remaining plan period once the backlog has been dealt with in the first five years.
- 5.41 When average losses as a result of the Right to Buy are taken into account, it is clear that the Council is facing a bleak prospect of delivering very few additional affordable dwellings. The Council is not in any meaningful way seeking to boost the supply of affordable housing, based on our analysis of the available sites.

Conclusion

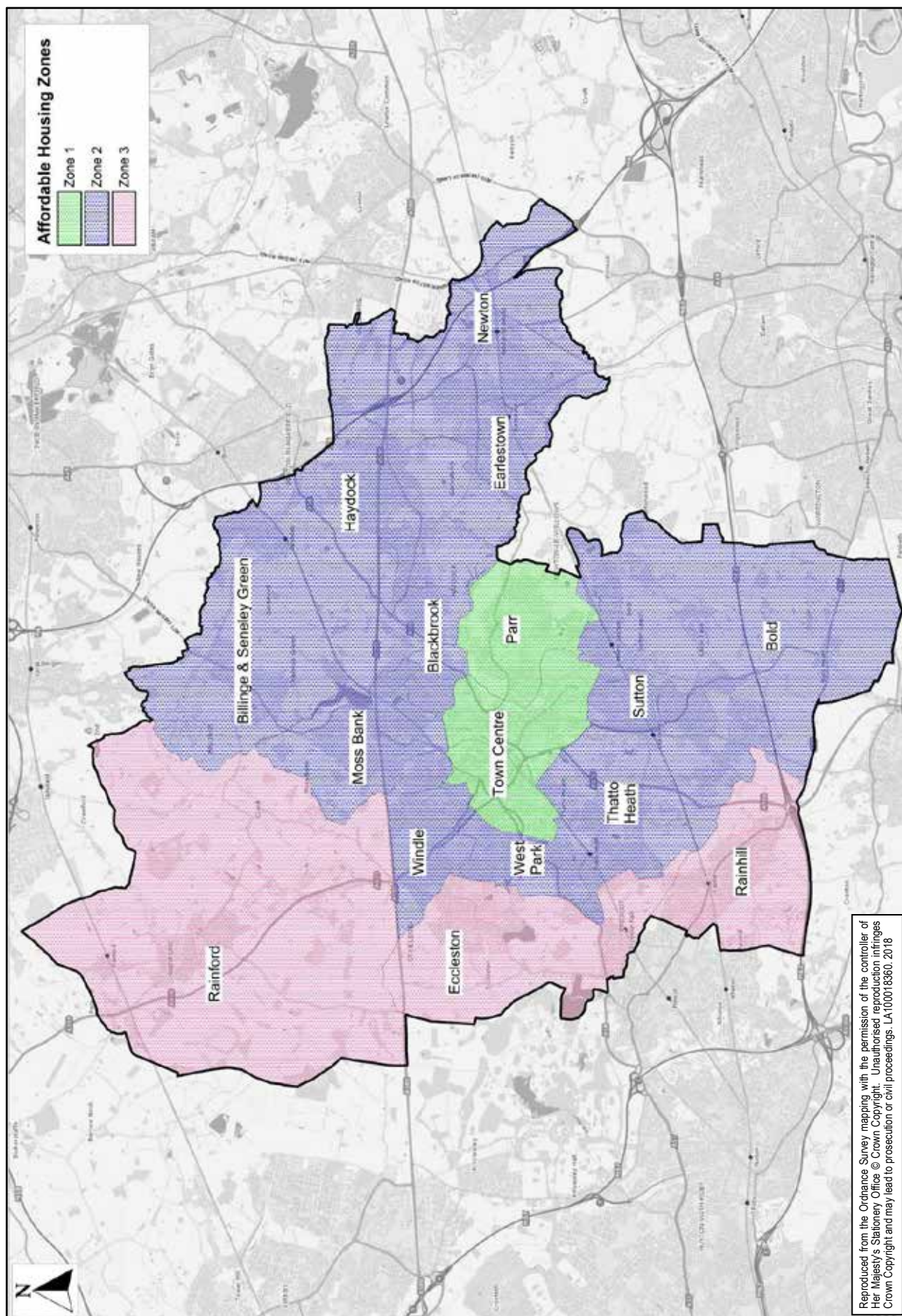
- 5.42 There can be no confidence that the Council can provide a sufficient number of affordable houses through its trajectory to meet affordable housing needs, particularly in the first five years. We believe that the delivery of affordable housing will collapse.
- 5.43 The need for affordable housing in St Helens is significant and substantial. These are real people in real need, now. This requires step change in the delivery of affordable housing to meet the new annual needs requirements.
- 5.44 Consequently, it makes it even more important that suitable sites, such as the site at Chapel Lane which propose 100% affordable housing development are allocated.

Appendix 1

Proposed Affordable Housing Zone requirements



Figure 6.1: Affordable Housing Zones



Appendix 2

SHBC Trajectory



Appendix 2: SHBC Trajectory

Site ref	Location	Ward	Greenfield or Brownfield	Status	Total Outstanding Units	Emerging Policy AH Zone	Emerging AH Policy Threshold % age on 10 or more	AH based on emerging policy	Adopted Local Plan Threshold LC02	AH based on adopted policy LC02	SHBC Trajectory				Commuted Sum	Comments
											2021/22 to 2025/26	2026/27 to 2030/31	2031/32 to 2036/37	Total		
10	Land at Junction of Sunbury Street and Fir Street	Thatto Heath	Brownfield	PP not started	30	2	0%	0	NA	NA	30	0	0	30	NA	Permission granted P/2018/0882/FUL, condition for 30% to be AH but RP is developer and approved scheme discharged by conditon is for 30
13	Land rear of Carnegie Crescent and Goodban Street	Parr	Brownfield	SHLAA site	7	1	0%	0	NA	NA	0	0	0	0	NA	Previous outline P/2004/1383. No evidence of any Reserved matters application and has therefore expired
16	Land at Egerton Street	Town Centre	Greenfield	SHLAA site	12	1	NA	NA	30%	0%	12	0	0	12	N/A	No evidence online that construction has commenced though reasonable to expect it will come forward given the recent permission - P/2020/0583/FUL. 100% AH, conditioned to provide 30% minimum
18	Land at Somerset St and Sussex Grove	Parr	Brownfield	SHLAA site	66	1	0%	0	NA	NA	0	0	0	0	NA	
19	Leyland Green Road	Billinge & Seneley Green	Greenfield	SHLAA site	8 of 9	2	0%	0	NA	NA	0	0	0	0	NA	P/2020/0478/FUL granted - no officer report or s106
22	Land at Corder of Fairclough St and Wargrave Rd	Earlestown	Brownfield	SHLAA site	14	2	0%	0	NA	NA	0	0	0	0	NA	
23	Liverpool Arms and former Sacred Heart RC Church and School	Town Centre	Brownfield	SHLAA site	29	1	0%	0	NA	NA	0	0	0	0	NA	
25	Alexandra Park - Former Pilkington HQ	West Park	Both	SHLAA site	162	2	0%	0	NA	NA	0	0	0	0	NA	The site is mostly brownfield so it is considered that the 0% requirement would apply
27	Farmer Bethell Mission Bowling Green, Marsden Avenue	West Park	Greenfield	SHLAA site	10	2	30%	3	NA	NA	0	3	0	3	NA	Former permission P/2010/0638 for 16 units of 100% AH conditioned as such but no evidence it was implemented
31	Former Sutton Arms PH, Elephant Lane	Thatton Heath	Brownfield	SHLAA site	18	2	0%	0	NA	NA	0	0	0	0	NA	P/2011/0651 Commuted sum agreed but no evidence it was implemented
36	Land & Premises at Lords Foods	Rainsford	Brownfield	PP not started	55	3	10%	18	NA	NA	3	0	0	3	NA	Condition 3 of permission P/2020/0580/VRC confirms 3 AH
58	Former Central Works	Haydock	Brownfield	SHLAA site	48	2	0%	0	NA	NA	0	0	0	0	NA	
59	Site of Former 56-120 Ecclestone St	Town Centre	Brownfield	SHLAA site	13	1	0%	0	NA	NA	0	0	0	0	NA	
60	Vacant Land adjacent to Rail Line, Elephant Lane	Thatto Heath	Greenfield	SHLAA site	112	2	30%	34	NA	NA	0	34	0	34	NA	No historic or live application, not clear where capacity figure has been derived from
61	Land North and South of Corporation Street	Town Centre	Brownfield	SHLAA site	169	1	0%	0	NA	NA	0	0	0	0	NA	SHLAA 2017 assessment says possibly an AH scheme
63	Land at Waterdale Crescent	Sutton	Brownfield	SHLAA site	10	2	0%	0	NA	NA	0	0	0	0	NA	
64	BT Depot, Sutton Road	Town Centre	Brownfield	SHLAA site	36	1	0%	0	NA	NA	0	0	0	0	NA	
65	Former Pumping Station, Sutton Road	Town Centre	Brownfield	SHLAA site	10	1	0%	0	NA	NA	0	0	0	0	NA	
66	Land off Wargrave Road	Newton	Both	SHLAA site	7	2	0%	0	NA	NA	0	0	0	0	NA	
69	Site of Former Parr Community High School, Fleet Lane	Parr	Brownfield	SHLAA site	54	1	0%	0	NA	NA	0	0	0	0	NA	
72	Site of Former St Marks Primary School, Willow Tree Avenue	Sutton	Brownfield	SHLAA site	18	2	0%	0	NA	NA	0	0	0	0	NA	
74	Site of Former 119-133 Crow Lane West	Earlestown	Brownfield	SHLAA site	9	2	0%	0	NA	NA	0	0	0	0	NA	
75	Christ Church Parish Hill, Chapel Lane	Eccleston	Brownfield	PP not started	6	3	10%	0	NA	NA	0	0	0	0	NA	Permission P/2018/0749 confirms no AH
78b	Former St Helens Glass, Corporation Street	Town Centre	Brownfield	SHLAA site	61	1	0%	0	NA	NA	0	0	0	0	NA	
82	Land adjacent Laffak Rd and Carr Mill Rd	Moss Bank	Brownfield	SHLAA site	150	2	0%	150	NA	NA	40	5	0	45	NA	Current undetermined application P/2020/0153 with outstanding issues (May 2020) and no evidence that the applicant has sought to adress these, therefore moved to later period. Application form says all affordable but under current policy 30% provision.
84	Land adjacent Church of Christ, Heather Brae	Earlestown	Greenfield	SHLAA site	9	2	0%	0	NA	NA	0	0	0	0	NA	

Site ref	Location	Ward	Greenfield or Brownfield	Status	Total Outstanding Units	Emerging Policy AH Zone	Emerging AH Policy Threshold % age on 10 or more	AH based on emerging policy	Adopted Local Plan Threshold LC02	AH based on adopted policy LC02	2021/22 to 2025/26	2026/27 to 2030/31	2031/32 to 2036/37	Total	Commuted Sum	Comments
87	Land West of Vista Road	Haydock	Greenfield	SHLAA site	33	2	30%	0	NA	NA	0	0	10	10	NA	According to SHMBC's website, there is no historic or live planning application for residential on the site. It is not clear from where the capacity figure has been derived.
89	Land rear of 64-94 Marshalls Cross Road	Town Centre	Greenfield	PP not started	32	1	0%	0	NA	NA	32	0	0	32	NA	Condition 26 of permission 2019/0963 refers to 100% affordable housing but has no requirement that this is retained in perpetuity
91	Milton Street	Bold	Greenfield	SHLAA site	25	2	30%	8	NA	NA	0	8	0	8	NA	
95	Site of former Carr Mill Infants School, Ullswater Ave	Moss Bank	Both	SHLAA site	53	2	0%	8	NA	NA	0	0	0	0	NA	The site is mostly brownfield so it is considered that the 0% requirement would apply
96	Land rear of 350 Warrington Road	Rainhill	Greenfield	SHLAA site	11	3	30%	3	NA	NA	3	0	0	3	NA	
102	Auto Safety Centre, Vicarage Road	Blackbrook	Brownfield	SHLAA site	9	2	0%	0	NA	NA	0	0	0	0	NA	
103	Land rear of 39-67 Valentine Road	Earlestown	Both	SHLAA site	10	2	30%	2	NA	NA	0	0	0	0	NA	The site is brownfield so it is considered that the 0% requirement would apply
106	Site of former 126-154 Birchley Street and 107-125 Brynn Street	Town Centre	Brownfield	SHLAA site	10	1	0%	0	NA	NA	0	0	0	0	NA	
109	Land adjacent Piele Road	Haydock	Both	SHLAA site	13	2	30%	2	NA	NA	0	0	0	0	NA	The site is brownfield so it is considered that the 0% requirement would apply
112	Land to the rear of Juddfield Street	Blackbrook	Brownfield	SHLAA site	41	2	0%	0	NA	NA	0	0	0	0	NA	
113	Land at Willow Tree Avenue	Sutton	Greenfield	SHLAA site	50	2	30%	15	NA	NA	0	0	15	15	NA	Application ref: P/2013/0775 included full permission for replacement playing field on the site and the development of a separate parcel to the north for housing (in outline). It was refused due to loss of playing fields, it would result in the development of a greenfield site and the proposed sporting facility is an over-intensive use of the site. Therefore should be removed from trajectory
114	Land at 19 and 25 Sutton Moss Road	Parr	Both	SHLAA site	14	1	0%	0	NA	NA	0	0	0	0	NA	
123	243 Leach Lane, Sutton Leach	Sutton	Brownfield	SHLAA site	17	2	NA	NA	N/A	N/A	0	0	0	0	N/A	Existing permission for 17 dwellings - it is reasonable that this will deliver. However recently approved S73 to remove affordable housing condition (viability evidence submitted) resulting in no affordable provision - P/2020/0228/FUL
126	Former Halton and St Helens PCT HQ, Cowley Hill	Windle	Brownfield	SHLAA site	32	2	0%	0	NA	NA	0	0	0	0	NA	
129	Derbyshire Hill Family Centre, Derbyshire Hill Road	Parr	Both	SHLAA site	12	1	0%	0	NA	NA	0	0	0	0	NA	
133	Land rear of 2-24 Massey Street	Town Centre	Greenfield	SHLAA site	14	1	0%	0	NA	NA	0	0	0	0	NA	
134	Land at Littler Road	Blackbrook	Greenfield	SHLAA site	11	2	30%	4	NA	NA	0	4	0	4	NA	
135	Land at Newby Place	Moss Bank	Greenfield	SHLAA site	13	2	30%	4	NA	NA	0	4	0	4	NA	
150	Former Red Quarry, Chester Lane	Bold	Brownfield	SHLAA site	57	2	0%	0	NA	NA	0	80	0	80	NA	Undetermined application P/2021/0196/FUL
151	Land adjacent St. Helens Hospital, Marshalls Cross Road	Town Centre	Brownfield	SHLAA site	59	1	0	0	NA	NA	0	0	0	0	NA	
152	Sidac Sports & Social Club, Applecorn Close	Sutton	Both	SHLAA site	117	2	30%	18	NA	NA	0	0	0	0	NA	The site is mainly greenfield so the 30% provision would apply. However, development complete and AH not viable. Permission P/2017/0890/FUL
154	College Street Northern Gateway	Town Centre	Brownfield	PPUC	103	1	0	0	NA	NA	0	0	0	0	NA	
HL496	Land at Elton Head Road, Lea Green	Thatton Heath	Greenfield	PP not started	180	2	NA	NA	30%	54	0	0	0	0	NA	Outline Planning permission P/2015/0309 confirms AH not viable and no commuted sum
NT03	Land to side and rear of 41- 49 Old Wargrave Road	Newton	Brownfield	PP not started	20	2	NA	NA	30%	6	0	6	0	6	NA	Permission P/2016/0412 has condition requiring a scheme of AH but not provided and has lapsed
HL417	Sherdley Remec Ltd Gorsey Lane Clock Face	Bold	Brownfield	PPUC	17 of 18	1	NA	NA	0%	0	0	0	0	0	NA	Permission P/2014/0888 confirms no AH because of Vacant Building Credit
HL483	Ibstocks, Chester Lane	Bold	Brownfield	PP not started	260	2	NA	NA	30%	78	0	78	0	78	NA	78 is based on permission P/2015/0599/HYBR but viability assessment to be provided at RM stage, not clear that AH viable. RM not submitted in time so outline has lapsed

