



The Planning Inspectorate

Report to West Somerset Council

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an Inspector appointed by the Secretary of State for Communities and Local Government

Date 14 September 2016

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

REPORT ON THE EXAMINATION INTO WEST SOMERSET LOCAL PLAN TO 2032

Document submitted for examination on 31 July 2015

Examination hearings held between 14 and 22 March 2016

File Ref: PINS/H3320/429/1

Abbreviations Used in this Report

AA	Appropriate Assessment
AONB	Area of Outstanding Natural Beauty
DCLG	Department for Communities and Local Government
DtC	Duty to Co-operate
ENPA	Exmoor National Park Authority
HMA	Housing Market Area
LDS	Local Development Scheme
LP	Local Plan
MM	Main Modification
OAN	Objectively assessed need
PPG	Planning Practice Guidance
SCI	Statement of Community Involvement
SFRA	Strategic Flood Risk Assessment
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Northern Peninsula Strategic Housing Market Assessment

Non-Technical Summary

This report concludes that the West Somerset Local Plan to 2032 provides an appropriate basis for the planning of the District providing a number of main modifications are made to the plan. West Somerset Council has specifically requested me to recommend any modifications necessary to enable the plan to be adopted.

All of the main modifications to address this were proposed by the Council but where necessary I have amended detailed wording and/or added consequential modifications where necessary and I have recommended their inclusion after considering the representations from other parties on these issues.

The main modifications can be summarised as follows:

- The relationship between policies SV1, SC1 and OC1 is ambiguous making them ineffective and inconsistent with national policy. **MM2, MM3** and **MM12** address these soundness issues;
- **MM4** does not alter policy but does provide required information about the assumptions underlying the way that the 5 year housing supply has been calculated to aid understanding of this issue in future development management procedures.
- Land allocated at Williton for employment is not deliverable and submitted policy EC6 is not sufficiently flexible and enabling to be consistent with national policy. **MM14** and **MM15** respectively address these soundness issues.
- The following are required to ensure that the Plan correctly interprets and therefore is consistent with national policy for the historic environment: **MM6** to **MM11**, **MM20** and **MM21**;
- The remaining main modifications are required to ensure that the submitted Plan policies are effective and/or consistent with national policy.

Introduction

1. This report contains my assessment of the West Somerset Local Plan to 2032 in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (the Framework) at paragraph 182 makes clear that to be sound a Local Plan should be positively prepared; justified; effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan. The basis for my examination is the submitted draft plan (SD4) dated July 2015. This is the same as the document published for consultation in January 2015 (CD1).
3. My report deals with the main modifications that are needed to make the Plan sound and legally compliant and they are identified in bold in the report (MM). In accordance with section 20(7C) of the 2004 Act the Council requested (ED65) that I should make any modifications needed to rectify matters that make the Plan unsound/not legally compliant and thus incapable of being adopted. These main modifications are set out in the Appendix.
4. The main modifications that are necessary for soundness all relate to matters that were discussed at the examination hearings. Following these discussions, the Council prepared a schedule of proposed main modifications and carried out a sustainability appraisal of them. Both have been subject to public consultation for six weeks. I sought the Council's views on a number of matters arising (ED66) and the Council responded as requested (ED67). I have taken account of both the consultation responses and the further views of the Council in coming to my conclusions in this report and in this light I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of these amendments significantly alters the content or, as appropriate, the objective of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken. Where necessary I have highlighted these amendments in the report.
5. Throughout my report references to documents in the evidence base are included in the body of the text in () while references to other documents such as the Planning Practice Guidance (PPG) are given as footnotes. References to passages of the National Planning Policy Framework are given as 'Framework paragraph XX'.

Policies Map

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this

case, the submission policies map comprises the set of plans identified as Submission Draft Figures and Proposals Map Amendments as set out in SD5.

7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and changes to the policies map are needed to ensure that the relevant policies are effective.
8. These further changes to the policies map were published for consultation alongside the MMs [<https://www.westsomersetonline.gov.uk/Planning---Building/Planning-Policy/Local-Plan-to-2032/WSLP-to-2032-Proposed-Modifications>].
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in Submission Draft Figures and Proposals Map Amendments and the further changes published alongside the MMs incorporating any necessary amendments identified in this report.