Site ref	Location	Ward	Greenfield or Brownfield	Status	Total Outstanding Units	Emerging Policy AH Zone	Emerging AH Policy Threshold % age on 10 or more	AH based on emerging policy	Adopted Local Plan Threshold LC02	AH based on adopted policy LC02	2021/22 to 2025/26	2026/27 to 2030/31	2031/32 to 2036/37	Total	Commuted Sum	Comments
HL289	388 Clipsley Lane	Haydock	Greenfield	PPUC	5	2	NA	NA	0%	0	0	0	0	0	NA	Permission P/2019/0817. Below threshold
HL524	Clough Mill Blundells Lane	Rainhill	Brownfield	PP not started	10	3	NA	NA	30%	3	3	0	0	3	NA	Permission P/2019/0812 confirms a condition for 3 affordable dwellings. There is no evidence on SHMBC's website that any conditions have been discharged or subsequent reserved matters submitted. Outline permission with no evidence of RM coming forward. No clear evidence of delivery and therefore site should be removed
HL537	Windlehurst Youth Centre Gamble Avenue	Windle	Brownfield	PP not started	12	2	NA	NA	30%	4	0	0	0	0	NA	Permission P/2016/0650 expired and AH not viable even for a contribution
HL310	Phase 3 (Aka 2b) Land Site Of Former Vulcan Works, Wargrave Road	Newtown	Brownfield	PP not started	89	2	NA	NA	30%	27	0	0	0	0	NA	Permission P/2019/0217/FUL confirmed that AH not viable
HL443	Land Off Lowfield Lane	Thatto Heath	Both	PPUC	32 of 112	2	NA	NA	30%	15	0	0	0	0	NA	Permission P/2012/0405 confirms not viable for AH or contribution. Confirmed by applications for subsequent re-plans
HL456	Land At Sorrel Way Clock Face	Bold	Brownfield	PPUC	4 of 12	2	NA	NA	0%	0	0	0	0	0	NA	Permission P/2015/0484 confirms not viable for AH or contribution, permission subsequently expired
HL531	Land At Mere Grange Lowfield Lane	Thatto Heath	Greenfield	PPUC	42 of 82	2	NA	NA	30%	20	0	0	0	0	NA	Permission P/2018/0842 confirms not viable for AH or contribution
NT06	Phase 4 Land Site Of Former Vulcan Works Wargrave Road	Newton	Brownfield	PPUC	86 of 89	2	NA	NA	30%	9	9	0	0	9	NA	Permission P/2016/0604 confirms earlier P/2003/1461 requirement for 10% AH
HL525	Fishwicks Industrial Estate, Baxters Lane	Town Centre	Brownfield	PP not started	93	1	NA	NA	30%	28	0	0	6	6	NA	Permission P/2016/0299 confirms 6 units based on viability and VBC (permission has lapsed)
HL189	Land Off Monastery Lane	Sutton	Brownfield	PP not started	80	2	NA	NA	30%	24	0	0	6	6	NA	Permission P/2013/0185 confirms 6 units based on viability but historically stalled site
RH11	Land off Stonecross Drive	Rainhill	Brownfield	PP stalled site	7	3	NA	NA	30%	2	0	0	2	2	NA	Stalled site - should be removed from trajectory
HL363	Land At Baxters Lane	Town Centre	Brownfield	PP stalled site	81	1	NA	NA	30%	25	0	0	0	0	NA	Permission P/2013/0671 confirmed unviable
TC43/B R067	HQ Apartments (former AC Complex Site), Shaw Street	Town Centre	Brownfield	PP stalled site	64	1	NA	NA	30%	19	0	0	0	0	NA	Permission P/2006/1076 confirmed AH not viable
PR12	Land adjacent to Bold Miners Site, WA9 2NH	Parr	Greenfield	PP not started	50	1	NA	NA	30%	50	50	0	0	50	NA	Full permission recently granted for 100% affordable scheme on the site (Ref:P/2020/0487/FUL). Application currently pending for a variation to the affordable housing condition. However this application does not seek to remove any affordable, it is just a minor wording change sought in relation to tenure. If this S73 is approved, it would still be 100% affordable.
HL651	Emmanuel Church, Elephant Lane, St Helens	Thatto Heath	Brownfield	PPUC	18	2	NA	NA	30%	18	18	0	0	18	N/A	Full permission granted recently (Ref: P/2019/0855/FUL) for 18 apartments (100% affordable).
HL713	Land between Sutton Road, Lancot Lane and Dismantled Railway Line	Town Centre	Greenfield	PPUC	63	1	NA	NA	30%	63	63	0	0	63	N/A	Full permission granted recently (Ref: P/2020/0113/FUL) for 63 homes (100% affordable rent).
HL706	The Club 337 - 341 Church Road, Haydock, St Helens	Haydock	Brownfield	PP not started	9	2	NA	NA	30%	3	3	0	0	3	N/A	Site has an existing permission for 10 homes, conditioned to provide 3 AH. However a new application has recently been submitted for 9 dwellings intended to supersede original permission - P/2020/0216/FUL
HL707	13 - 15 Earle Street Newton St Willows Merseyside	Earlestown	Brownfield	PP not started	8	2	NA	NA	N/A	N/A	0	0	0	0	N/A	Existing permission for 8 units however also a fresh application currently pending for 17 units including an additional roof storey - P/2020/0373/FUL. No mention of AH.
HL708	1 Millwood Avenue, Eccleston, St Helens	Eccleston	Brownfield	PP not started	36	3	30%	NA	10%	N/A	36	0	0	36	N/A	Full permission granted for 36 homes (100% affordable). No evidence of discharge of conditions but reasonable to assume it will come forward - P/2019/0654/FUL
HL715	Land site of former Haydock Working Mens Club	Haydock	Brownfield	PP not started	4	2	NA	NA	N/A	N/A	0	0	0	0	N/A	Full permission granted for 4 homes. No evidence of discharge of conditions but reasonable to assume it will come forward - P/2020/0419/FUL. No mention of AH, under threshold.
HL717	19 Hardshaw Street, St Helens	Town Centre	Brownfield	PP not started	7	1	NA	NA	N/A	N/A	0	0	0	0	N/A	Existing COU permission for 7 flats - P/2020/0495/FUL. Falls under AH threshold
HL719	Land site of former 7A Cooper Lane, Haydock, St Helens	Haydock	Brownfield	PPUC	5	2	NA	NA	N/A	N/A	0	0	0	0	N/A	Existing full permission for 5 dwellings - P/2020/0391/FUL. Falls under AH threshold
HL721	Stables Court, Frontfield Court and Meadow Court, Appleton Road, St Helens	Town Centre	Brownfield	PPUC	38	1	NA	NA	N/A	N/A	0	0	0	0	N/A	Both existing permission are for supported living and officer's reports and decision notices confirm this is use class C2 - P/2020/0615/FUL. Supported Living Scheme.

Site ref	Location	Ward	Greenfield or Brownfield	Status	Total Outstanding Units	Emerging Policy AH Zone	Emerging AH Policy Threshold % age on 10 or more	AH based on emerging policy	Adopted Local Plan Threshold LC02	AH based on adopted policy LC02	2021/22 to 2025/26	2026/27 to 2030/31	2031/32 to 2036/37	Total	Commuted Sum	Comments
HL723	The Phoneix Hotel, Canal Street, St Helens	Town Centre	Brownfield	PP not started	12	1	NA	NA	30%	12	12	0	0	12	N/A	Existing permission for 12 flats - P/2020/0313/FUL. 100% affordable scheme.
HL729	Land site of former travellers rest, 21 Crab Street, St Helens	Town Centre	Brownfield	PP not started	61	1	NA	NA	N/A	N/A	0	0	0	0	N/A	Outline permission recently granted - P/2020/0473/OUP. Unviable to provide AH
HL734	59 - 69 Church Street, St Helens	Town Centre	Brownfield	PP not started	9	1	NA	NA	N/A	N/A	0	0	0	0	N/A	Existing COU permission for 9 flats - P/2020/0913/FUL. Falls under AH threshold
TOTALS											314	222	39	575		

Appendix 3

Tetlow King Planning's Trajectory



Appendix 3: Tetlow King Planning Trajectory

Site ref	Location	Ward	Greenfield or Brownfield	Status	Total Outstanding Units	Emerging Policy AH Zone	Emerging AH Policy Threshold % age on 10 or more	AH based on emerging policy	Adopted Local Plan Threshold LC02	AH based on adopted policy LC02	Applicant Trajectory				Commu ted Sum	Comments
											2021/22 to 2025/26	2026/27 to 2030/31	2031/32 to 2036/37	Total		
10	Land at Junction of Sunbury Street and Fir Street	Thatto Heath	Brownfield	PP not started	30	2	0%	0	NA	NA	30	0	0	30	NA	Permission granted P/2018/0882/FUL, condition for 30% to be AH but RP is developer and approved scheme discharged by conditon is for 30
13	Land rear of Carnegie Crescent and Goodban Street	Parr	Brownfield	SHLAA site	7	1	0%	0	NA	NA	0	0	0	0	NA	Previous outline P/2004/1383. No evidence of any Reserved matters application and has therefore expired
16	Land at Egerton Street	Town Centre	Greenfield	SHLAA site	12	1	NA	NA	30%	0%	12	0	0	12	N/A	No evidence online that construction has commenced though reasonable to expect it will come forward given the recent permission - P/2020/0583/FUL. 100% AH, conditioned to provide 30% minimum
18	Land at Somerset St and Sussex Grove	Parr	Brownfield	SHLAA site	66	1	0%	0	NA	NA	0	0	0	0	NA	
19	Leyland Green Road	Billinge & Seneley Green	Greenfield	SHLAA site	8 of 9	2	0%	0	NA	NA	0	0	0	0	NA	P/2020/0478/FUL granted - no officer report or s106
22	Land at Corder of Fairclough St and Wargrave Rd	Earlestown	Brownfield	SHLAA site	14	2	0%	0	NA	NA	0	0	0	0	NA	
23	Liverpool Arms and former Sacred Heart RC Church and School	Town Centre	Brownfield	SHLAA site	29	1	0%	0	NA	NA	0	0	0	0	NA	
25	Alexandra Park - Former Pilkington HQ	West Park	Both	SHLAA site	162	2	0%	0	NA	NA	0	0	0	0	NA	The site is mostly brownfield so it is considered that the 0% requirement would apply
27	Farmer Bethell Mission Bowling Green, Marsden Avenue	West Park	Greenfield	SHLAA site	10	2	30%	3	NA	NA	0	3	0	3	NA	Former permission P/2010/0638 for 16 units of 100% AH conditioned as such but no evidence it was implemented
31	Former Sutton Arms PH, Elephant Lane	Thatton Heath	Brownfield	SHLAA site	18	2	0%	0	NA	NA	0	0	0	0	NA	P/2011/0651 Commuted sum agreed but no evidence it was implemented
36	Land & Premises at Lords Foods	Rainsford	Brownfield	PP not started	55	3	10%	18	NA	NA	3	0	0	3	NA	Condition 3 of permission P/2020/0580/VRC confirms 3 AH
58	Former Central Works	Haydock	Brownfield	SHLAA site	48	2	0%	0	NA	NA	0	0	0	0	NA	
59	Site of Former 56-120 Ecclestone St	Town Centre	Brownfield	SHLAA site	13	1	0%	0	NA	NA	0	0	0	0	NA	
60	Vacant Land adjacent to Rail Line, Elephant Lane	Thatto Heath	Greenfield	SHLAA site	112	2	30%	34	NA	NA	0	34	0	34	NA	No historic or live application, not clear where capacity figure has been derived from
61	Land North and South of Corporation Street	Town Centre	Brownfield	SHLAA site	169	1	0%	0	NA	NA	0	0	0	0	NA	SHLAA 2017 assessment says possibly an AH scheme
63	Land at Waterdale Crescent	Sutton	Brownfield	SHLAA site	10	2	0%	0	NA	NA	0	0	0	0	NA	
64	BT Depot, Sutton Road	Town Centre	Brownfield	SHLAA site	36	1	0%	0	NA	NA	0	0	0	0	NA	
65	Former Pumping Station, Sutton Road	Town Centre	Brownfield	SHLAA site	10	1	0%	0	NA	NA	0	0	0	0	NA	
66	Land off Wargrave Road	Newton	Both	SHLAA site	7	2	0%	0	NA	NA	0	0	0	0	NA	
69	Site of Former Parr Community High School, Fleet Lane	Parr	Brownfield	SHLAA site	54	1	0%	0	NA	NA	0	0	0	0	NA	
72	Site of Former St Marks Primary School, Willow Tree Avenue	Sutton	Brownfield	SHLAA site	18	2	0%	0	NA	NA	0	0	0	0	NA	
74	Site of Former 119-133 Crow Lane West	Earlestown	Brownfield	SHLAA site	9	2	0%	0	NA	NA	0	0	0	0	NA	
75	Christ Church Parish Hill, Chapel Lane	Eccleston	Brownfield	PP not started	6	3	10%	0	NA	NA	0	0	0	0	NA	Permission P/2018/0749 confirms no AH
78b	Former St Helens Glass, Corporation Street	Town Centre	Brownfield	SHLAA site	61	1	0%	0	NA	NA	0	0	0	0	NA	
82	Land adjacent Laffak Rd and Carr Mill Rd	Moss Bank	Brownfield	SHLAA site	150	2	0%	150	NA	NA	0	45	0	45	NA	Current undetermined application P/2020/0153 with outstanding issues (May 2020) and no evidence that the applicant has sought to adress these, therefore moved to later period. Application form says all affordable but under current policy 30% provision.
84	Land adjacent Church of Christ, Heather Brae	Earlestown	Greenfield	SHLAA site	9	2	0%	0	NA	NA	0	0	0	0	NA	
87	Land West of Vista Road	Haydock	Greenfield	SHLAA site	33	2	30%	0	NA	NA	0	0	10	10	NA	According to SHMBC's website, there is no historic or live planning application for residential on the site. It is not clear from where the capacity figure has been derived.
89	Land rear of 64-94 Marshalls Cross Road	Town Centre	Greenfield	PP not started	32	1	0%	0	NA	NA	32	0	0	32	NA	Condition 26 of permission 2019/0963 refers to 100% affordable housing but has no requirement that this is retained in perperty
91	Milton Street	Bold	Greenfield	SHLAA site	25	2	30%	8	NA	NA	0	8	0	8	NA	
95	Site of former Carr Mill Infants School, Ullswater Ave	Moss Bank	Both	SHLAA site	53	2	0%	8	NA	NA	0	0	0	0	NA	The site is mostly brownfield so it is considered that the 0% requirement would apply
96	Land rear of 350 Warrington Road	Rainhill	Greenfield	SHLAA site	11	3	30%	3	NA	NA	3	0	0	3	NA	
102	Auto Safety Centre, Vicarage Road	Blackbrook	Brownfield	SHLAA site	9	2	0%	0	NA	NA	0	0	0	0	NA	