Assessment of Duty to Co-operate

10. Section s20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on them by section 33A of the 2004 Act in relation to the Plan's preparation.
11. The Council has set out how it considers it has co-operated with the prescribed and other bodies in the preparation of the Plan in a statement dated December 2014 (SD17) and its Matter 1 hearing statement (ED34/1). In addition to providing more evidence about the specific involvement and contribution of elected members in the process, this also provided further information in regard to the duty in the period up to formal submission of the Plan for examination.
12. Two points have been taken by those making representations.
13. The first is raised by Exmoor National Park Authority (ENPA) and relates to provision being made within West Somerset for a proportion of the market housing need arising in ENPA. I will come to these matters in due course but, in short, the particular characteristics of ENPA mean that it is very difficult for the planning authority to make provision within the ENPA boundaries for the market housing need arising therein. ENPA explain that other councils within the housing market area (HMA) are willing to accommodate some of that housing need and ENPA have made the same request to West Somerset. The total number of market houses for which provision in West Somerset is sought is 186 (ED25/2).
14. The Council does not consider that it can agree to this request for reasons that I shall come to later. There is however quite considerable evidence, much of it provided by ENPA, that this has been a topic of active discussion and engagement between the partner authorities in the HMA over a considerable period. This continues as the other planning authorities bring forward their

local plans and compile their evidence bases which include a joint housing topic paper and the commissioning of a joint update of the Northern Peninsula Strategic Housing Market Assessment (SHMA) to assess the implications of the 2012-based household projections published in February 2015 by the Department for Communities and Local Government (DCLG).

15. Also included as Appendix 4 to the ENPA hearing statement (ED25/2) is a statement of common ground concerning the HMA and the objectively assessed need (OAN) for housing. This has been signed on behalf of North Devon Council, Torridge District Council and ENPA. It has not been signed by the Council for the sole reason that the housing OAN is not agreed; the Council considers it to be considerably higher.
16. To conclude on this point, there is no evidence to suggest that the Council has failed to engage constructively, actively and on an on-going basis to maximise the effectiveness of the Plan. Rather, there is evidence that the Council and ENPA have been unable to agree on one particular matter. As the PPG makes clear the duty to co-operate is not a duty to agree. Failure to do so cannot therefore amount to a failure to comply with the duty.
17. The second is raised by the Home Builders' Federation (ED33/1) and some individual development companies. The essence of this point is that co-operation on the steps to secure housing delivery is premature since the calculation of the housing OAN is not clear and it cannot therefore be determined that the housing needs of the HMA will be met in full as required by the Framework and confirmed by case law. In particular this applies to the affordable housing element within the HMA. Furthermore, until there is a housing OAN for the HMA, the required co-operation with the Local Enterprise Partnership to ensure successful delivery of policies for economic growth cannot be evident.
18. Dealing with these in turn, there is considerable evidence that the Council and others within the HMA have co-operated fully to determine the housing OAN; the statement of common ground referred to above is an obvious example. A concern that the determined OAN is not justified and/or is not reflected correctly in the amount of housing for which the Plan makes provision is valid but is an issue of soundness. Contrary to the contention, there is adequate evidence (SD17) that the Heart of South West Local Enterprise Partnership has been engaged with the Somerset Growth Plan informing the Strategic Economic Plan of the Heart of South West Local Enterprise Partnership.
19. I consider that the evidence supports a conclusion that the duty imposed on the Council by s33A of the 2004 Act has been complied with.