Site ref	Location	Ward	Greenfield or Brownfield	Status	Total Outstanding Units	Emerging Policy AH Zone	Emerging AH Policy Threshold % age on 10 or more	AH based on emerging policy	Adopted Local Plan Threshold LC02	AH based on adopted policy LC02	2021/22 to 2025/26	2026/27 to 2030/31	2031/32 to 2036/37	Total	Commuted Sum	Comments
103	Land rear of 39-67 Valentine Road	Earlestown	Both	SHLAA site	10	2	30%	2	NA	NA	0	0	0	0	NA	The site is brownfield so it is considered that the 0% requirement would apply
106	Site of former 126-154 Birchley Street and 107-125 Brynn Street	Town Centre	Brownfield	SHLAA site	10	1	0%	0	NA	NA	0	0	0	0	NA	
109	Land adjacent Piele Road	Haydock	Both	SHLAA site	13	2	30%	2	NA	NA	0	0	0	0	NA	The site is brownfield so it is considered that the 0% requirement would apply
112	Land to the rear of Juddfield Street	Blackbrook	Brownfield	SHLAA site	41	2	0%	0	NA	NA	0	0	0	0	NA	
113	Land at Willow Tree Avenue	Sutton	Greenfield	SHLAA site	50	2	30%	15	NA	NA	0	0	0	0	NA	Application ref: P/2013/0775 included full permission for replacement playing field on the site and the development of a separate parcel to the north for housing (in outline). It was refused due to loss of playing fields, it would result in the development of a greenfield site and the proposed sporting facility is an over-intensive use of the site. Therefore should be removed from trajectory
114	Land at 19 and 25 Sutton Moss Road	Parr	Both	SHLAA site	14	1	0%	0	NA	NA	0	0	0	0	NA	
123	243 Leach Lane, Sutton Leach	Sutton	Brownfield	SHLAA site	17	2	NA	NA	N/A	N/A	0	0	0	0	N/A	Existing permission for 17 dwellings - it is reasonable that this will deliver. However recently approved S73 to remove affordable housing condition (viability evidence submitted) resulting in no affordable provision - P/2020/0228/FUL
126	Former Halton and St Helens PCT HQ, Cowley Hill	Windle	Brownfield	SHLAA site	32	2	0%	0	NA	NA	0	0	0	0	NA	
129	Derbyshire Hill Family Centre, Derbyshire Hill Road	Parr	Both	SHLAA site	12	1	0%	0	NA	NA	0	0	0	0	NA	
133	Land rear of 2-24 Massey Street	Town Centre	Greenfield	SHLAA site	14	1	0%	0	NA	NA	0	0	0	0	NA	
134	Land at Littler Road	Blackbrook	Greenfield	SHLAA site	11	2	30%	4	NA	NA	0	4	0	4	NA	
135	Land at Newby Place	Moss Bank	Greenfield	SHLAA site	13	2	30%	4	NA	NA	0	4	0	4	NA	
150	Former Red Quarry, Chester Lane	Bold	Brownfield	SHLAA site	57	2	0%	0	NA	NA	0	80	0	80	NA	Undetermined application P/2021/0196/FUL
151	Land adjacent St. Helens Hospital, Marshalls Cross Road	Town Centre	Brownfield	SHLAA site	59	1	0	0	NA	NA	0	0	0	0	NA	
152	Sidac Sports & Social Club, Applecorn Close	Sutton	Both	SHLAA site	117	2	30%	18	NA	NA	0	0	0	0	NA	The site is mainly greenfield so the 30% provision would apply. However, development complete and AH not viable. Permission P/2017/0890/FUL
154	College Street Northern Gateway	Town Centre	Brownfield	PPUC	103	1	0	0	NA	NA	0	0	0	0	NA	
HL496	Land at Elton Head Road, Lea Green	Thatton Heath	Greenfield	PP not started	180	2	NA	NA	30%	54	0	0	0	0	NA	Outline Planning permission P/2015/0309 confirms AH not viable and no commuted sum
NT03	Land to side and rear of 41- 49 Old Wargrave Road	Newton	Brownfield	PP not started	20	2	NA	NA	30%	6	0	6	0	6	NA	Permission P/2016/0412 has condition requiring a scheme of AH but not provided and has lapsed
HL417	Sherdley Remec Ltd Gorsey Lane Clock Face	Bold	Brownfield	PPUC	17 of 18	1	NA	NA	0%	0	0	0	0	0	NA	Permission P/2014/0888 confirms no AH because of Vacant Building Credit
HL483	Ibstocks, Chester Lane	Bold	Brownfield	PP not started	260	2	NA	NA	30%	78	0	0	0	0	NA	78 is based on permission P/2015/0599/HYBR but viability assessment to be provided at RM stage, not clear that AH viable. RM not submitted in time so outline has lapsed
HL289	388 Clipsley Lane	Haydock	Greenfield	PPUC	5	2	NA	NA	0%	0	0	0	0	0	NA	Permission P/2019/0817. Below threshold
HL524	Clough Mill Blundells Lane	Rainhill	Brownfield	PP not started	10	3	NA	NA	30%	3	0	0	0	0	NA	Permission P/2019/0812 confirms a condition for 3 affordable dwellings. There is no evidence on SHMBC's website that any conditions have been discharged or subsequent reserved matters submitted. Outline permission with no evidence of RM coming forward. No clear evidence of delivery and therefore site should be removed
HL537	Windlehurst Youth Centre Gamble Avenue	Windle	Brownfield	PP not started	12	2	NA	NA	30%	4	0	0	0	0	NA	Permission P/2016/0650 expired and AH not viable even for a contribution
HL310	Phase 3 (Aka 2b) Land Site Of Former Vulcan Works, Wargrave Road	Newtown	Brownfield	PP not started	89	2	NA	NA	30%	27	0	0	0	0	NA	Permission P/2019/0217/FUL confirmed that AH not viable
HL443	Land Off Lowfield Lane	Thatto Heath	Both	PPUC	32 of 112	2	NA	NA	30%	15	0	0	0	0	NA	Permission P/2012/0405 confirms not viable for AH or contribution. Confirmed by applications for subsequent re-plans
HL456	Land At Sorrel Way Clock Face	Bold	Brownfield	PPUC	4 of 12	2	NA	NA	0%	0	0	0	0	0	NA	Permission P/2015/0484 confirms not viable for AH or contribution, permission subsequently expired
HL531	Land At Mere Grange Lowfield Lane	Thatto Heath	Greenfield	PPUC	42 of 82	2	NA	NA	30%	20	0	0	0	0	NA	Permission P/2018/0842 confirms not viable for AH or contribution
NT06	Phase 4 Land Site Of Former Vulcan Works Wargrave Road	Newton	Brownfield	PPUC	86 of 89	2	NA	NA	30%	9	9	0	0	9	NA	Permission P/2016/0604 confirms earlier P/2003/1461 requirement for 10% AH
HL525	Fishwicks Industrial Estate, Baxters Lane	Town Centre	Brownfield	PP not started	93	1	NA	NA	30%	28	0	0	6	6	NA	Permission P/2016/0299 confirms 6 units based on viability and VBC (permission has lapsed)
HL189	Land Off Monastery Lane	Sutton	Brownfield	PP not started	80	2	NA	NA	30%	24	0	0	0	0	NA	Permission P/2013/0185 confirms 6 units based on viability but historically stalled site
RH11	Land off Stonecross Drive	Rainhill	Brownfield	PP stalled site	7	3	NA	NA	30%	2	0	0	0	0	NA	Stalled site - should be removed from trajectory
HL363	Land At Baxters Lane	Town Centre	Brownfield	PP stalled site	81	1	NA	NA	30%	25	0	0	0	0	NA	Permission P/2013/0671 confrimed unviable

Site ref	Location	Ward	Greenfield or Brownfield	Status	Total Outstanding Units	Emerging Policy AH Zone	Emerging AH Policy Threshold % age on 10 or more	AH based on emerging policy	Adopted Local Plan Threshold LC02	AH based on adopted policy LC02	2021/22 to 2025/26	2026/27 to 2030/31	2031/32 to 2036/37	Total	Commuted Sum	Comments
TC43/B	HQ Apartments (former AC Complex Site), Shaw Street	Town Centre	Brownfield	PP stalled site	64	1	NA	NA	30%	19	0	0	0	0	NA	Permission P/2006/1076 confirmed AH not viable
PR12	Land adjacent to Bold Miners Site, WA9 2NH	Parr	Greenfield	PP not started	50	1	NA	NA	30%	50	50	0	0	50		Full permission recently granted for 100% affordable scheme on the site (Ref:P/2020/0487/FUL). Application currently pending for a variation to the affordable housing condition. However this application does not seek to remove any affordable, it is just a minor wording change sought in relation to tenure. If this S73 is approved, it would still be 100% affordable.
HL651	Emmanuel Church, Elephant Lane, St Helens	Thatto Heath	Brownfield	PPUC	18	2	NA	NA	30%	18	18	0	0	18	N/A	Full permission granted recently (Ref: P/2019/0855/FUL) for 18 apartments (100% affordable).
HL713	Land between Sutton Road, Lancot Lane and Dismantled Railway Line	Town Centre	Greenfield	PPUC	63	1	NA	NA	30%	63	63	0	0	63	N/A	Full permission granted recently (Ref: P/2020/0113/FUL) for 63 homes (100% affordable rent).
HL706	The Club 337 - 341 Church Road, Haydock, St Helens	Haydock	Brownfield	PP not started	9	2	NA	NA	30%	3	3	0	0	3	N/A	Site has an existing permission for 10 homes, conditioned to provide 3 AH. However a new application has recently been submitted for 9 dwellings intended to supersede original permission - P/2020/0216/FUL
HL707	13 - 15 Earle Street Newton St Willows Merseyside	Earlestown	Brownfield	PP not started	8	2	NA	NA	N/A	N/A	0	0	0	0	N/A	Existing permission for 8 units however also a fresh application currently pending for 17 units including an additional roof storey - P/2020/0373/FUL. No mention of AH.
HL708	1 Millwood Avenue, Eccleston, St Helens	Eccleston	Brownfield	PP not started	36	3	30%	NA	10%	N/A	36		0	36	N/A	Full permission granted for 36 homes (100% affordable). No evidence of discharge of conditions but reasonable to assume it will come forward -P/2019/0654/FUL
HL715	Land site of former Haydock Working Mens Club	Haydock	Brownfield	PP not started	4	2	NA	NA	N/A	N/A	0	0	0	0	N/A	Full permission granted for 4 homes. No evidence of discharge of conditions but reasonable to assume it will come forward - P/2020/0419/FUL. No mention of AH, under threshold.
HL717	19 Hardshaw Street, St Helens	Town Centre	Brownfield	PP not started	7	1	NA	NA	N/A	N/A	0	0	0	0	N/A	Existing COU permisison for 7 flats - P/2020/0495/FUL. Falls under AH threshold
HL719	Land site of former 7A Cooper Lane, Haydock, St Helens	Haydock	Brownfield	PPUC	5	2	NA	NA	N/A	N/A	0	0	0	0	N/A	Existing full permission for 5 dwellings - P/2020/0391/FUL. Falls under AH threshold
HL721	Stables Court, Frontfield Court and Meadow Court, Appleton Road, St Helens	Town Centre	Brownfield	PPUC	38	1	NA	NA	N/A	N/A	0	0	0	0	N/A	Both existing permission are for supported living and officer's reports and decision notices confirm this is use class C2 - P/2020/0615/FUL. Supported Living Scheme.
HL723	The Phoneix Hotel, Canal Street, St Helens	Town Centre	Brownfield	PP not started	12	1	NA	NA	30%	12	12	0	0	12	N/A	Existing permission for 12 flats - P/2020/0313/FUL. 100% affordable scheme.
HL729	Land site of former travellers rest, 21 Crab Street, St Helens	Town Centre	Brownfield	PP not started	61	1	NA	NA	N/A	N/A	0	0	0	0	N/A	Outline permission recently granted - P/2020/0473/OUP. Unviable to provide AH
HL734	59 - 69 Church Street, St Helens	Town Centre	Brownfield	PP not started	9	1	NA	NA	N/A	N/A	0	0	0	0	N/A	Existing COU permission for 9 flats - P/2020/0913/FUL. Falls under AH threshold
TOTALS											271	184	16	471		

 Sites changed in the trajectory

Appendix 4

Analysis of supply from Allocations



Allocations

4.1 Draft Policy LPA05 (Meeting St. Helens Borough's Housing Needs) of the Submission Draft Local Plan sets out the 10no. sites that are proposed to be allocated for development. These are set out in the table below.

Site Ref	Name	Area (Hectares)	Indicative Site Capacity (Total)	Green Belt?	Greenfield Brownfield	Affordable Housing Zone
1HA	Land South of Billinge Road, East of Garswood Road and West of Smock Lane, Garswood	9.58	216	Yes	Greenfield	2
2HA	Land at Florida Farm (South of A580), Slag Lane, Blackbrook	23.19	522	Yes	Greenfield	2
3HA	Former Penlake Industrial Estate, Reginald Road, Bold	10.66	337	No	Brownfield	2
4HA	Land bounded by Reginald Road/Bold Road/Travers Entry/Gorsey Lane/Crawford Street, Bold (Bold Forest Garden Suburb)	132.86	2,988	Yes	Greenfield	2
5HA	Land South of Gartons Lane and former St. Theresa's Social Club, Gartons Lane, Bold	21.67	569	Yes	Greenfield	2
6HA	Land East of City Road, Cowley Hill, Town Centre	31.09	816	No	Brownfield	1/2
7HA	Land West of the A49 Mill Lane and to the East of the West Coast Mainline railway line, Newton-le-Willows	8.03	181	No	Brownfield / Greenfield	2
8HA	Land South of Higher Lane and East of Rookery Lane, Rainford	11.49	259	Yes	Greenfield	3
9HA	Former Linkway Distribution Park, Elton Head Road, Thatto Heath	12.39	350	No	Brownfield / Greenfield	2
10HA	Moss Nook Urban Village, Watery Lane, Moss Nook	26.74	802	No	Brownfield	1
TOTALS			7,040			

Table 4.1 - Sites Proposed to be Allocated for New Housing Development (Policy LPA05)

4.2 Of these 10no. allocations, the following 7 will constitute 'Strategic Housing Sites':

- 2HA: Land at Florida Farm (South of A580), Slag Lane, Blackbrook;
- 3HA: Former Penlake Industrial Estate, Reginald Road, Bold;
- 4HA: Land bounded by Reginald Road / Bold Road / Travers Entry / Gorsey Lane / Crawford Street, Bold (Bold Forest Garden Suburb);
- 5HA: Land South of Gartons Lane and former St.Theresa's Social Club, Gartons Lane, Bold;
- 6HA: Land at Cowley Street, Cowley Hill, Town Centre;
- 9HA: Former Linkway Distribution Park, Elton Head Road, Thatto Heath; and,
- 10HA: Moss Nook Urban Village, Watery Lane, Moss Nook.

4.3 Draft Policy LPA05.1 (Strategic Housing Sites) sets out specific requirements for these sites, notably any planning application for development within a Strategic Housing Site must be supported by a comprehensive masterplan covering the whole site. This masterplan must cover at least:

- a) amount of development and proposed uses;
- b) phasing of development across the whole site;
- c) indicative layout and design details for the whole site, that must provide for an attractive built form with high quality landscaping when viewed from within the development and elsewhere;
- d) measures to provide good levels of accessibility to the whole site by public transport, pedestrian and cycling links;
- e) indicative layout promoting permeability and accessibility by public transport, cycling and walking;
- f) a Green Infrastructure Plan addressing biodiversity, geodiversity, greenways, ecological network, landscape character, trees, woodland and water storage issues in a holistic and integrated way;
- g) measures to address any potential flood risk and surface water drainage issues in accordance with Policy LPC12;

- h) measures to promote energy efficiency and generation of renewable or low carbon energy in accordance with Policy LPC13;
- i) a comprehensive strategy for the provision of all new, expanded and / or enhanced infrastructure that is required to serve the development of the whole site; and
- j) how development of the site as a whole would comply with other relevant policies of the Local Plan.

4.4 We now consider each allocation in turn, setting out for each site:

- Site Capacity;
- The Council's claimed supply;
- The Affordable Housing Zone the site sits within (based on Figure 6.1 of the Submission Local Plan);
- Whether the site is Greenfield or Brownfield (based on a Desktop based Google Earth assessment);
- The required affordable housing based on the preceding two bullets and Policy LPC02);
- Relevant Planning History;
- A summary and commentary;
- The likely delivery of affordable housing from the site.

Site 1HA - Land South of Billinge Road, Garswood

Affordable Housing Zone	2
Greenfield / Brownfield	Greenfield
Required Affordable Housing contribution based on emerging policy	30%
Key Site Constraints	<ul style="list-style-type: none"> • 95% of the site is within a Medium-High or High Landscape Sensitivity area. Site is on a prominent ridge. • Over 1.6km to open space.

	<ul style="list-style-type: none"> Site contains a Public Right of Way (severance possible if not designed inclusively). Site contains 100% Grade 3 agricultural land. The size of the site however (10.88ha) does meet the site criteria threshold for potential effects.
Planning History	The site is in the Green Belt. There is no planning history of direct relevance.

Table 4.2– Site 1HA Summary

Summary and Commentary

4.5 Site 1HA is a greenfield site located to the north-east of Garswood. It is roughly triangular in shape and is 9.58ha with an indicative capacity of 216 dwellings.

4.6 According to the May 2021 update (SHBC007), the site will deliver 20 dwellings in 2025/26, followed by 40 dwellings in each of 2026/27, 2027/28, 2028/29 and 2029/30 respectively and then 36 dwellings in 2030/31. As such, the is only expected to deliver 20 dwellings during the first five years of the plan period from adoption (now 2021-2026).

Year	20 /2 1	21 /2 2	22 /2 3	23 /2 4	24 /2 5	25 /2 6	26 /2 7	27 /2 8	28 /2 9	29 /3 0	30 /3 1	31 /3 2	32 /3 3	33 /3 4	34 /3 5	35 /3 6	36 /3 7
<i>Dwellings</i>	<i>n/a</i>	0	0	0	0	20	40	40	40	40	36	0	0	0	0	0	0

Table 4.3 – Council's claimed supply from 1HA as updated in documents SHBC007 in May 2021 (black).

4.7 The site falls within proposed Affordable Housing Zone 2 where 30% affordable housing will be sought. Based on an overall capacity of 216 dwellings, in a policy-compliant scenario, the site would likely deliver 65 affordable dwellings over the plan period and just 6 affordable dwellings in the first five years based on the Council's trajectory.

Site 2HA - Land at Florida Farm (South of A580), Slag Lane, Blackbrook

Affordable Housing Zone	2
Greenfield / Brownfield	Greenfield
Required Affordable Housing contribution based on emerging policy	30%

Key Site Constraints	<ul style="list-style-type: none"> Site does not contain any agricultural land Grade 1-2. There is 100% (24.4ha) overlap with agricultural land Grade 3, which exceeds 20Ha, resulting in potential negative effects. Site is 94.7% in Flood Zone 1, and 5.3% in Flood Zone 2. 91.2% of the site is within a Medium-High or High landscape sensitivity area. Over 2.4km from a prominent ridge line. UU has advised that there is a possibility that an abandoned pipe following the route of the access road to the farm.
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Table 4.4 – Site 2HA Summary

Summary and Commentary

- 4.8 Site 2HA is a greenfield site located to the north of Haydock and south of the A580. It is fairly regular in shape and is 23.19ha with an indicative capacity of 522 dwellings.
- 4.9 In the May 2021 the site is expected to deliver no dwellings during the first five years of the plan period. This trajectory shows 427 dwellings over the plan period, with 95 dwellings beyond the plan period.

Year	20 /2 1	21 /2 2	22 /2 3	23 /2 4	24 /2 5	25 /2 6	26 /2 7	27 /2 8	28 /2 9	29 /3 0	30 /3 1	31 /3 2	32 /3 3	33 /3 4	34 /3 5	35 /3 6	36 /3 7
<i>Dwellings</i>	0	0	0	0	0	0	0	22	45	45	45	45	45	45	45	45	45

Table 4.5 – Council's claimed supply from 2HA as updated in documents SHBC007 in May 2021.

- 4.10 The site falls within proposed Affordable Housing Zone 2 where 30% affordable housing will be sought. Based on the Council's latest trajectory and an overall capacity of 427 dwellings during the plan period, in a best-case scenario the site would deliver 128 affordable dwellings over the plan period but 0 dwellings during the first five years.

- 4.11 However, the Council's own viability appraisal demonstrates that the site is unviable at 30% affordable housing (VIA001)¹. While we have generously used the figure of 128 affordable dwellings, in light of the Council's own assessment it is likely to be fewer units.