Assessment of Soundness

Preamble

20. The circumstances in which the Plan has been prepared are unusual if not unique. While not identifying the measure being used, the Council confirmed in its opening statement at the hearing sessions that West Somerset is the smallest council in England (ED55). This leads to a challenging resource position for the Council to which it responded in 2014 by entering into a formal partnership with Taunton Deane Borough Council to provide services. While

the hearing sessions were taking place, at their respective full council meetings both authorities committed to continuing this arrangement. They also undertook to authorise and prioritise the development of a high level transformation business case that would test three sequential options, the second of which is one team supporting a merged council (ED58). Following Full Council meetings on 26 July (Taunton Deane Borough Council) and 7 September (West Somerset Council), the two Councils have agreed, in principle, to commence work on the creation of a new Local Authority arising out of the merger of the two existing authorities. The outcome of this decision and its implications for future plan-making across the combined area will emerge as the process evolves

21. Some two thirds of the Council area lies within the Exmoor National Park which has its own planning authority. The Plan area is thus smaller than the area of the Council. At around 27,000 people the population of the Plan area is, by any measure, very low.
22. West Somerset will, nevertheless, host one of the largest infrastructure projects to ever take place in this country if and when the Hinkley Point C nuclear power plant is constructed. While the Development Consent Order has been granted and considerable ground and other works have been put in place, at the time of the hearing sessions EDF Energy had yet to make the final investment decision or indeed give any firm indication when it would be made. The Council has however had to plan for the consequences of the project which could see some 25,000 temporary jobs created over the construction period peaking at around 5,600 (ED55). This was meant to be in 2016 (ED58, #4.2) which self-evidently has not occurred. The implications of the inevitable uncertainty created by the absence of the final commitment to the project are discussed later. At the time of writing, that uncertainty has not been resolved. While EDF Energy has now made the final investment decision to go ahead with the project, the UK government has not and has deferred a decision to the autumn of 2016.
23. Preparation of the Plan began in 2009. In the period between then and submission there have been two general elections leading to, first, a Coalition Government and, then, a Conservative party administration. In 2012 the Framework was published, there have been a host of Written Ministerial Statements and important court judgements and, at the time when the hearing sessions took place, the Housing and Planning Bill was passing through its parliamentary stages. All of these have affected the planning landscape within which the Plan has emerged. The implications of both the Housing and Planning Bill and an outstanding court of appeal judgement for the Plan policy addressing the provision of affordable housing (a key issue for the Plan) were still unknown when the hearing sessions took place.
24. The Plan started out as a core strategy to be followed by site allocations and development management development plan documents. The Council has confirmed that no other such documents will now be prepared (ED4, #1.4). The Plan is not and, without significant alteration, cannot become a local plan for the area as envisaged by Framework paragraph 153 (emphasis added). The Council tacitly acknowledges that the Plan is not fully compliant with the Framework in this regard (ED4, #1.4).

25. Nevertheless, in July 2015 a Written Ministerial Statement about local plans was published and was accompanied by a letter from the Secretary of State to the then Chief Executive of the Planning Inspectorate; both are available on the DCLG web site. The latter included the following: *"In order to maintain plan-making progress and to recognise the cost and time to a council prior to submitting a plan, it is critical that inspectors approach examination from the perspective of working pragmatically with councils towards achieving a sound Local Plan"*. As clear statements of the Government's approach both the letter and the Written Ministerial Statement should be afforded substantial weight.

Main Issues

26. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified four main issues upon which the soundness of the Plan depends.

Issue 1 – Whether the spatial strategy and spatial distribution of development is justified.

27. I have already noted that a large part of the administrative area of West Somerset is within Exmoor National Park. Part of the remaining (Plan) area is within the Quantock Hills Area of Outstanding Natural Beauty (AONB). In accordance with national planning policy development within or affecting the setting of the AONB should be controlled and this acts as a further constraint on spatial options.
28. Transport communications within the Plan area are limited. There is a heritage railway running between Minehead and Bishops Lydeard but this appears to offer limited opportunities for commuting within and certainly outside of the Plan area. The area is linked to the M5 Motorway at Bridgwater by the A39 and at Taunton by the A358. These two roads meet in Williton before the A39 proceeds to Minehead and beyond. Railway bridges limit headroom on the A358 while there are several places on the A39 where two heavy goods vehicles are only able to pass with difficulty, if at all.
29. Some two thirds of the Plan area's population lives in Minehead/Alcombe, Williton and the historic port of Watchet (ED55). These three settlements are the principal service centres in the Plan area. The population is ageing with over 15% being in the over 75 cohort (ED55).
30. This is the background to the development of the spatial strategy.
31. Strategy development began in 2009 in the context of the then regional spatial strategy (CD24). Six strategy options were put forward for consideration. Three were not taken forward. These were:
- Less development in the larger settlements with a wide degree of dispersion including to settlements with few or no facilities.
 - No significant development in Minehead with substantial development instead being focussed elsewhere closer to the M5 corridor.

- Concentration of the bulk of the regional spatial strategy requirement in a single new eco-village/new settlement.
32. The three that were taken forward were:
- Concentrate development at the three main settlements.
 - Concentrate development at four main settlements including an upgrade of Stogursey.
 - Dispersal of development including allocations at the larger villages.
33. The assessment of the three strategy options taken forward followed a standard sustainability appraisal approach. There is in fact very little difference between options 1 and 2 with the latter simply being a development of the former in the context of the Hinkley Point C development which would be near-by. The option would have enabled Stogursey to develop as a higher order settlement to provide for the housing accommodation that would be required. This did not attract local community support however given the substantial improvements in local community and transport infrastructure that would be implied.
34. The first of the three listed above was selected and represents a continuation of the previous strategy followed in the local plan adopted in 2006 and covering the period 1991 to 2011 (SD14). In summary, this option is said to perform "*...very strongly as part of the SA and it is the strategy that best maintains and strengthens the current service role of West Somerset settlements*" (SD14, page 10). It is also clear that this strategy option attracted most public support (EB7, #35).
35. Nevertheless, the preferred strategy on which the Plan is based was determined by 2010 in the context of the then emerging regional spatial strategy. The SA itself is dated and key elements on which it relies, such as the Strategic Flood Risk Assessments (SFRA) (EB12 & 13), are also dated (the SFRA's were issued in 2009 and 2010 respectively) and possibly out-of-date. For example, neither SFRA can include the climate change allowances issued by the Environment Agency in September 2013 and then withdrawn and replaced in any event in February 2016. There is no evidence that the strategy has been revisited and re-appraised in the light of this or any of the significant changes in planning policy since it was determined as the most appropriate.
36. There is therefore a concern that the chosen strategy is not based on the most up-to-date evidence. However, very little comment was received on the strategy at pre-submission consultation. In particular, no alternative strategy was promoted and supported by robust evidence. In the context and circumstances outlined in the Preamble I do not find that surprising. Of more concern was whether the policies developed would deliver the strategy; that is an issue to which I shall return. Therefore, on the basis of the evidence I consider the spatial strategy and the spatial distribution of development being pursued to be the most appropriate for the future sustainable development of West Somerset.

Issue 2 – Whether the objectively assessed needs for which the Plan makes provision are derived from robust evidence

Housing – The HMA

37. The Northern Peninsula HMA was first identified as a character area in 2004 in work undertaken for the South West Housing Body (EB1, #ES1.1). It was one of 12 sub-regional housing markets into which the region was divided. It covered North Devon, North Cornwall, parts of West Somerset and all of Exmoor National Park. It was described thus: *"rural in character with a settlement pattern based on villages and market towns, which vary in size and function. With no major centres of employment, the area is better described as comprising a series of local markets, all of which are subject to significant influence of in-migration and second home purchase"*. At the hearing sessions it was characterised as the area that remained after the boundaries of the other 11 had been determined.
38. In October 2007 Housing Vision was commissioned to conduct a SHMA. That report is document EB1.
39. Following reorganisation of local government in the area and the establishment of Cornwall as a unitary authority the former district council area of North Cornwall was taken out of the Northern Peninsula HMA and absorbed into the Cornwall HMA. There is no evidence before this examination that this decision was informed by an analysis of the factors that the PPG advises should be taken into account when defining housing market areas¹. However, I understand that the Inspector examining the Cornwall Local Plan has accepted that the HMA including the 'transferred' former North Cornwall area is appropriate.
40. The reduced Northern Peninsula HMA is being used by the ENPA for its emerging local plan and by North Devon Council and Torrington District Council in the preparation of their emerging joint local plan (ED25/2, Appendix 4, #1.4). I recognise therefore that my conclusion in respect of the HMA in what is the first of the local plans within it to come forward for examination will have implications for each authority.
41. At several points in the evidence base the HMA is characterised as polycentric (ED25/2, Appendix 4, #1.2 for example). However, it could equally be described as comprising a number of smaller HMAs with three such being recognised within West Somerset alone (ED34/2, #2.1.3 to 2.1.5). However, the Council explained at the hearing session that the key and unifying factor across the HMA as a whole was its demographic profile. The ageing population that results both from the nature of the in-migration to the area (which is typified by both those taking early retirement and those in the 45 to 64 age group coming to work in the area – possibly from home – before retiring) and the ageing of both that and the existing population is an