3HA - Former Penlake Industrial Estate, Reginald Road, Bold

Affordable Housing Zone	2
Greenfield / Brownfield	Brownfield
Required Affordable Housing contribution based on emerging policy	0%
Key Site Constraints	<ul style="list-style-type: none"> • 22m from a local wildlife site and TPO on site therefore likely to generate negative effects. • 2.7km to a conservation area, 14m to a listed building, 3.9km from an archaeological interest, 3.4km from a registered park and 1.8km distance to ancient monument. Possible for effects given the close proximity of listed building. However, the site does not add to the setting of the asset, so significant effects unlikely.
Planning History	A hybrid planning application for demolition of existing metal recycling facility and construction of up to 358 dwellings and 390sqm mixed use development (Ref: P/2015/0130) was approved on 11th December 2015. A subsequent reserved matters application (Ref: P/2018/0251/RES) for 337 dwellings was approved on 21st September 2018. The development will deliver 5% affordable housing (17 units). The applicant provided an independent, site-specific economic viability study with the hybrid application to justify a lower provision than the 30% policy requirement.

Table 4.6 –Site 3HA Summary

¹ Table 6.19 - Page 101

Summary and Commentary

4.12 Site 3HA is a brownfield site which was formerly the Penlake Industrial Estate and is located to the east of Sutton Leach. It is fairly regular in shape and is 10.66ha in size with an indicative capacity of 337 dwellings.

4.13 The Council's updated May 2021 trajectory includes an outstanding capacity of 131 to be delivered in its entirety within the first 3 years of the plan period.

Year	20 /2 1	21 /2 2	22 /2 3	23 /2 4	24 /2 5	25 /2 6	26 /2 7	27 /2 8	28 /2 9	29 /3 0	30 /3 1	31 /3 2	32 /3 3	33 /3 4	34 /3 5	35 /3 6	36 /3 7
Dwellings	n/a	45	45	41	0	0	0	0	0	0	0	0	0	0	0	0	0

Table 4.7 – Council's claimed supply from 3HA as updated in documents SHBC007 in May 2021.

4.14 The site falls within proposed Affordable Housing Zone 2 where 0% affordable housing will be sought under the proposed Submission Local Plan policies as it is a brownfield site. However the site already benefits from a reserved matters permission which includes 5% affordable housing provision which equates to a total of 17 units. The site is under construction and the site is therefore likely to deliver 7 affordable dwellings over the plan period with all 7 affordable dwellings during the first five years.

4HA - Land bounded by Reginald Road/Bold Road/Travers Entry/Gorsey Lane/Crawford Street, Bold (Bold Forest Garden Suburb)

Affordable Housing Zone	2
Greenfield / Brownfield	Greenfield
Required Affordable Housing contribution based on emerging policy	30%
Key Site Constraints	<ul style="list-style-type: none"> Parcel GBP-74-b (56) overlaps with a TPO and parcel 070 (55) is 5m from a TPO. Parcel 070_A and 070_C both overlap a Local Wildlife Site and Local Site (Field north of Gorsey Lane). Effects considered likely. Site does not contain any ALC Grade 1-2. On average over 95% of the parcels contain ALC

	<p>Grade 3, totalling 157.8Ha. Effects considered likely.</p> <ul style="list-style-type: none"> Potentially large-scale site (up to 2,900 units) located between 1529m - 1970m from AQMA. Parcel 074_B is located 180m to a listed building and Parcel 074_A is located 49m from a listed building. Housing site on land suitable for employment and housing. A large proportion located within a Total Catchment (Zone 3) Groundwater Source Protection Zone.
Planning History	<p>The site is currently located in the Green Belt. There is no planning history of direct relevance however SHMBC prepared a Bold Forest Garden Suburb Position Statement (October 2020) which forms part of the Local Plan Evidence Base. It states at para. 2.11 that <i>“Given the size of the BFGS site, a lead in time of seven years on adoption of the Plan has been applied for the BFGS to allow for a thorough masterplanning process. This work will then form the basis of a site-specific Supplementary Planning Document (SPD).”</i></p>

Table 4.8 – Site 4HA Summary

Summary and Commentary

4.15 Site 4HA is a greenfield site which comprises of a large area of undeveloped agricultural land, located on the edges of Clock Face, Sutton and Bold. It is 132.86ha in size with an indicative capacity of 2,988 dwellings.

4.16 The Council's updated May 2021 trajectory anticipates plan period delivery of 420, with no delivery in the 5YHLS.

Year	20 /2 1	21 /2 2	22 /2 3	23 /2 4	24 /2 5	25 /2 6	26 /2 7	27 /2 8	28 /2 9	29 /3 0	30 /3 1	31 /3 2	32 /3 3	33 /3 4	34 /3 5	35 /3 6	36 /3 7
Dwellings	0	0	0	0	0	0	0	0	0	0	60	60	60	60	60	60	60

Table 4.9 – Council's claimed supply from 4HA as updated in documents SHBC007 in May 2021.

- 4.17 The site falls within proposed Affordable Housing Zone 2 where 30% affordable housing will be sought. Based on the Council's May 2021 trajectory and an overall capacity of 420 dwellings during the plan period, in a policy-compliant scenario the site would likely deliver 126 affordable dwellings over the plan period but 0 dwellings during the first five years.

Site 5HA - Land South of Gartons Lane and former St.Theresa's Social Club, Gartons Lane, Bold

Affordable Housing Zone	2
Greenfield / Brownfield	Greenfield
Required Affordable Housing contribution based on emerging policy	30%
Key Site Constraints	<ul style="list-style-type: none"> • Site does not contain any ALC Grade 1-2. There is 100% (22.32ha) overlap with ALC Grade 3. Potential adverse effects. • 99.8% of the site is within Low- Medium or Medium landscape sensitivity area. Over 1.7km from a prominent ridge line. • The parcel lies adjacent (to the north) of an LWS (Sutton Manor Woodland – LWS120). A buffer zone may need to be incorporated within any scheme to mitigate any potential damage or loss.
Planning History	The site is currently located in the Green Belt. There is no planning history of direct relevance.

Table 4.10 –Site 5HA Summary

Summary and Commentary

- 4.18 Site 5HA is a greenfield site located between Sutton Manor and Clockface. It is 21.67ha in size with an indicative capacity of 569 dwellings.
- 4.19 The Council's May 2021 updated trajectory (SHBC007) includes 517 dwellings over the plan period and 22 in the 5YHLS.

Year	20 /2 1	21 /2 2	22 /2 3	23 /2 4	24 /2 5	25 /2 6	26 /2 7	27 /2 8	28 /2 9	29 /3 0	30 /3 1	31 /3 2	32 /3 3	33 /3 4	34 /3 5	35 /3 6	36 /3 7
Dwellings	n/ a	0	0	0	0	22	45	45	45	45	45	45	45	45	45	45	45

Table 4.11 – Council's claimed supply from 5HA as updated in documents SHBC007 in May 2021.

4.20 In the context that SHMBC is only suggesting a modest 22 dwellings within the first five years, it is highly likely that the site could deliver no housing, and thus no affordable housing during the first five years. The site falls within proposed Affordable Housing Zone 2 where 30% affordable housing will be sought (albeit it is possible that a lower percentage provision could be negotiated on viability grounds). Based on an overall capacity of 517 dwellings during the plan period, in a best-case scenario the site would deliver 155 affordable dwellings over the plan period and 7 affordable dwellings during the first five years.

Site 6HA - Land East of City Road, Cowley Hill, Town Centre

Affordable Housing Zone	1/2
Greenfield / Brownfield	Brownfield
Required Affordable Housing contribution based on emerging policy	0%
Key Site Constraints	<ul style="list-style-type: none"> Negative effects likely due to the presence of a local wildlife and protected trees on site. The site is 880m from an AQMA and will generate increased car traffic. 95.87% of site is located in Flood Zone 1, 4.13% located in Flood Zone 2 and 2.86% located in Flood Zone 3 therefore effects are unlikely. The scale of the site means it should be possible to avoid flood zones 2/3. 98% of the site is within a Low sensitivity , 0.01%Low- Medium and 1.81% Medium landscape sensitivity area. Housing site on land suitable for employment.

Planning History	<p>Planning permission for demolition of existing buildings and outline planning permission for up to 1,100 dwellings and up to 3,925sqm of mixed use floorspace (Ref: P/2020/0083/OUEIA) was submitted in January 2020 and is awaiting determination. This application was accompanied by a Viability Appraisal which notes that due to the site's characteristics of a former Glass Factory with widespread land contamination, varied topography and mine shafts, there are significant abnormal costs associated with bringing the site forward for housing and concludes that no affordable housing nor planning contributions are viable on the site.</p> <p>A resolution to grant planning permission subject to a S106 agreement was made by the SHMBC Planning Committee on 16th March 2021.</p>
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Table 4.12 –Site 6HA Summary

Summary and Commentary

- 4.21 Site 6HA is a brownfield site located directly to the north of St Helens Town Centre. It is 31.09 ha in size with an indicative capacity of 1,100 dwellings.
- 4.22 According to SHMBC's updated May 2021 trajectory the site will deliver 90 dwellings in the 5YHLS and 585 over the plan period.
- 4.23 However, based on the same build-out rate used by the Council but a more realistic lead-in time and estimated completion of the 1st dwelling in September 2023, a more realistic trajectory is set out in Table 27 below in red. This results in two quarters of delivery in 2023/24 and 607 dwellings in total over the plan period and 112 in the 5YHLS.

Year	20 /2 1	21 /2 2	22 /2 3	23 /2 4	24 /2 5	25 /2 6	26 /2 7	27 /2 8	28 /2 9	29 /3 0	30 /3 1	31 /3 2	32 /3 3	33 /3 4	34 /3 5	35 /3 6	36 /3 7
Dwellings	n/ a	0	0	0	45	45	45	45	45	45	45	45	45	45	45	45	45

Table 4.13 – Council's claimed supply from 6HA as updated in document SHBC007 in May.

- 4.24 The site falls within proposed Affordable Housing Zone 2 where 0% affordable housing will be sought from brownfield sites. In addition, the outline planning application that has a resolution to grant (Ref: P/2020/0083/OUEIA) includes 0% affordable housing. Therefore, regardless of the projected delivery rates, based on an overall capacity of 585

dwelling during the plan period, the site would deliver 0 affordable dwellings over the plan period and 0 affordable dwellings during the first five years.

7HA - Land West of the A49 Mill Lane and to the East of the West Coast Mainline railway line, Newton-le-Willows

Affordable Housing Zone	2
Greenfield / Brownfield	Part Brownfield / Part Greenfield
Required Affordable Housing contribution based on emerging policy	0%
Key Site Constraints	<ul style="list-style-type: none"> • Site contains a Local Wildlife Site (Newton Brook) and a TPO. • Medium size site (180 units) located 827m from AQMA. • Within a ground water source protection zone. • Site is 91% in Flood Zone 1, 9% in Flood zone 2 and 8% in Flood Zone 3. • 90% of site within a Medium-High or High Landscape Sensitivity area and 10% in Low/Medium landscape sensitivity area. Site is over 6.4km from prominent ridgelines. • Site of Archaeological Interest is 19m from the site and 313m to the nearest listed building. Effects possible.
Planning History	Part of the allocation is occupied by the Penkford School for children with Special Educational Needs. A planning application (Ref: P/2021/0028/FUL) for the redevelopment of the Red Bank Educational Unit to facilitate the relocation of Penkford School including extension to existing building, new playing field and a new car park was submitted in January 2021 and is awaiting determination.

Table 4.14 –Site 7HA Summary

Summary and Commentary

- 4.25 Site 7HA is a part brownfield / part greenfield site located to the south east of Newton-le-Willows. It is occupied by several buildings with some areas of green space. It is 8.03ha in size with an indicative capacity of 181 dwellings.
- 4.26 According to SHMBC's May 2021 updated trajectory, the site will deliver 20 dwellings in the 5 year period (2021-2026) and 181 dwellings in the plan period (extended to 2037).

Year	20 /2 1	21 /2 2	22 /2 3	23 /2 4	24 /2 5	25 /2 6	26 /2 7	27 /2 8	28 /2 9	29 /3 0	30 /3 1	31 /3 2	32 /3 3	33 /3 4	34 /3 5	35 /3 6	36 /3 7
Dwellings	n/ a	0	0	0	0	20	40	40	40	40	1	0	0	0	0	0	0

Table 4.15 – Council's claimed supply from 7HA as updated in documents SHBC007 in May 2021.

- 4.27 The site falls within proposed Affordable Housing Zone 2. Given the site is mostly brownfield, it is likely that 0% affordable housing will be sought. Based on an overall capacity of 181 dwellings during the plan period (20 dwellings in the 5YHLS), the site would deliver 0 affordable dwellings over the plan period and 0 affordable dwellings during the first five years. Even if a level of affordable housing was sought, it would be unlikely to be the full 30%. Based on a rough estimation of 15% provision (based on the site being roughly half brownfield and half greenfield), the site would still only deliver 28 affordable dwellings over the plan period and 3 affordable dwellings during the first five years.

8HA - Land South of Higher Lane and East of Rookery Lane, Rainford

Affordable Housing Zone	3
Greenfield / Brownfield	Greenfield
Required Affordable Housing contribution based on emerging policy	30%
Key Site Constraints	<ul style="list-style-type: none"> Site contains TPO, effects likely. Site is made up of 93% Grade 1 Agricultural Land (12.25ha). 100% of site within Medium-High or High Landscape Sensitivity area and 787m from prominent ridge.

	<ul style="list-style-type: none"> Listed building within 12m (Dial House). Development is likely to have a significant effect on the heritage asset unless screening is adopted. Access to Leisure: No facilities within 1200m.
Planning History	The site is currently located in the Green Belt. There is no planning history of direct relevance.

Table 4.16 – Site 8HA Summary

Summary and Commentary

4.28 Site 8HA is a greenfield site located directly to the south-east of Rainford. It is roughly rectangular in shape and is 11.49ha with an indicative capacity of 259 dwellings.

4.29 According to SHMBC's updated May 2021 trajectory, the site will deliver 259 in the plan period with 22 dwellings in the 5YHLS.

Year	20 /2 1	21 /2 2	22 /2 3	23 /2 4	24 /2 5	25 /2 6	26 /2 7	27 /2 8	28 /2 9	29 /3 0	30 /3 1	31 /3 2	32 /3 3	33 /3 4	34 /3 5	35 /3 6	36 /3 7
<i>Dwellings</i>	<i>n/a</i>	0	0	0	0	22	45	45	45	45	45	12	0	0	0	0	0

Table 4.17 – Council's claimed supply from 8HA as updated in documents SHBC007 in May 2021.

4.30 In the context that SHMBC is only suggesting a modest 22 dwellings within the first five years, it is highly likely that the site could deliver no housing, and thus no affordable housing during the first five years. The site falls within proposed Affordable Housing Zone 3 where 30% affordable housing will be sought (albeit it is possible that a lower percentage provision could be negotiated on viability grounds). Based on an overall capacity of 259 dwellings and the Council's trajectory, in a policy compliant scenario the site would deliver 78 affordable dwellings over the plan period and just 7 affordable dwellings in the first five years.

9HA - Former Linkway Distribution Park, Elton Head Road, Thatto Heath

Affordable Housing Zone	2
Greenfield / Brownfield	Brownfield ²

² Based on classification in Council's Viability Appraisal (VIA001).

Required Affordable Housing contribution based on emerging policy	0%
Key Site Constraints	<ul style="list-style-type: none"> Potentially adverse effects due to the site being 46m from a local wildlife site. Housing proposed on land currently used for employment.
Planning History	<p>A hybrid planning permission (Ref: P/2018/0060/FUL) for demolition of existing buildings and residential development of up to 352 dwellings was approved on 20th June 2018. It included a condition requiring 30% of housing units to be affordable, unless demonstrated otherwise on the basis of viability evidence. An application for the removal of Condition 33 (affordable housing provision) attached to application P/2018/0060/FUL was submitted in December 2020 (Ref: P/2020/0894/S73) but withdrawn on 27th April 2021.</p> <p>A reserved matters application for 'residential development of 294 dwellinghouses with accesses from Sherdley Road including landscaping, public open space, garages, car parking, and associated infrastructure' was validated on 23 April 2021. The application is made by Bloor Homes and is supported by a financial viability appraisal demonstrating that the site can deliver no affordable housing on or off-site.</p>

Table 4.18 – Site 9HA Summary

Summary and Commentary

- 4.31 Site 9HA is a brownfield site located between Sutton Heath and Thatto Heath. It is occupied by several industrial buildings with a strip of green space to the eastern side of the site. It is 12.39ha in size with an indicative capacity of 350 dwellings.
- 4.32 According to SHMBC's updated May 2021 trajectory, the site will deliver 350 in the plan period, Council's claimed supply, with 135 dwellings in the 5YHLS.

Year	20 /2 1	21 /2 2	22 /2 3	23 /2 4	24 /2 5	25 /2 6	26 /2 7	27 /2 8	28 /2 9	29 /3 0	30 /3 1	31 /3 2	32 /3 3	33 /3 4	34 /3 5	35 /3 6	36 /3 7
Dwellings	n/a	0	0	45	45	45	45	45	45	45	37	0	0	0	0	0	0

Table 4.19 – Council's claimed supply from 9HA as updated in documents SHBC007 in May 2021.

- 4.33 The site falls within proposed Affordable Housing Zone 2. Given the site is brownfield, 0% affordable housing will be sought. Whilst there is an existing hybrid permission on the site which included a condition requiring 30% of housing units to be affordable, the subsequent reserved matters application includes no affordable housing based on a viability appraisal.
- 4.34 Based on an overall capacity of 352 dwellings during the plan period, on this basis the site will likely deliver 0 affordable dwellings over the plan period and 0 affordable dwellings during the first five years.