¹ Paragraph 011 Reference ID: 2a-011-20140306

important influence on house prices and changes in those prices and the consequent structure of the housing market.

42. On that basis and in the absence of any cogent evidence to the contrary I agree that the Northern Peninsula HMA is the appropriate one for the purposes of Framework paragraph 47.

Housing – The OAN

43. It is important to note that none of those making representations on the Plan have provided an alternative OAN figure. In addition, only one of the representations made on the pre-submission Plan queried the basis of the calculation contending that in a number of respects, such as adjusting for market signals and economic forecasts, the advice in the PPG had not been followed. However, further work has been commissioned by the Council since those representations were made although this point was pursued briefly at the hearing sessions.
44. Since the original SHMA (EB1) was prepared a further seven documents have been issued (ED25/2, Appendix 4, Table 1). However, only two of these have been in the form of a SHMA for the HMA as a whole (EB3 and EB21). Document EB21 was issued in December 2015 and takes account of the 2012-based household projections released in February 2015. It is therefore this assessment that is of most relevance to this issue since, in accordance with the PPG, these provide the starting point for the assessment of the OAN².
45. Dealing first with market signals, the relevant SHMA makes allowance for what it describes as 'market signals', namely vacant dwellings, second homes and homes occupied by non-residents (EB21, #5.9). However, the PPG says that when considering 'appropriate' market indicators relevant signals may include land prices, house prices, rents, affordability, rate of development and overcrowding³ (emphasis added).
46. The Council accepted at the hearing sessions that not all of the market signals as defined and listed in the PPG had been taken into account. However, the Council considers those factors that have been used to be the most appropriate for the HMA. No evidence from others was given to explain why this conclusion is incorrect or what the effect would be on the OAN if the example market signals listed in the PPG had been used instead or as well.
47. Turning now to economic forecasts, these do not form part of the analysis in Document EB21. They are however taken into account in the overall OAN for the HMA as indicated in the statement of common ground (ED25/2, Appendix 4, Table 2). The requirement for economic growth in North Devon and Torridge derives from work as set out in the footnotes to that Table. That for West Somerset derives from the implications of the Hinkley Point C project (EB7, #45 to #47). I am satisfied therefore that economic data has been taken into account in assessing the OAN.
48. The OAN for the HMA is calculated at 19,412 dwellings (ED25/2, Appendix 4, Table 2). This represents the full objectively assessed need for market and

² Paragraph 015 Reference ID: 2a-015-20140306

³ Paragraph 019 Reference ID: 2a-019-20140306

affordable housing in the HMA; the first stage set out in the Framework paragraph 47, bullet 1 process. As I understand it, this is a figure derived from aggregating the assessments for each of the constituent planning authorities. However, each assessment was undertaken by the same consultant, Housing Vision, applying what was confirmed at the hearing session to be the same methodology. No criticism was made of the approach taken to the demographic data but, as explained above, the extent to which the treatment of other factors is appropriate is difficult to judge on the evidence put forward. However, it would not be appropriate for me to come to a view on the figure for the HMA as a whole. During the examinations of the other plans within the HMA other evidence may be brought forward on these matters that was not available to me. There is however no evidence before me to conclude that the calculated OAN for West Somerset is not of the right order.

49. The proportion of the calculated OAN of c19,400 homes for which West Somerset needs to plan is 2,105 dwellings. This includes the unadjusted demographic requirement, the uplift for vacant and second/holiday homes, the affordable homes backlog and the economic growth (Hinkley Point C) requirement.
50. The Council does not accept this as the appropriate figure on which the Plan should be based. The reasons are set out in detail (ED34/2, #2.2.9) but may be summarised as a concern over the reliability of the national-level data used to make projections in a small area that is subject to particular local factors and a reluctance to plan for an implied annualised construction rate well below the long term average of about 118 dwellings per annum since 1976 (EB7, Table 5).
51. From the evidence it does not appear therefore that the Council is challenging the way the OAN has been calculated. Rather, it is using its judgement about particular local factors to 'over provide' at stage 2 of the Framework paragraph 47, bullet 1 process. No evidence was put forward that this would be inconsistent with the policies set out in the Framework.
52. On that basis, I see no reason to disagree with the Council's assessment that the Plan should make provision for the development of 2,900 homes over the Plan period. This is reflected in the Plan's vision which would therefore be achieved. Whether the vision and strategic objective to make a step change in the provision of affordable housing will be achieved will depend on the strategy and the policies developed to implement it.
53. Finally under this sub issue I shall deal with the concern raised by ENPA and referred to in my assessment of the duty to co-operate. Put simply, ENPA wish the Council to make provision for a part of its market housing need; some 186 dwellings that ENPA considers attributable to the West Somerset part of the Park. However, it does not suggest that the 2,900 dwellings for which the Plan makes provision should be increased. I understand this to be because this is already far in excess of what ENPA considers the OAN for West Somerset to be. ENPA therefore sees no reason why some of this excess cannot be used to accommodate its market housing requirement. It therefore seeks changes to the wording of both the justification text of the Plan and to

that in an evidence base document to confirm that; it does not seek a change to the policy itself.

54. As I understand it, the Council does not agree to the request because it considers 2,900 dwellings to be the appropriate provision for the Plan area. To accommodate an additional 186 market homes would require an uplift of the Plan's housing provision by some 286 dwellings to allow for the 65:35 market: affordable housing split required on development sites. This would add a further 14 or so dwellings per annum to what it regards as an already challenging annualised build rate.
55. These do not appear to me to be issues or suggested changes that go to the soundness of the Plan. The evidence suggests that, overall, provision is being made in the three local plans for a greater quantum of housing than simply meeting the OAN would require (ED25/2, Appendix 4, Table 3). As I understand it both the emerging North Devon and Torridge Local Plan and the West Somerset Local Plan over-provide against the OAN; North Devon and Torridge to accommodate 196 dwellings arising from the need in ENPA attributable to that plan area and West Somerset for the reasons set out above. It is for other examinations rather than this one to test whether the assumptions made by ENPA and the other two councils in preparing their respective local plans are robust.
56. Towards the very end of the period for consultation on the proposed main modifications a further set of household projections were published (ED66). The Council does not consider that these have any material effect on the Plan (ED67). This is because, as set out above, the Council has reservations about the reliability of both the 2012-based and 2014-based projections for West Somerset and is, in any event, planning for a figure which far exceeds that implied by either of those projections. In view of the non-material difference between the two sets I see no reason to disagree with the generality of that analysis. There is therefore no effect on the forgoing assessment.

Employment

57. The Plan notes (SD4, #2.7) that the two main sources of employment in West Somerset are agriculture and tourism with Hinkley Point power station also being a significant employer. As a consequence of the age profile of the population, social care is also a growing employment sector. Watchet, Minehead/Alcombe and Williton provide the main employment and service centres although since the Plan was submitted the closure of the paper mill at Watchet has been announced and has taken place with the loss of about 175 local jobs.
58. The Council commissioned a three stage employment land review (EB8 to EB10). The Stage 2 Report (EB9) presents a view of the potential for economic growth and an assessment of the future need for employment space. The latter follows a traditional model of converting baseline employment forecasts into employment floorspace forecasts before estimating future employment land requirements on an essentially 'B' Use Class basis.
59. The report is dated March 2010. It was therefore issued after the deep recession of 2008/9. This is not mentioned in the 'economic outlook' section. Moreover, much of the analysis appears to be based on modelling and growth

scenarios developed in the early to mid-2000s to inform regional spatial planning. I therefore consider this part of the evidence base both dated and out-of-date and agree with those at the hearing sessions who felt that looking at employment provision on a 'B' Use Class basis no longer reflected the world of employment either today or in the future.