10HA - Moss Nook Urban Village, Watery Lane, Moss Nook

Affordable Housing Zone	1
Greenfield / Brownfield	Brownfield
Required Affordable Housing contribution based on emerging policy	0%
Key Site Constraints	<ul style="list-style-type: none"> • Site contains is 288m Local Wildlife site and is 89m to the nearest TPO. • Located 1.8km from AQMA. Could generate additional car traffic in the urban area. • Site is 19m from a listed building.
Planning History	A hybrid permission was granted by the Secretary of State on 18 July 2007 (Ref: P/2003/1574) including residential development of a maximum of 1,200 dwellings, open space and commercial development. A Section 73 application (Ref: P/2011/0058) which sought to revise the approved parameters plan and the highways requirements was approved on 22nd May 2017. A subsequent reserved matters application (Ref: P/2021/0015/RES) for 258 dwellings on part of the site to the south was submitted by Taylor Wimpey and validated on 6 January 2021 and is awaiting determination. This includes no affordable housing provision.

Table 4.20 –Site 10HA Summary

Summary and Commentary

- 4.35 Site 10HA is a brownfield site located to the north of Sutton. It is 26.74ha in size with an indicative capacity of 802 dwellings.
- 4.36 According to SHMBC's updated May 2021 trajectory, the plan period delivery from the site will be 630 dwellings, with 135 dwellings in the 5YHLS.

Year	20 /2 1	21 /2 2	22 /2 3	23 /2 4	24 /2 5	25 /2 6	26 /2 7	27 /2 8	28 /2 9	29 /3 0	30 /3 1	31 /3 2	32 /3 3	33 /3 4	34 /3 5	35 /3 6	36 /3 7
Dwellings	n/ a	0	0	45	45	45	45	45	45	45	45	45	45	45	45	45	45

Table 4.21 – Council's claimed supply from 10HA as updated in documents SHBC007 in May 2021.

- 4.37 The site falls within proposed Affordable Housing Zone 1 where 0% affordable housing will be sought as it is a brownfield site. In addition, a reserved matters planning application for part of the site has been submitted (Ref: P/2021/0015/RES) which proposes 0% affordable housing. Therefore, regardless of the projected delivery rates, based on an overall capacity of 630 dwellings during the plan period, the site would deliver 0 affordable dwellings over the plan period and 0 affordable dwellings during the first five years.

Site Ref (a)	Indicative Site Capacity (Total) (b)	Dwellings over plan period based on Council's trajectory (d)	Affordable dwellings over plan period based on Council's trajectory (e)	Dwellings in 5YHLS based on Council's trajectory (f)	Affordable dwellings in 5YHLS based on Council's trajectory (g)
1HA	216	216	65	20	6
2HA	522	427	128	0	0
3HA	337	131	7	131	7
4HA	2,988	420	126	0	0
5HA	569	517	155	22	7
6HA	816	585	0	90	0
7HA	181	181	28	20	3
8HA	259	259	78	22	7
9HA	350	352	0	135	0
10HA	802	630	0	135	0
	7,040	3,718	587	575	30

Table 4.22 - Summary of analysis of proposed housing allocations

Appendix 5

Right to Buy consultation





Ministry of Housing,
Communities &
Local Government

Use of receipts from Right to Buy sales

Consultation



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Scope of the consultation

Topic of this consultation:	This consultation seeks views on options for reforming the rules governing the use of Right to Buy receipts from the sale of council housing, and whether we should reform the commitment that every additional home sold (as a result of the increase in discounts in 2012) is replaced on a one-for-one basis nationally.
Scope of this consultation:	This consultation seeks views on the options and invites consultees to comment as well as respond to specific questions.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	The purpose of the consultation is to seek views on options to reform the rules governing the use of Right to Buy receipts. Any policy changes brought forward as a result of the consultation would be subject to appropriate assessment.

Basic Information

To:	This consultation is open to everyone. It is primarily aimed at stock-holding English local housing authorities.
Body/bodies responsible for the consultation:	Ministry of Housing, Communities and Local Government
Duration:	This consultation will last for 8 weeks and will close on 9 October 2018.
Enquiries:	For any enquiries about the consultation please contact RTBconsultation@communities.gsi.gov.uk .
How to respond:	<p>Consultation responses should be submitted by online survey:</p> <p>https://www.surveymonkey.co.uk/r/RTBconsultation</p> <p>We strongly encourage responses via the online survey, particularly from organisations with access to online facilities such as local authorities, representative bodies and businesses.</p> <p>Should you be unable to respond online we ask that you complete the pro forma at the end of this document. Additional information or evidence can be provided in addition to your completed pro forma.</p> <p>In these instances you can email your pro forma to:</p> <p>RTBconsultation@communities.gsi.gov.uk</p>

Or send to:
Right to Buy Consultation Response
Right to Buy and Local Authority Housing Division
Ministry of Housing, Communities and Local Government
3rd floor,
Fry Building
2 Marsham Street
LONDON
SW1P 4DF

When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable),
- the name of organisation (if applicable),
- an address (including post-code),
- an email address, and
- a contact telephone number

Introduction

- 1 The Social Housing Green Paper, “A new deal for social housing”, published today sets out the Government’s vision for social housing following wide ranging and extensive engagement with social housing residents and landlords. Social housing remains central to our supply ambitions, providing a stable base that supports people when they need it. But our social housing offer must also be one that supports social mobility. The Green Paper includes a chapter on supply and supporting home ownership which sets out options to support local authorities to build more homes. These include changing the rules around how local authorities can use the money raised from Right to Buy sales in order to make it easier for them to build more homes. This consultation paper provides the opportunity to comment on these ideas, which are set out in more detail below. It also sets out options for reforming the commitment that every additional home sold (as a result of the increase in discounts introduced in 2012) is replaced on a one-for-one basis nationally.

Background

- 2 Under current Right to Buy legislation, council tenants – and housing association tenants who transferred with their homes from council landlords – have the right to buy their home at a discount, with the amount of discount dependent upon the length of time as a social tenant. Right to Buy discounts are currently a maximum of £108,000 in London and £80,900 outside of London.
- 3 In April 2012 the Right to Buy was reinvigorated by the Government and the maximum Right to Buy discounts were increased. A commitment was also introduced for the first time that for every additional sale (above the original baseline forecast under the Self-Financing Settlement), a new affordable home would be provided nationally through acquisition or new supply. Local authorities could also enter into an agreement with the Government to retain these additional sales receipts to fund the provision of the replacement stock.
- 4 Under the terms of the current agreements, made under Section 11(6) of the Local Government Act 2003, local authorities are required to spend retained Right to Buy receipts within three years, and for the receipts to fund no more than 30% of the cost of a replacement unit. Where a local authority is unable to spend receipts within three years they have to be returned to the Ministry of Housing, Communities and Local Government, together with interest of 4% above base rate, to be spent on affordable housing through Homes England or the Greater London Authority.
- 5 Statistics released in March 2018 showed for the first time that while the overall number of homes available for social rent has increased, local authorities have not been building enough Right to Buy replacements to match the pace of sales and the commitment that every additional home sold would be replaced on a one-for-one basis nationally is no longer being met. It is clear that local authorities need to increase their rate of delivery of new homes if they are to match the growth in sales.

- 6 The Government recognises that more needs to be done to help councils deliver replacement homes and have already taken action. Local authorities in high affordability pressure areas are able to [bid for additional Housing Revenue Account borrowing](#) which can be used alongside their unspent Right to Buy receipts to build new homes, and we have set a longer-term rent deal to provide investment stability.
- 7 The Government is aware from engagement with the sector that the current restrictions around the use of Right to Buy one-for-one receipts are a barrier to delivery. To help councils build more homes, the Government believes there is a case for greater flexibility on the use of receipts from Right to Buy sales. In a written Ministerial statement issued on 29 March 2018, the Government said it would consult further with the sector on how local authorities can use their Right to Buy receipts, and how to ensure that we continue to support local authorities to build more council homes.
- 8 The purpose of this consultation paper is to seek views on options for reforming the rules governing the use of Right to Buy receipts from the sale of council housing, and options for reforming the commitment that every additional home sold (as a result of the increase in discounts in 2012), is replaced on a one-for-one basis nationally.
- 9 The paper poses a number of specific questions. When responding it would be useful if you could identify which questions you are answering. The questions are set out in the attached pro forma.

Options for reforming the rules around the use of Right to Buy receipts

1. Timeframe for spending Right to Buy receipts

- 10 Local authorities are currently required to spend their one-for-one Right to Buy receipts within three years. If the receipts are not spent within three years the authority has to return them to the Ministry of Housing, Communities and Local Government together with interest of 4% above base rate. Returned receipts are used through Homes England or the Greater London Authority for the provision of affordable housing. The Government is aware that local authorities are frustrated when they have to return receipts plus interest despite having developments in the pipeline that they could be used on if they were able to keep them for longer.
- 11 The Government is not, however, minded to extend the three year deadline for all receipts as the ambition is still for local authorities to deliver replacements quickly and local authorities have now had six years since the rules were introduced in 2012 to build up their experience and capacity to develop and deliver new housing.
- 12 The Government is considering allowing local authorities to hold receipts they currently retain for five years instead of three, to give them longer to spend the receipts that they already have. This would also be helpful for those local authorities that are successful

in bidding for additional borrowing through the Housing Revenue Account [additional borrowing programme](#). It would also allow time for the other flexibilities proposed in this paper to be introduced, which will help make it easier for both existing and future receipts to be used.

- 13 If this flexibility was introduced, it would be made clear which receipts would fall under the five-year rule and which would fall under the three-year rule based on the quarter the receipts were received.

Question 1:

We would welcome your views on extending the time limit for spending Right to Buy receipts from three years to five years for existing receipts but keeping the three-year deadline for future receipts.

2. Cap on expenditure per replacement unit

- 14 Right to Buy receipts can currently fund no more than 30% of the cost of a replacement home (whether through acquisition or new build) and local authorities have to find additional funding for the remaining 70%.
- 15 The Government believes that this should be feasible for authorities in typically higher-demand areas where the rental stream is sufficient to finance the remaining (up to) 70% through borrowing. However, if an authority is in a high-demand area but up against its borrowing cap and therefore unable to borrow, or in a low-demand area where they are able to borrow but rents are too low to finance the required level of borrowing, this can provide a significant stumbling block. It can also be problematic for authorities wanting to build homes for social rather than affordable rent, as these require a greater subsidy than 30%.
- 16 The Government is therefore considering allowing greater flexibility in the following circumstances:
- a) Increase the cap to 50% of build costs for homes for social rent in areas where authorities meet the eligibility criteria of the Affordable Homes Programme and can demonstrate a clear need for social rent over affordable rent; and
 - b) Allow local authorities to “top-up” insufficient Right to Buy receipts with funding from the Affordable Homes Programme up to 30% of build cost for affordable rent, or 50% of build costs for social rent where authorities can demonstrate a need for social rent, with bids for top-up to be submitted to the Affordable Homes Programme.

Question 2:

We would welcome your views on allowing flexibility around the 30% cap in the circumstances set out above, and whether there are any additional circumstances where flexibility should be considered.

3. Use of receipts for acquisition

17 Local authorities can use Right to Buy receipts for the acquisition of existing properties as well as for new build, and acquisitions currently account for around 40% of replacements. Last-minute high-value acquisitions, where local authorities use receipts rather than have to return them to the Department together with interest, have been highlighted as one of the problems affecting replacement. This has an impact on the level of new supply being achieved through Right to Buy receipts. However, in some areas acquisition may be cheaper than new build and offer better value for money or may better reflect local needs. Acquisition can also be effective in bringing empty properties back into use. The Government does not therefore propose to implement a blanket ban on acquisition but is considering restricting acquisitions in order to help drive up new supply.

18 We have considered restricting the use of receipts for acquisition by:

- a) introducing a price cap per dwelling based on average build costs at Homes England and Greater London Authority operating area level;

Table 1 – Average total scheme costs (build cost) by operating area provided by Homes England and the Greater London Authority.¹

Homes England/GLA Operating Areas	Average Total Scheme Costs (2018/19 prices)
Midlands	132,000
North East, Yorkshire and the Humber	113,000
North West	122,000
South East	167,000
South West	152,000
Inner London	268,000
Outer London	265,000

For example, in the North East or Yorkshire and the Humber areas, it may sometimes be cheaper to acquire a property for less than £113,000 rather than build a new unit. In this case, the local authority would be allowed to acquire the property rather than build a new unit.

However, in London, in most instances, it is likely to be cheaper to build a new property than to acquire one. Purchases of properties over £265,000 in Outer London and £268,000 in Inner London would not be allowed.

¹ This is based on programme data from the Affordable Homes Programme between 2015-18. These have been updated to 2018/19 prices using the Consumer Price Index (CPI) forecasts produced by the Office of Budget Responsibility from Spring Statement 2018

or

b) allowing acquisition in certain areas only, for example, where average build costs are more than acquisition costs.

Our preference is for option a) as option b) would effectively introduce a blanket ban in some areas, which would prevent acquisition of empty properties in those areas.

Question 3:

We would welcome your views on restricting the use of Right to Buy receipts on the acquisition of property and whether this should be implemented through a price cap per unit based on average build costs.

4. Tenure of replacement home

- 19 Housing built or acquired by local authorities using Right to Buy receipts has to be provided at affordable or social rent. There can be viability issues in providing homes under these tenures for some developments and the Government is considering allowing local authorities flexibility to use receipts for shared ownership housing as well as for affordable and social rent. This could help with viability in some areas and is in line with the definition of affordable housing used under the Affordable Homes Programme.
- 20 Whilst this flexibility could lead to a reduction in the number of replacements being offered at affordable or social rent in some areas, this would be a matter for local authorities to determine in accordance with local needs. We are aware from our engagement with local authorities that this flexibility is not, in any case, likely to be taken up in all areas.

Question 4:

We would welcome your views on allowing local authorities to use Right to Buy receipts for shared ownership units as well as units for affordable and social rent.

5. Changing the way the cost of land is treated

- 21 Local authorities have to account for their spending and income in a way that satisfies government regulations. Local authorities include most day-to-day spending and income within an account called the General Fund. The General Fund includes spending and income from a range of services including refuse collection, leisure facilities and community development work. Those authorities with a council-owned housing stock have a duty to maintain an additional account called the Housing Revenue Account. The Housing Revenue Account specifically accounts for spending and income relating to the management and maintenance of the council-owned housing stock.

- 22 The majority of local housing authorities (166) have a Housing Revenue Account. In other areas, all council homes have been transferred to Housing Associations. The Housing Revenue Account is governed by strict rules, set out in primary and secondary legislation which control rents and the type of tenancies that can be offered, and give tenants the Right to Buy. The Housing Revenue Account is separated from the local authority's General Fund by a "ring fence" to prevent council tax payers subsidising council housing, and vice versa.
- 23 Where local authorities want to use land in their General Fund to build housing on, they are required to compensate the General Fund from their Housing Revenue Account for the value of the land and the value of the land is not counted as a cost in calculating the authority's one-for-one expenditure. The Government is considering relaxing this restriction to allow local authorities to gift land from the General Fund to their Housing Revenue Account at zero cost, without increasing the Housing Revenue Account Capital Finance Requirement or increasing borrowing limits by the amount necessary to transfer land into the Housing Revenue Account. This will make it easier for local authorities to use land from within their General Fund for housing delivery.
- 24 We are considering limiting this to land which has been held in the General Fund for a number of years and are considering whether this should only apply to land which has not previously been developed or whether to also include land with derelict buildings.

Question 5A:

We would welcome your views on allowing the transfer of land from a local authority's General Fund to their Housing Revenue Account at zero cost.

Question 5B:

We would also welcome your views on how many years land should have been held by the local authority before it can be transferred at zero cost, and whether this should apply to land with derelict buildings as well as vacant land.

6. Transferring receipts to a Housing Company or Arm's-Length Management Organisation (ALMO)

- 25 Local authorities are increasingly setting up housing companies as a means of developing expertise and capacity in delivering new housing. Local authorities are not currently allowed to transfer Right to Buy receipts to a housing company or to an Arm's-Length Management Organisation as the homes built through these organisations do not come under the Housing Revenue Account and are, therefore, not subject to the same protections which residents in council homes enjoy. This means that rents are not set according to government policy and residents are not guaranteed a right to buy their homes.
- 26 The Government believes that, in general, social and affordable housing should be built and managed within a local authority's Housing Revenue Account so that residents' rights are protected and they have access to the Right to Buy. Maintaining this

provision also guarantees the integrity of the ring-fence, protecting both council tenants and Council Tax payers from their money being used for purposes that will not benefit them. However, Government recognises that there are occasions where delivering affordable housing through housing companies might be appropriate, such as where the Housing Revenue Account cannot sustain new building, and is seeking views on the use of Right to Buy receipts through these organisations.

- 27 The Government believes it is important that council social housing residents have the opportunity to realise their aspirations and become homeowners. Where housing companies are delivering and retaining affordable homes we expect them to offer an opportunity for tenants to become homeowners where feasible.

Question 6:

We would welcome your views on whether there are any circumstances where housing companies or Arm's-Length Management Organisations should be allowed to use Right to Buy receipts.