60. In some respects, this is reflected in the Stage 2 Report which notes that the economy of West Somerset is characterised by micro-businesses employing 10 people or fewer and representing 88% of the workplaces which equates to 34% of the employment base (EB9, #4.16). The economic vision for the Plan (SD4, #5.1) includes developing a thriving and varied local economy aided by the provision of super-fast optical broadband access which will enable more people to work close to or in their homes. It also anticipates that the Hinkley Point C project will have been completed having brought a considerable economic stimulus to the area.
61. An important consequential strategic objective is to create an aspirational, enterprising and entrepreneurial culture within West Somerset. This is unlikely to lead to a significant demand for employment land in the traditional sense which the Stage 2 Report puts at no more than 5ha in any event (EB9, #5.21). Of equal if not more importance to the achievement of the vision and this strategic objective is having the right policy framework in place; this is explored under the next issue.

Conclusion on this Issue

62. For the reasons set out above, I consider the figure of 2,900 dwellings to be justified by the evidence. Whether that represents the OAN as the Council considers it to be or a figure beyond that if the other authorities in the HMA are correct seems to me immaterial. It is the figure for which the Council is planning and is the most likely to deliver affordable housing in the numbers required. In view of the structure of the employment sector the traditional approach of making areas of land available for development is less appropriate and it is reasonable for the Council not to follow it.

Issue 3 - Whether the Plan's policies will implement the strategy, deliver the objectively assessed development needs and provide a five year supply of housing against requirements

General

63. The key Plan policies are SC1, SV1 and OC1. This nest of policies gives effect to the spatial strategy and creates the policy framework for the delivery of sustainable development and particularly affordable and other housing and employment generating uses. In order to be effective and consistent with national planning policy it is important therefore that they are consistent with each other, do not overlap and act positively to deliver the required development. As submitted, they do not achieve these soundness tests.
64. The intention is for policy SC1 to be supportive of development in and on the edge of the three main settlements and encouraging of development in the named primary and secondary villages. In achieving the latter, policy SV1 is intended to maintain or create balanced communities that will enable these villages to thrive. Policy OC1 addresses development everywhere else in the

Plan area including those settlements not categorised as primary or secondary villages and is generally supportive of all development other than market housing not required by a worker who needs to live in the countryside.

65. As submitted both policy SC1 and OC1 address development in the open countryside; this is therefore confusing. Moreover, while clause 4 of policy SC1 and bullet 1 of policy OC1 appear to deal with the same issue, the wording is slightly different; this is also confusing. While policy OC1 begins with the words 'residential development' it is obvious from both bullet 2 and the justification that it is intended to apply to all development proposals; the wording is therefore ambiguous. Finally, the way 'open countryside' is defined in the preamble to policy OC1 is inconsistent with that given in bullet 1 of the policy justification; this too is confusing. The Council has put forward a number of changes to these two policies (**MM2** and **MM12**) which will resolve these issues and ensure that in this regard the Plan meets the 'effective' test of soundness.
66. Still with policy OC1, as submitted, bullet 1 and the supporting justification is phrased in terms almost identical to those in the now replaced Planning Policy Statement 7 *Sustainable Development in Rural Areas*. This approach has not been carried forward in the Framework or the relevant paragraphs of the PPG and on a first read the Plan appears potentially inconsistent with national policy. However, the Council explained that in the particular circumstances of West Somerset it was justified to examine the economic and functional case for development in the open countryside so as to prevent the proliferation of isolated buildings, especially dwellings. On the evidence, I have no reason to disagree with that assessment which is not inconsistent with the Framework and Framework paragraph 55 in particular. No changes to policy OC1 are therefore required for soundness in this regard.
67. Representations have been made that the modification to policy OC1 would make it unsound; I do not agree. Framework paragraph 55 is quite clear that new isolated homes in the countryside should be avoided unless there are special circumstances. It then gives some examples of those circumstances which cannot be an exhaustive list and does not preclude local planning authorities setting their own if justified by the evidence. The Council's approach to the conversion of traditionally constructed buildings is justified in the particular circumstances of West Somerset. Furthermore, the modified policy has to be read together with policies EC8 and EC9 which deal with tourism development to appreciate the full policy framework.
68. Returning to policy SC1, many of those making representations understood the definitions of 'limited development' and 'small-scale development' given in the justification to be overly restrictive as applied to housing development. The Council explained that this was not the intention; that was to achieve a manageable rate of change over time. Given national planning policy and the need for the primary and secondary villages to make an important contribution towards housing supply in the Plan area the Council's intention must be correct. However, using the word 'maximum' does not allow that interpretation and, in any event, is unnecessary as application of policy SV1 would allow balanced communities to be maintained. **MM3** will modify the definitions in the justification and will more clearly express the Council's