7. Temporary suspension of interest payments

- 28 If a local authority does not spend their Right to Buy receipts within three years the receipts have to be returned to the Ministry of Housing, Communities and Local Government, together with interest of 4% above base rate, to be spent on affordable housing through Homes England or the Greater London Authority. The intention is to encourage local authorities to return receipts sooner where they do not have immediate delivery plans.
- 29 We know that local authorities would prefer to spend the receipts themselves rather than return them to be spent by Homes England/Greater London Authority as returned receipts are not targeted at the local authority area they were returned from. However, there will be instances where a local authority is unable to spend their receipts within the timeframe and the Government is considering providing a short window of time during which local authorities could return receipts without interest.
- 30 If introduced, we consider that this flexibility would apply for one quarter only and that local authorities would be given advance notice of the timing to allow decisions to be taken on whether to return receipts. The period of time the flexibility would operate would tie in with the current Right to Buy pooling requirement timetable.

Question 7:

We would welcome your views on allowing a short period of time (three months) during which local authorities could return receipts without added interest.

8. Other Comments

- 31 We would welcome your views on other flexibilities which could be introduced to make it easier for local authorities to deliver new housing with their Right to Buy receipts.

Question 8:

Do you have any other comments to make on the use of Right to Buy receipts and ways to make it easier for local authorities to deliver replacement housing?

Reforming the replacement commitment

- 32 With the reinvigoration of Right to Buy in 2012, the Government committed to ensuring that, for every additional council home sold as a result of the increased discounts, a replacement home would be provided nationally through acquisition or new build.
- 33 Under the target as it currently stands, sales by each local authority are measured against a baseline of sales predicted pre-reinvigoration in 2012. For any sales above that baseline, councils can choose to keep a proportion of the money to invest in new housing for affordable and social rent, subject to the conditions set out earlier in the paper. If a local authority cannot meet these conditions, they must return the money to the Ministry of Housing, Communities and Local Government to be spent through Homes England or the Greater London Authority on affordable housing. The target measures these additional sales against the number of housing starts made by local authorities, Homes England or the Greater London Authority using the receipts from the additional sales.
- 34 The national target has now been missed for the last two quarters. This trend is set to continue. However, the measurement of the number of homes sold or acquired and the replacements built which count towards the commitment does not currently include:
- Homes sold by councils within the baseline forecast for Right to Buy sales from 2012
 - Homes sold under the preserved Right to Buy
 - Council homes sold other than through the Right to Buy
 - Homes built by local authorities with grant and other funding
 - Affordable homes built by housing associations
- 35 The current target focuses on the effects of one policy and does not take into account Government's other efforts to increase the net supply of social and affordable housing. The Government has a strong record of supporting the building of new social housing, which includes the £9 billion Affordable Homes Programme. As such, since 2012, the number of homes provided for social and affordable rent is 159,000, compared to local authority Right to Buy sales of 66,000. Taking into account the total net change in social and affordable rented housing stock, including the Preserved Right to Buy, other sales and losses due to demolitions, there has been a net increase of 49,000 social

and affordable rented homes since 2012. Therefore, the Government is consulting on whether it would be preferable to measure the overall effects of Government policy on social housing stock, instead of narrowly measuring it against the Right to Buy target.

- 36 One option would be for the Government to drop the current target and to focus on a broader measurement that takes into account all the social and affordable housing that has been sold or lost against the total number of additional social and affordable housing so that it is clear whether there has been an increase rather than loss overall. This would mean that all properties sold under the Right to Buy would be included rather than just those above the baseline forecast in 2012, as well as new social housing bought or built by local authorities and housing associations, regardless of how this has been funded.

Question 9:

Should the Government focus be on a wider measurement of the net increase in the supply of all social and affordable housing instead of the current measurement of additional homes sold and replaced under the Right to Buy? If the target were to change, we would welcome your views on what is the best alternative way to measure the effects of Government policies on the stock of affordable housing.

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at Annex A.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Annex A: Personal data

The following is to explain your rights and give you the information you are entitled to under the Data Protection Act 2018.

Note that this section only refers to your personal data (your name, address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gsi.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

The Data Protection Act 2018 states that, as a Government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest, e.g. a consultation.

3. With whom we will be sharing your personal data

Personal data will not be shared outside of MHCLG. Any data that is shared beyond MHCLG will be anonymised.

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for two years from the closure of the consultation.

5. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. The Data you provide directly will be stored by SurveyMonkey on their servers in the United States. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system. Data provided to Survey Monkey will be moved from there to our internal systems by March 2019.

Annex B: Consultation response proforma

If you are responding by email or in writing, please reply using this questionnaire proforma, which should be read alongside the consultation document. If you are completing the form online you are able to expand the comments box should you need more space.

Your Details (Required fields are indicated with an asterix(*))

Family Name (Surname)*	
First Name*	
Title	
Address	
City/Town*	
Postal Code*	
Telephone Number	
Email Address*	

Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?* (please tick as appropriate)

☐ Personal View

☐ Organisational Response

Name of Organisation (if applicable)

--

If you are responding on behalf of an organisation, please tick the box which best describes your organisation.

☐ Local Authority (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)

☐ Neighbourhood Planning Body/Parish or Town Council

☐ Private Sector organisation (including housebuilders, housing associations, businesses, consultants)

☐ Trade Association /Interest Group/Voluntary or Charitable organisation

Other (Please specify)

--

Options for reforming the rules around the use of Right to Buy receipts

Timeframe for spending Right to Buy receipts

Question 1:

We would welcome your views on extending the time limit for spending Right to Buy receipts from three years to five years for existing receipts but keeping the three year deadline for future receipts.

Please enter your comments here

Cap on expenditure per replacement unit

Question 2:

We would welcome your views on allowing flexibility around the 30% cap in the circumstances set out in the consultation paper, and whether there are any additional circumstances where flexibility should be considered.

Please enter your comments here

Use of receipts for acquisition

Question 3:

We would welcome your views on restricting the use of Right to Buy receipts on the acquisition of property and whether this should be implemented through a price cap per unit based on average build costs.

Please enter your comments here

Tenure of replacement home

Question 4:

We would welcome your views on allowing local authorities to use Right to Buy receipts for shared ownership units as well as units for affordable and social rent.

Please enter your comments here

Changing the way the cost of land is treated

Question 5A:

We would welcome your views on allowing the transfer of land from a local authority's General Fund to their Housing Revenue Account at zero cost.

Please enter your comments here

Question 5B:

We would also welcome your views on how many years land should have been held by the local authority before it can be transferred at zero cost, and whether this should apply to land with derelict buildings as well as vacant land.

Please enter your comments here

Transferring receipts to a Housing Company or Arm's-Length Management Organisation (ALMO)

Question 6:

We would welcome your views on whether there are any circumstances where housing companies or Arm's-Length Management Organisations should be allowed to use Right to Buy receipts.

Please enter your comments here

Temporary suspension of interest payments

Question 7:

We would welcome your views on allowing a short period of time (three months) during which local authorities could return receipts without added interest.

Please enter your comments here

Other comments

Question 8:

Do you have any other comments to make on the use of Right to Buy receipts and ways to make it easier for local authorities to deliver replacement housing?

Please enter your comments here

Reforming the replacement commitment

Question 9:

Should the Government focus be on a wider measurement of the net increase in the supply of all social and affordable housing instead of the current measurement of additional homes sold and replaced under the Right to Buy? If the target were to change, we would welcome your views on what is the best alternative way to measure the effects of Government policies on the stock of affordable housing.

Please enter your comments here

Appendix 6

Extract of Planning Appeal Decision APP/A0665/W/14/2212671
at Darnhall School, Winsford Lane, Cheshire

St Helen's Local Plan Examination

Lovell Partnership Limited's response to Matters 5 and 7

Affordable Housing Supply



Social

408. The proposal would deliver 40% of the dwellings as affordable housing, 10% more than the requirement. The facts surrounding the extent of the need for affordable housing are again in dispute. Notwithstanding that the Council accepts that the need for affordable housing in CW&C is such that the provision of 40%, which is 10% above the LP target of 30%, should be afforded substantial weight. The dispute is over the attachment of the pronoun “very” [IR 175, 182, 275 & 283].
409. Affordability appears to have got worse in CW&C and the numbers on its housing register have more than doubled since it was reviewed in 2014. At the same time, affordable homes have continually been lost from the stock as a result of the “right to buy”. Nevertheless, in the context of the LP target of 30%, on past performance the Council appears to be capable of meeting this and achieving the delivery of 6,600 affordable units over the plan period [169, 172, 173, 188, 276 & 277].
410. The unachieved provision of 714dpa. and the corresponding shortfall of 1,503d, referred to by the Appellant, are in the context of the backlog being resolved within five-years. That was never going to be achieved, without a substantial increase in public funds, because it would involve 65% of all dwellings constructed over the five-year period being affordable. As the LP Inspector observed, the figure would still be reduced if the backlog was cleared over a longer period, such as the plan period. However, meeting all of the existing and future affordable housing needs by 2030 from the private sector contribution even if it were always 30%, is likely to be an impossible task [IR173, 174, 176, 178, 179 & 278-280].
411. Nevertheless, because of public investment, the evidence suggests that provision has fared better in Winsford, over the plan period to date, than in the Borough as a whole. Additionally, and despite this and its overall opposition to the proposal, the Town Council in its evidence considers that there is a need for more affordable homes and would welcome the provision on this site. Furthermore, the backlog represents people in housing need now, some of them acutely and so it should not be easily glossed over. I agree that at least substantial weight should be given to the provision of affordable housing on the site [IR 171, 177, 180, 182, 183, 281-283 & 315].
412. The self-build plots would help meet the government’s objective expressed in the Housing White Paper and now included in the revised Framework, to support the growth of self and custom build homes. Whilst maintaining a register of those seeking to acquire serviced plots under Section 1 of the Self-Build and Custom Housebuilding Act 2015, to date there are no specific development permissions in CW&C to meet the identified demand. As identified through the Council’s self-build register that amounts to 309 households. In Xx the Council confirmed that it did not know how many self-build plots it had granted planning permission for during the plan period. The extent to which the Council has supplemented this data with secondary information, as recommended by the Framework, was also not clear but despite Build Store’s database identifying 443 registrants within ten miles of the appeal site, the Council maintained that there is no demand at all in Winsford for such housing on a large site [IR 184-196 & 284-288].

**APPENDIX II – KINGS LYNN AND WEST NORFOLK BC [2015] EWHC
2464 (ADMIN)**

CO/914/2015

Neutral Citation Number: [2015] EWHC 2464 (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2A 2LL

Thursday, 9 July 2015

B e f o r e:

MR JUSTICE DOVE

Between:

BOROUGH COUNCIL OF KINGS LYNN AND WEST NORFOLK_
Claimant

v

SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT_
Defendant

And

ELM PARK HOLDINGS LTD

Second Defendant

Computer-Aided Transcript of the Stenograph Notes of
WordWave International Limited
A Merrill Communications Company
165 Fleet Street London EC4A 2DY
Tel No: 020 7404 1400 Fax No: 020 7404 1424
(Official Shorthand Writers to the Court)

Timothy Leader (Marc Samuels for judgment only)(instructed by Borough Council of Kings Lynn) appeared on behalf of the **Claimant**

Zack Simons (instructed by Government Legal Department) appeared on behalf of the **Defendant**

James Corbet Burcher (Nina Pindham for judgment only) (instructed) appeared on behalf of the **Second Defendant**

J U D G M E N T
(Approved)
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1. MR JUSTICE DOVE: Clenchwarton is a village to the west of King's Lynn. In the July 2011 Core Strategy published and adopted by the claimant, it is identified as a key rural service centre which is suitable for local scale development. The claimant is the local planning authority for the area concerned and the second defendant is the owner of the Foster's Sports Ground, Main Road in Clenchwarton. It is a site towards the western end of the settlement within land designated countryside in the proposals map of the 1998 King's Lynn and West Norfolk local plan.
2. On the 2 November 2011 the second defendant applied for outline planning permission for 75 dwellings which was refused by the claimant and there was an appeal to the first defendant. That appeal was dismissed on 12 November 2012. The issues which were included in the determination of that appeal were whether or not the claimant could demonstrate a five-year supply of housing land. The Inspector in determining that appeal concluded as follows:
 - i. "8. Taking account of the housing completions between 2001 and 2011, there is a total five year housing requirement for 3,275 dwellings. Adding an additional 5% buffer, in accordance with paragraph 47 of the National Planning Policy Framework (framework). The 5 year requirement rises to 3,439 dwellings, which is equivalent to 688 dwellings per annum.
 - ii. 9. The Council's Annual Monitoring Report, December 2011, published in April 2012, identifies a supply of sites for 3,276 which equates to some 4.76 years' supply. However, paragraph 48 of the Framework permits making an allowance for windfall sites within the 5 year supply where Councils have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Given the Council's experience of the contribution of windfall sites to the housing supply over an 11 year period, together with the unusually

large geographical area of the Borough and the high number of settlements within the Borough, I accept that the Council's suggested allowances for windfall sites based on 70% of past rates, is realistic in this instance. On this basis, there is a deliverable housing land supply of around 6.03 years."

3. Following that decision, the second defendant reconsidered its position. It amended its proposal to 40 dwellings to respond to criticisms raised by the Inspector in respect of landscape impact. On 12 December 2013 the Court of Appeal decision in the case of City and District Council of St Albans v Hunston Properties Limited and the Secretary of State [2013] EWCA Civ 1610 was handed down with its implications in relation to the interpretation of paragraph 47 of the NPPF (hereafter "the Framework") to the housing requirement when calculating a five-year supply of housing. It is worthwhile at this stage to set out the relevant provisions of the Framework in paragraph 47 which are as follows:
 - i. "47. To boost significantly the supply of housing, local planning authorities should:
 - use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the planned period;
 - identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

4. On 27 July 2013 the second defendant applied for outline planning permission for 40 dwellings. The application was refused on 22 November 2013 by the claimant and the second defendant appealed. The appeal was determined by one of the first defendant's Inspectors using the hearing mode of appeal determination. The procedures in relation to the hearing evolved in the following manner. Firstly, the second defendant's statement of case prepared in May 2014 arrived with the claimant in early June. Secondly, on 12 September 2014, the claimant prepared and submitted a response to that document. Thirdly, on 28 November 2014, the second defendant responded to the claimant's case in relation to housing land supply. Fourthly, on the 2 December 2014, the planning Inspectorate on behalf of the first defendant requested that the claimant clarify its position on the housing land supply evidence provided by the second defendant in a further submission due by 5 December 2014. Fifthly and finally, on 5 December 2014, the claimant submitted (in accordance with the request which had been made by the Planning Inspectorate) further documentation in support of its position in relation to housing land supply.
5. As will be evident from that chronology, once again the question of whether or not the claimant enjoyed a five year supply of housing land was in issue. A number of the ingredients of the calculation were, in particular, at odds between the claimant and the second defendant so far as is relevant to this case. They were as follows:
 - (a) The requirement. The claimant still relied upon the requirement from its Core Strategy as representing their Full Objectively Assessed Need for housing (FOAN) reliant on the Core Strategy housing figure of 660 dwellings per annum.

They had taken into account work which they had commissioned as a Strategic Housing Market Assessment (SHMA) and considered that it corroborated the figure which was in their Core Strategy. This SHMA exercise which was prepared as part of the evidence base for the emerging local plan showed a FOAN of 690 dwellings per annum. The second defendant's consultants contended that the SHMA analysis was incomplete and did not account for either existing unmet need (which had been deduced from the SHMA as standing at around 1500 dwellings at the time of the second defendant's analysis), or the rate of vacancies at a rate of 3 per cent derived from the 2011 census, or second homes together with the vacancies at a rate of 14.9 per cent (again derived from the figure for household spaces with no usual residents which was provided by the 2011 census data). Adding vacancies alone gave (in the second defendant's analysis) an annual figure of 711 dwellings per annum; adding vacancies and second homes gave a figure of 793 dwellings per annum and finally, adding an element of unmet need together with vacancies and second homes, gave a total figure of 872 dwellings per annum.

- ii. (b) The buffer. The second issue was whether the claimant was a five per cent or a 20 per cent authority. Although initially the second defendant's consultants had accepted that the claimant was a five

per cent authority, they subsequently contended for 20 per cent on the basis that in the previous 6 years the claimant had not met the Core Strategy requirement of 660 dwellings per annum, and that since 2001 the annual average of completions had been 622 dwellings per annum, again below the Core Strategy target. The claimant responded by pointing out that the 622 dwellings per annum figure covered a period of economic recession and further argued that development rates were rising as a result of the production of a site allocation document which was about to proceed to its pre-submission stage. A graph was produced by the claimant illustrating the broad correlation between completion rates and the Core Strategy requirements.

- iii. (c) The question of windfalls. By the time of the hearing, the differences between the claimant and the second defendant were as follows. The claimant, based on past trends, relied upon a supply from large windfalls of 670 dwellings and the second defendant allowed for none. In relation to small windfalls, again based on past trends, the claimant included 470 dwellings within their five-year supply and the second defendant, who had vacillated between a number of positions on this issue, finally decided to include 268 dwellings.
- iv. (d) Allocations emerging in the pre-submission Site Allocations and Development Management Document. These were also the subject of contention. They were contained in a document which had been

approved for consultation by the claimant on 27 November 2014.

That consultation was due to occur in January and February 2015.

The claimant included some 2,303 dwellings from this source of supply in their five-year calculation. The second defendant allowed none.

6. The hearing was allocated two days. At the hearing the Inspector led a discussion of the issues following an agenda which he had constructed for this purpose. The third issue on that agenda was housing land supply. When the claimant came to present its case following the submissions on behalf of the second defendant, it became clear that owing to computer problems the claimant's submissions of 5 December 2012 together with the supporting documentation had not in fact been received by the Inspector and he had not seen them. Copies were provided to him at the hearing. The Inspector chose to press on without adjourning to read the documentation. Mr Jermany who was not leading the counsel's case (which was in fact led by the case officer for the application, Mrs Wood-Handy) but who was its expert on housing land supply, records his concerns in relation to what occurred in a witness statement as follows:

- i. "I felt at a disadvantage trying to pick out relevant parts of my statement, without reading it in full, while knowing that Inspector had not had a chance to read it and had not had a chance to understand and review the supporting documents in advance and to properly question me and Hannah [Mrs Wood-Handy] about them."

7. It is apparent from a contemporaneous note provided by one of the second defendant's team at the hearing, that the discussion ranged over each of the disputed elements which I have set out above. In relation to the emerging

allocations, reference was made during the course of the of discussion to the case of Wainhomes (South West) Holdings Limited v Secretary of State [2013] EWHC 597 to which I shall turn shortly. In relation to the appropriate FOAN for consideration in calculating the five-year housing supply, mention was made of the case of Hunston Properties.

8. On 2 January 2015 the decision on the appeal was published and the appeal was allowed. The Inspector's conclusions on housing land supply were set out as follows.

- i. "6. The Council considers the CS figure of 16,500 dwellings in the period 2001 to 2026 (660 dwellings per annum) to be the correct requirement and claims that the 2013 Strategic Housing Market Assessment (SHMA) update still supports that as a realistic figure. The Council's methodology was used in the previous appeal relating to 75 dwellings and was not challenged in the High Court. However, the CS is based on what are now old household projections. Indeed the Council notes that the Framework 'makes reference to keeping plans up to date and therefore under review' and the Inspector in the previous appeal states at paragraph 12 of her decision, issued in November 2012, that 'The Council will need to re-visit its housing provision in the light of more recent household projections and to keep its housing supply in line with the evidence base in the future'. That is the approach adopted by the appellant in this case.
- ii. 7. Indeed, the SHMA explains that there would be a requirement of 690 households per annum. Households do not equate to dwellings and allowance should be made for vacancies and second homes. The 2011 census records that King's Lynn has 14.9% vacancies and second homes, which would give a full objectively assessed need (FOAN) of 793 dwellings a year. If, as a minimum, only vacancies are considered, it is generally recognised that a figure of 3% should be used giving a requirement of 711 dwellings per annum. A minimum of 51 additional dwellings a year, and possibly as many as 133, over and above the CS requirement of 660 does not suggest that the CS requirement is still

realistic. Indeed, over a 15 year period that equates to a minimum need for in excess of 750 additional dwellings.

9. Considering the appropriate buffer to be applied, Framework paragraph 47 indicates that a 5% buffer should be added 'to ensure choice and competition.' However, where there has been a record of persistent under delivery, the buffer should be increased to 20%. The Guidance confirms that there is no universal test for persistent under delivery and sets out that the assessment of local delivery is likely to be more robust if a longer term view is taken.
10. In each of the last 6 years the Council has failed to achieve its requirement of 660 dwellings per annum and has only averaged 447 dwellings a year. The Council notes that the trend from 2011 to 2014, which includes the recession between 2008 and 2013, is running at 622 dwellings per annum. Although development rates are rising, and the Council published its Pre-Submission Site Allocations and Development Management Document in October, which it is acknowledged would release the full plan provision of new sites, the long term trend is behind the target of 660 dwellings per annum with a shortfall of some 487 dwellings in the period to date. This indicates that the Council has persistently under provided and so a 20% buffer should be applied....
11. In relation to windfalls, paragraph 48 of the Framework states that an allowance can be made in the five year supply if there is compelling evidence that such sites have consistently become available in the local area, and will continue to provide a reliable source. Between 2001 and 2014, 49% of total completions in the Borough were from windfall sites, and 59% of those were from large sites of more than 10 dwellings. Given that the Council is seeking to adopt a new policy to allow infilling in the smaller villages and hamlets, small sites are likely to continue to provide a reliable source of windfalls. However, given the publication of the Pre-Submission Site Allocations and Development Management Document releasing the full plan provision of new sites, it is likely that the majority of large sites would come from allocations. Rather than there being compelling evidence, as the Framework requires, there is at best only a possibility that some completions would come from large site windfalls and these should therefore be discounted.
12. The appellant raised three queries relating to permissions. Whilst 302 dwellings are under construction at Hillingdon Square, the net result of development is the loss of 17 units. The Council accepts this and -17 is now included in the Housing Trajectory. Secondly, in respect of the Nar

Ouse Regeneration Area (NORA), the appellant considers that only 300 of the 554 with outline planning permission are likely to be completed in the 5 year period. Whilst Reserved Matters permissions were granted for a further 185 on 1 December 2014, and a preferred bidder has been approved to deliver 600 units by 2020 on Council and Homes and Community Agency land, there is little evidence to counteract the appellant's view. Finally, permission on a site north of Gaywood River, King's Lynn has lapsed and an application for 95 dwellings was subsequently refused although a revised application has just been submitted with the applicant claiming to have overcome the outstanding reason for refusal from appeal.

- i. The parties disagree on the figures but again the appellant's are more robust, despite the Council's view that the Guidance on what are deliverable sites, would give greater flexibility and add to the potential 5 year supply of sites.

13. Given the conclusions above, the appellant's calculations are preferred and show that rather than having a 7.51 year supply (based on CS and 5% buffer) as the Council maintains, there would only be a 1.91 year housing supply (based on 2011 housing projections and a 20% buffer).

Notwithstanding the Council's view that the policies in CS are consistent with the Framework, as there is no 5 year supply the housing policies, including policies defining settlement boundaries cannot be regarded as up-to-date. Housing applications should, therefore, be considered in the context of the presumption in favour of sustainable development, in accordance with the aims of the Framework."

14. Having considered all of the other matters raised in the context of the appeal, the Inspector concluded that the balance should be struck in support of the grant of planning permission subject to conditions.

15. Procedural Issues and the Grounds in Brief.

16. Before the hearing of this case commenced, I advised the parties that two of the consultants who had advised and appeared for the second defendants in this case were people with whom I had worked on numerous occasions whilst I was still at the Bar and one of whom I knew well personally. None of the parties raised any objection to this and the view appeared to be taken that given the nature of the

practice which I had at the bar and, therefore, the knowledge of people who worked within the planning profession, together with the fact that these individuals were providing independent advice and were not the parties themselves, there were no grounds upon which to express any concern in relation to me hearing the case.

17. At the hearing of the case, there was an application by Mr Leader who appeared on behalf of the claimant to amend the pleadings. No one objected to that course being taken and I granted permission. In fact, as the argument evolved during the course of the case, the claimant's claim crystallised into three grounds.

18. The first ground was that in accepting the second defendant's adjustments to the FOAN for vacancies and second homes, the Inspector had unlawfully misapplied paragraph 47 of the framework, in that this adjustment was contended to be a policy adjustment which was illegitimate when identifying the FOAN for the purpose of calculating the five-year housing land supply. It was submitted that such an allowance was not to be found in the Planning Practice Guidance which accompanies the framework as a legitimate adjustment: in fact that document only regarded vacancies as a potential source of supply.

19. The second ground was that in a number of respects, the Inspector's reasons were inadequate. This ground focused in particular on four matters. Firstly, the Inspector's reasons in relation to the FOAN and whether he had concluded it was 793 dwellings per annum or 872 dwellings per annum. Secondly, small site windfalls and the reasons provided by the Inspector as to whether they were a legitimate source of supply were said to be inadequate. Thirdly, the draft allocated sites which were emerging and why the Inspector had discounted them

were not the subject of any reasons provided by him. Fourthly, and lastly, it was submitted that the reasons which had been provided to explain why the claimant was a 20 per cent buffer authority, when in 2012 they had been found to be a five per cent authority, were also not legally adequate.

20. The third ground was that bearing in mind the Inspector's inquisitorial role and his responsibility to use the hearing as a process to test the evidence and delve into the issues to assist the decision making process, it was unfair and inconsistent with that duty for him not to have taken time to read and absorb the council's most recent material (which it was accepted he had not received) and then to reflect upon whether his plan for the discussion actually required revision and whether there were other questions which he ought to have posed.

21. The law

22. Planning application are determined under section 70 of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004.

National planning policy is a material consideration for the purposes of the exercise of this discretion. Interpretation of planning policy, including national policy, is a matter of law (see Tesco Stores v Dundee City Council [2012] UKSC 13). As I have set out above, paragraph 47 of the Framework was the subject of interpretation in the Hunston Properties case, in particular in relation to how determination of the requirement for the five-year housing land supply was to be approached a development control decision. The context of that case was that it was a Green Belt case and the Inspector had concluded that the best available figure for use in the five-year supply calculations was that which was derived from the revoked Regional Strategy. That figure was the most recent independently tested housing

figure which reflected amongst other things the Green Belt policy constraint in the local authority's area. By contrast the developer and appellant argued that a figure representing "full objectively assessed needs" for housing should be used in the absence of any figure derived from any element of the development plan. In giving the leading judgment of the Court of Appeal, Sir David Keene observed as follows:

- i. "25. ...I am not persuaded that the inspector was entitled to use a housing requirement figure derived from a revoked plan, even as a proxy for what the local plan process may produce eventually. The words in paragraph 47(1), "as far as is consistent with the policies set out in this Framework" remind one that the Framework is to be read as a whole, but their specific role in that sub-paragraph seems to me to be related to the approach to be adopted in producing the Local Plan. If one looks at what is said in that sub-paragraph, it is advising local planning authorities:
- ii. "to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework."
- iii. That qualification contained in the last clause quoted is not qualifying housing needs. It is qualifying the extent to which the Local Plan should go to meet those needs. The needs assessment, objectively arrived at, is not affected in advance of the production of the Local Plan, which will then set the requirement figure.
- iv. 26. Moreover, I accept Mr Stinchcombe QC's submissions for Hunston that it is not for an inspector on a Section 78 appeal to seek to carry out some sort of local plan process as part of determining the appeal, so as to arrive at a constrained housing requirement figure. An inspector in that situation is not in a position to carry out such an exercise in a proper fashion, since it is impossible for any rounded assessment similar to the local plan process to be done. That process is an elaborate one involving many parties who are not present

at or involved in the Section 78 appeal. I appreciate that the inspector here was indeed using the figure from the revoked East of England Plan merely as a proxy, but the government has expressly moved away from a "top-down" approach of the kind which led to the figure of 360 housing units required per annum. I have some sympathy for the inspector, who was seeking to interpret policies which were at best ambiguous when dealing with the situation which existed here, but it seems to me to have been mistaken to use a figure for housing requirements below the full objectively assessed needs figure until such time as the Local Plan process came up with a constrained figure.

- v. 27. It follows from this that I agree with the judge below that the inspector erred by adopting such a constrained figure for housing need. It led her to find that there was no shortfall in housing land supply in the district. She should have concluded, using the correct policy approach, that there was such a short fall. The supply fell below the objectively assessed five year requirement.
- vi. 28. However, that is not the end of the matter. The crucial question for an inspector in such a case is not: is there a shortfall in housing land supply? It is: have very special circumstances been demonstrated to outweigh the Green Belt objection? As Mr Stinchcombe recognised in the course of the hearing, such circumstances are not automatically demonstrated simply because there is a less than five year supply of housing land. The judge in the court below acknowledged as much at paragraph 30 of his judgment. Self-evidently, one of the considerations to be reflected in the decision on "very special circumstances" is likely to be the scale of the shortfall.
- vii. 29. But there may be other factors as well. One of those is the planning context in which that shortfall is to be seen. The context may be that the district in question is subject on a considerable scale to policies protecting much or most of the undeveloped land from development except in exceptional or very special circumstances, where because such land is an Area of Outstanding Natural Beauty, National Park or Green Belt. If that is the case, then it may be wholly unsurprising that there is not a five year supply of housing

land when measured simply against the unvarnished figures of household projections. A decision-maker would then be entitled to conclude, if such were the planning judgment, that some degree of shortfall in housing land supply, as measured simply by household formation rates, was inevitable. That may well affect the weight to be attached to the shortfall."

23. That construction of the policy in paragraph 47 of the Framework was reflected by the Court of Appeal in the plan making context in Solihull Metropolitan Borough Council v Gallagher Estates [2014] EWCA Civ 1610. What the construction does not conclude upon, because the point did not arise, is what the "varnish" is that is applied to the FOAN in order to reach the Framework compliant housing requirement. Alternatively, what are the ingredients that are involved in making the FOAN? In the context of this case, do they include vacancies and second homes? Those are the questions which arise in Ground 1.

24. In respect of Ground 2, a number of essentially uncontroversial legal propositions are in play. The first is the content of the duty to give reasons which is well-known and set out in the South Bucks v Porter no 2 [2004] UKHL 33 in the speech of Lord Brown at paragraph 36 in which he observed as follows.

- i. "36. The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the "principle important controversial issues", disclosing how any issue of law or fact was resolved. Reasons can be briefly stated, the degree of particularity required depending entirely on the nature of the issues falling for decision. The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter or by failing to reach a rational decision on relevant grounds. But such adverse inference will not readily be drawn. The reasons need refer only to the main issues in the dispute, not to every material consideration. They should enable disappointed developers to assess their

prospects of the obtaining some alternative development permission, or, as the case may be, their unsuccessful opponents to understand how the policy or approach underlying the grant of permission may impact upon future such applications. Decision letters must be read in a straightforward manner, recognising that they are addressed to parties well aware of the issues involved and the arguments advanced. A reasons challenge will only succeed if the party aggrieved can satisfy the court that he is genuinely been substantially prejudiced by the failure to provide an adequately reasoned decision."

25. In relation to consistency in decision making, the now classic formulation of that principle in a planning context was given in the judgment of Mann LJ in the case of North Wiltshire District Council v the Secretary of State for the Environment and Clover 65 P & C R 137 at page 145 as follows:

- i. "In this case the asserted material consideration is a previous appeal decision. It was not disputed in argument that a previous appeal decision is capable of being a material consideration. The proposition is in my judgment indisputable. One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency in the appellate process. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system. I do not suggest and it would be wrong to do so, that like cases must be decided alike. An inspector must always exercise his own judgment. He is therefore free upon consideration to disagree with the judgment of another but before doing so he ought to have regard to the importance of consistency and to give his reasons for departure from the previous decision. To state that like cases should be decided alike presupposes that the earlier case is alike and is not distinguishable in some relevant respect. If it is distinguishable then it usually will lack materiality by reference to consistency although it may be material in some other way. Where it is indistinguishable, then ordinarily it must be a material consideration. A practical test for the Inspector is to ask himself whether, if

I decide this case in a particular way am I necessarily agreeing or disagreeing with some critical aspect of the decision in the previous case? The areas for possible agreement or disagreement cannot be defined but they would include interpretation of policies, aesthetic judgments and assessment of need. Where there is disagreement then the inspector must weigh the previous decision and give his reasons for departure from it. These can on occasion be short, for example in the case of disagreement on aesthetics. On other occasions they may have to be elaborate."

26. Consideration was given to the materiality of emerging allocations in a consultative version of a local plan by Stewart-Smith J in the case of Wainhomes (South West) Holdings Limited v Secretary of State [2013] EWHC 597. The framework provides an understanding of the definition "deliverable" in footnote 11 as follows:

- i. "11. To be considered deliverable, sites should
- ii. be available now, offer a suitable location for development now and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years, for example they would not be viable, there is no longer a demand for the type of units or sites have long term phasing plans."

27. Having set out some parameters for the interpretation of the question of whether a site was deliverable, Stewart-Smith J went on to set out his conclusions in respect of emerging allocations as follows:

- i. "35. I would accept as a starting point that inclusion of a site in the eWCS or the AMR is some evidence that the site is deliverable, since it should normally be assumed that inclusion in the AMR is the result of the planning authority's responsible attempt to comply with the requirement of [47] of the NPPF to identify sites that are deliverable. However, the points identified in [34] above lead to the conclusion that inclusion in the eWCS or the AMR is only a starting point.

More importantly, in the absence of site specific evidence, it cannot be either assumed or guaranteed that sites so included are deliverable when they do not have planning permission and are known to be subject to objections. To the contrary, in the absence of sites specific evidence, the only safe assumption is that not all such sites are deliverable. Whether they are or are not in fact deliverable within the meaning of [47] is fact sensitive in each case; and it seems unlikely that evidence available to an inspector will enable him to arrive at an exact determination of the number of sites included in a draft plan but are as a matter of fact deliverable or not. Although inclusion by the planning authority is some evidence that they are deliverable, the weight to be attached to that inclusion can only be determined by reference to the quality of the evidence base, the stage of process that the draft document has reached and knowledge of the number and nature of objections that may be outstanding. What cannot be assumed simply on the basis of inclusion by the authority in a draft plan is that all such sites are deliverable. Subject to that, the weight to be attached to the quality of the authority's evidence base is a matter of planning judgment for the inspector, and should be afforded all proper respect by the Court."

28. Ground 3 relates to the role of the Inspector at a hearing. The leading case in relation to this issue is the case of Dyason v Secretary of State 75 P&CR 506. In giving the leading judgment of the Court of Appeal Pill LJ stated at page 512 as follows:

- i. "It is clear that at a hearing there is to be no formal cross-examination and that a hearing is the suitable procedure where "there is no likelihood that formal cross-examination will be needed to test the opposing cases". The intention is to make the procedure "less daunting for unrepresented parties." It is intended "eliminate or reduce the formalities of the traditional local inquiry."
- ii. Planning permission having been refused, conflicting propositions and evidence will often be placed before an inspector on appeal. Whatever procedure is followed, the strength of the case can be determined only upon

an understanding of that case and by testing it with reference to propositions in the opposing case. At a public local enquiry the Inspector, in performing that task, usually has the benefit of cross-examination on behalf of the other party. If cross-examination disappears, the need to examine propositions in that way does not disappear with it. Further, the statutory right to be heard is nullified unless, in some way, the strength of what one party says is not only listened to by the tribunal but assessed for its own worth and in relation to opposing contentions. There is a danger, upon the procedure now followed by the Secretary of State for observing the right to be heard by holding a "hearing", that the need for such consideration is forgotten. The danger is that the "more relaxed" atmosphere could lead not to a "full and fair" hearing but to a less than thorough examination of the issues. A relaxed hearing is not necessarily a fair hearing. The hearing must not become so relaxed that the rigorous examination essential to the determination of difficult questions may be diluted. The absence of an accusatorial procedure places an inquisitorial burden upon an Inspector."

29. Conclusions

30. As set out above, the allegation in Ground 1 is that the Inspector should not have

included an allowance for vacancies and second homes in the setting the FOAN.

This involves considering what material is relevant to establishing a FOAN.

Firstly, to follow the interpretation of paragraph 47 of the Framework set out

above, a FOAN is not the figure for a housing requirement following the

application of the policies in the Framework. It is a figure for the assessment of housing needs prior to the application of policy.

31. So what is the nature of a policy which may in a forward-planning context lead to

the adjustment of the housing needs assessment figure? Whilst Sir David Keene

referred to a "constrained figure for housing need" for example in paragraph 27 of

Hunston, when a housing figure passes through the lens of policy it may increase

as well as decrease. It may decrease as a result of the application of policies of constraint such as Green Belt or as a consequence of environmental designations such as an Area of Outstanding Natural Beauty or designated European habitats; see for example footnote 9 to the framework. Housing figures may also increase, for example, as a result of factors such as the desire to foster regeneration led by residential development, or the intention to establish a growth area (as has occurred over the years in some parts of the country). All these policies are environmental or socio-economic in their nature and they are policies which are not associated with the calculation of the FOAN. They influence the figure for the housing requirement to be determined in the forward planning process and thereby create a figure "consistent with the policies set out in this Framework."

32. How then is the FOAN to be arrived at? It is important to read the Framework's paragraph 47 requiring the local plan to meet "the full objectively assessed needs for market and affordable housing in the housing market area" alongside paragraph 159 of the Framework which describes the means of identifying the FOAN, namely the SHMA. It is appropriate, therefore, at this stage to note the terms of paragraph 159 which goes hand in hand with paragraph 47. It provides as follows:

- i. "159 Local planning authorities should have a clear understanding of housing needs in their area. They should:
 - prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries. The Strategic Housing Market Assessment should identify the scale and mix of housing and the range of tenures that the local population is likely to need over the planned period which:
 - meets household and population projections, taking account of

migration and demographic change;

- addresses the needs for all types of housing, including affordable housing and the needs of different groups in the community (such as but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their only homes); and
- caters for housing demand on the scale of housing supply necessary to meet this demand."

33. This is clearly not a comprehensive description and further guidance is provided by the first defendant in the Planning Practice Guidance, and in particular in this respect, in paragraphs with reference ID 2a-001-20140306 to 2a-029-20140306.

34. In terms of the first element of the assessment in the first of the sub-bullet points in paragraph 159, namely meeting household and population projections taking account of migration and demographic change, the PPG illustrates that this is a statistical exercise involving a range of relevant data for which there is no one set methodology, but which will involve elements of judgment about trends and the interpretation and application of the empirical material available. These judgments will arise for instance in relation to whether, for example, adjustments for local demography or household formation rates are required (see paragraph ID 2a-014-20140306), and the extent and nature of adjustments for market signals (see paragraph ID 2aa-018-20140306). Judgment will further be involved in taking account of economic projections in undertaking this exercise.

35. At the second stage described by the second sub-bullet point in paragraph 159, the needs for types and tenures of housing should be addressed. That includes the assessment of the need for affordable housing as well as different forms of housing required to meet the needs of all parts of the community. Again, the PPG

provides guidance as to how this stage of the assessment should be conducted, including in some detail how the gross unmet need for affordable housing should be calculated. The Framework makes clear these needs should be addressed in determining the FOAN, but neither the Framework nor the PPG suggest that they have to be met in full when determining that FOAN. This is no doubt because in practice very often the calculation of unmet affordable housing need will produce a figure which the planning authority has little or no prospect of delivering in practice. That is because the vast majority of delivery will occur as a proportion of open-market schemes and is therefore dependent for its delivery upon market housing being developed. It is no doubt for this reason that the PPG observes at paragraph ID 2a-208-20140306 as follows:

- i. "The total affordable housing need should then be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments, given the probable percentage of affordable housing to be delivered by market housing led developments. An increase in total housing figures included in the local plan should be considered where it could help deliver the required number of affordable homes."

36. This consideration of an increase to help deliver the required number of affordable homes, rather than an instruction that the requirement be met in total, is consistent with the policy in paragraph 159 of the Framework requiring that the SHMA "addresses" these needs in determining the FOAN. They should have an important influence increasing the derived FOAN since they are significant factors in providing for housing needs within an area.

37. Insofar as Hickinbottom J in the case of Oadby and Wigston Borough Council v Secretary of State [2015] EWHC 1879 might be taken in paragraph 34(ii) of his

judgment to be suggesting that in determining the FOAN, the total need for affordable housing must be met in full by its inclusion in the FOAN I would respectfully disagree. Such a suggestion is not warranted by the Framework or the PPG for the reasons which I have just set out. As Hickinbottom J found at paragraph 42 of that judgment, what the Inspector did in that case was to exercise his planning judgment, firstly, to conclude that the FOAN was higher than the council's figure and secondly, (again deploying planning judgment) to arrive pragmatically at a figure for the FOAN in order for it to be used to assess the five-year housing land supply. The council's figure was regarded by the Inspector in that case as being short because it failed to properly take account of factors which should have been included in the FOAN, including considering affordable housing need. Understood in this way, references to "policy on" and "policy off" become a red herring. The appropriate figure was for the Inspector's judgment to determine taking account of all the matters involved in finding the FOAN.

38. Thus, when paragraph 47 of the Framework requires the local plan to meet "the full objectively assessed needs for market and affordable housing," that is the figure determined by the SHMA required by the paragraph 159 of the Framework for the purpose of identifying the FOAN. That process, guided by the PPG, seeks to meet household and population projections (taking account of migration and demographic change), and to address the need for types of housing including affordable housing. When a planning authority has undertaken or commissioned a SHMA, that will obviously be an important piece of evidence, but it is not in and of itself conclusive. It will be debated and tested at the local plan examination or (as in the present case) in appeals within the development control process.

39. This is all background to answering the question of whether or not the Inspector was correct to include second homes and vacancies in his assessment of the FOAN in this case. I am satisfied that he was. These elements were empirically based from the 2011 census and indicated a trend whereby a certain portion of the housing in the district was not in fact being used by the indigenous population, and therefore was not available to meet housing need. He was therefore entitled to form the view as a matter of judgment based on the empirical material that an allowance should be made for the prospect of that trend continuing. It is true that this involves a judgment about applying the census-based figure as a trend, but that in my view is precisely the kind of statistical judgment which is involved in determining the FOAN and the Inspector was right to countenance it.
40. Mr Leader contended that it was in reality the application of a policy, namely the perpetuation of the existing quantum of existing homes and vacancies in the housing stock, and therefore as the implementation of a policy it was not a legitimate exercise pursuant to paragraph 47. That argument is ingenious but in my view clearly puts the matter the wrong way round. In the two-stage process envisaged by paragraph 47, (that is to say in summary, firstly, determining the FOAN and secondly applying policy to it), it will be entirely open to the claimant to impose a policy in the second stage to arrest or reverse the number of vacancies or affordable homes in their planned housing stock and that could potentially lead to a reduction in housing requirements. But taking account of the existing extent of vacancy and second homes and projecting it forwards is clearly part of the statistical assessment of housing needs and part and parcel of the FOAN equation at the first stage.

41. The PPG does not provide any specific guidance on this point related to vacancies and second homes. That is to my mind unsurprising, as it could not begin to address every conceivable point which might arise in this exercise. However, I have no doubt that the inclusion of vacancies and second homes is an adjustment based on statistical data of a kind similar to those which are contemplated in the PPG. The absence of this issue from the PPG does not therefore dissuade me from the view which I have reached.

42. As I have indicated above, my attention was drawn to the fact that the PPG in paragraphs reference ID3-012-20140306 and 3-039-20140306 does address the question of vacancies but in the context of them forming an element of potential supply. It permits an allowance for bringing homes back into use if that is supported by robust evidence from the planning authority. The existence of that guidance does not however assist in answering the question which arises in this case. Simply because a reduction in vacant homes has the potential to provide an element of supply does not render it illegitimate or inadmissible to account for the existing trend of vacant or second homes as a factor influencing the statistical exercise of determining the FOAN before supply questions arise.

43. As I have indicated, the elements of the PPG which address the question of the calculation of the FOAN support the interpretation that finding the FOAN requires an analysis of the relevant statistical and econometric data and trends. Against that background, there is no difficulty in concluding that census data about vacancies and second homes are a species of the data to be taken into account in the calculation. Ground 1 therefore fails.

44. That has implications for the remainder of the case. At the hearing of the appeal,

the second defendant produced a table setting out the various figures which were candidates for the five-year supply calculation. The figure including second homes and vacancies for the five-year requirement as found by the Inspector (and upheld under Ground 1) was 5,836 homes with a five per cent buffer and 6,670 homes with a 20 per cent buffer. Even if the claimant's supply figure was to be preferred in total, the claimant could only demonstrate a five-year supply if the buffer was five per cent and not 20 per cent. In short, therefore, the claimant would have to succeed on all other issues before the court in order to succeed in showing they had a five-year supply once it is determined as I have that the Inspector made the correct conclusion as to the appropriate figure for the FOAN.

45. Turning to Ground 2, it is convenient, therefore, to look first at the complaint which is raised about the Inspector's reasoning in relation to the appropriate buffer. The context of that complaint is the 2012 Inspector's decision. The concern raised is that the decision that the claimant was a 20 per cent authority is not adequately reasoned or explained in circumstances where the 2012 Inspector found them to be a five per cent authority. How could it be that with such a short intervening period and little by way of additional annual monitoring data that the outcome could be so different?

46. True it is that the Inspector did not directly address the conclusion of his colleague in 2012 but the point appears in her decision, as will be seen from the quotation I have provided above, uncontentiously and without explanation. As is clear from the North Wiltshire case, the Inspector was not bound by it. In paragraph 9 of his decision letter, the Inspector sets out fully the reasons for his judgment that the claimant has been responsible for persistent under delivery. That is in the form of

the claimant's failure to achieve the Core Strategy average for the past six years with an overall average which was well below it. The Inspector notes the claimant's arguments about the long term trend but observes that that long term trend is still behind the target with an accumulated shortfall to date. In my view his reasons are absolutely clear. Since the 2012 Inspector provided no reasons for her conclusions, nothing further was required in my view to explain why the Inspector had decided as he did.

47. The other reasons arguments within Ground 2 must start from the understanding that in paragraph 13 of the decision letter the Inspector accepted in entirety the calculation of the five-year housing land supply undertaken by the second defendant and that there was but a 1.91 year housing land supply. In that this figure was based upon the requirement figure employing the allowance for second homes and vacancies as well as the backlog, there is no substance in the claimant's complaint that it is not clear what figure the Inspector concluded upon. The derivation of the figures was clearly set out in the evidence and did not in my view require setting out further in the decision letter as they were well-known to the informed reader of the decision. The reasons for the conclusions which the Inspector reached on the FOAN are fully set out in paragraph 7 of the decision letter, where he makes clear that second homes and vacancies should be accounted for as part of the exercise of turning household figures into dwelling numbers. In my view clear and sufficient reasoning was provided for his decision.
48. To some extent the same analysis can be deployed in relation to the question of small windfalls. There were two competing figures and in concluding that the supply was 1.91 years, the Inspector accepted the second defendant's figure. In

paragraph 11 of the decision letter he explains he is unpersuaded that large site windfalls should be allowed for on the basis that the allocation process should identify most of that type of site. He does not however, discount small site windfalls, and he includes the lower figure adopted by the second defendant. As the hearing note discloses, the 268 figure was derived from a five to ten year average of small site windfalls and the derivation of the figure was therefore known.

49. There is some concern, however, in my view, about what is absent from the reasoning. What is absent is an explanation for the choice between the figures for small site windfalls which in my view could and should have been provided, albeit briefly. That said, however, this was a dispute over but 202 dwellings which would not have affected the overall and critical conclusion as to whether or not a five-year supply actually existed and therefore I am not persuaded that the claimant suffered any substantial prejudice as a result of the absence of an explanation.

50. Finally in respect of Ground 2, the question arises as to the emerging site allocations. Here again, in my view, the claimant has legitimate cause for concern since the Inspector's conclusions inferentially reject their inclusion by his acceptance of the second defendant's calculation, but the reasons are entirely silent as to why that is the case. The hearing note from the second defendant's consultant records that there was discussion at the hearing about this element of housing supply, but there does not appear any conclusion at all in the Inspector's decision as to why they were excluded. Perhaps in the light of Wainhomes case, and given the very embryonic nature of the allocations in a plan which had yet to

be consulted upon and about which objections were unknown, it is possible to hazard a guess as to why the Inspector would have afforded them no weight and excluded them. But that would be speculation and in my view it was a matter which required some, albeit brief, explanation. Again this was a failing in the reasoning but again it did not cause any genuine or substantial prejudice to the claimant as in the light of earlier matters even including this source of housing would not have affected the important and determinative question of whether or not the claimant had provided for a five-year housing land supply. In those circumstances ground 2 must fail.

51. Turning to Ground 3, it is important to separate off what Ground 3 is not about at the outset. At one point before the hearing and in the written arguments it appeared to be suggested that this ground might be about whether the claimant, and in particular Mr Jermany, should have asked for an adjournment. It is not about that issue and in my view no possible criticism could be raised in relation to Mr Jermany's approach to the hearing. Indeed it is fair to recall that Mr Simons, who appeared on behalf of the first defendant, endorsed that approach and was rightly keen during the course of his submissions to point out that there was no criticism of Mr Jermany's conduct or participation at the hearing.

52. The point is this. At the hearing the Inspector is in charge, and the purpose of the hearing is for the Inspector to test and explore the evidence with the assistance of the parties and by means of a structured discussion of the issues. This is the substance of his inquisitorial role identified in the case of Dyason. It is of course open to the parties if they feel disadvantaged, or that an event has occurred in the procedure which renders it unfair, to ask for an adjournment or for some other

suitable relief from the Inspector. But at all times it is for the Inspector to be on top of matters and ultimately if he cannot discharge his inquisitorial duty because of late material, then he must adjourn or regulate the procedure accordingly.

There is a sense in which that analysis of the approach and involvement of the Inspector at the hearing is an answer to the claimant's complaint. They may well feel (and others might agree) that it would have been prudent for the Inspector to take a little time to read the material which he had only just received and to give consideration to whether or not the agenda or the questions he wish to explore needed to be adjusted, but ultimately that was a matter for his judgment. He clearly considered that he could explore the issues and get what he needed from the debate without doing so.

53. There is a risk in not taking time to assimilate the material and that risk is obvious.

It may be that on mature reflection the material may not have been properly or fully understood which may lead to proceedings needing to be reopened. Worse still, it may lead to erroneous decisions or decisions that are based on a misconception about the evidence. However, those risks did not materialize in this case. I am not prepared to accept that the absence of reasoning which I have set out above is evidence of that failure or evidence of an unfair procedure and a failure to properly discharge the inquisitorial burden. Those failures are rather simply the failure to provide fuller explanation of conclusions in relation to issues which there is no doubt the Inspector fully understood. Thus there was no unfairness in the procedure nor did the Inspector fail to discharge his inquisitorial role in undertaking the hearing adopting the procedure which he did.

54. For reasons which I have set out above, each of the three grounds on which this

claim has been advanced by the claimant must be dismissed.

**APPENDIX III – ANTICIPATED TRAJECTORY FOR LAND AT CHAPEL
LANE (6HS)**

- Adoption of Local Plan – December 2021;
- Submission of Planning Application - December 2021; (upon adoption of plan);
- Determination of application – by end March 2022; (13 weeks determination);
- Discharge of conditions – by end July 2022 (4 months);
- Start on site – August 2022 (1 month);
- 1st completion – March 2023; (6-8 months);
- Delivery of 5 per month from 1 April 2023 gives:

Year	21/22	22/23	23/24	24/25	25/26	Total 5YHLS
<i>Delivery from Chapel Lane Site</i>	<i>0</i>	<i>0</i>	<i>60</i>	<i>60</i>	<i>90</i>	<i>150</i>