intention for the policy. **MM3** also makes clear that the number now given for each named village refers to the settlement rather than the parish.

69. Those making representations on the main modifications expressed concern about this change feeling that it could inhibit the ability of some settlements to grow and thereby preserve important local facilities. However, I consider these concerns to be misplaced and to be reading 'about' as still imposing an upper limit on new development. Read with policy SV1 that would not be the practical application of policy in my judgement.

Housing - Affordable housing

70. The Council has always been clear that its biggest concern is not so much the OAN *per se* but the composition of it and the finding of the original SHMA that the need for social housing would amount to about 60% of the total need over the Plan period (EB7, #50).
71. In essence, the approach of the Plan is to achieve affordable housing on development sites in a ratio of 35:65, affordable: open-market housing. The Council recognises that this will not deliver the amount of affordable housing required but the general consensus at the hearing sessions was that this approach was, nevertheless, realistic. As I will come to later when addressing housing land supply, historic build rates are consistent and almost entirely uninfluenced by plan requirements. There is simply no evidence that imposing an uplift to the OAN in order to help meet identified affordable housing needs would have any practical effect.
72. Nearly 50% of the total housing provision is however proposed on three strategic sites. A significant proportion of the affordable housing requirement will therefore need to be delivered from them. A finding of the Strategic Housing Viability Assessment is that if the required affordable housing threshold is to remain the priority for these sites there would be no residual balance to support the cumulative costs of other policy requirements or a margin to absorb adverse market changes (EB4, page 47, Recommendation 1). Having said that, some participants were more optimistic about the affordable housing that might come forward on these sites pointing to the role of the Homes & Communities Agency in some developments in Minehead.
73. At the time of the hearing sessions the strategy and policy framework for the delivery of affordable housing was nevertheless uncertain for two reasons. First, policy SC4 as submitted was not then in accordance with national planning policy as it stood at that time and, second, the Housing and Planning Bill could have an impact on the scale of affordable housing that might be delivered. These are now dealt with in turn.
74. Although I understand this not to be the Council's preferred approach, policy SC4 as submitted limits the requirement for provision of affordable housing to sites of 11 or more dwellings or, exceptionally, 6-10 dwellings in specific settlements or circumstances. This approach follows that set out in the Written Ministerial Statement of 28 November 2014 and the associated guidance in the PPG. This was however successfully challenged in the court⁴

⁴ *West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government* [2015] EWHC 2222 (Admin)

in July 2015. The court ordered that the policies in the Written Ministerial Statement must not be treated as a material consideration in development management and development plan procedures and the relevant paragraphs in the PPG were removed. However, on 28 September 2015 the Secretary of State was granted leave to appeal that judgement with the case being heard in the Court of Appeal on 15 March 2016, that is, while the hearing sessions were taking place.

75. On 11 May 2016 and therefore after the close of the hearing sessions but before the main modifications were approved by full council for consultation the Court of Appeal allowed the appeal by the Secretary of State. In effect, the Written Ministerial Statement and the advice in the PPG were reinstated. In this respect, submitted policy SC4 accords with national policy and no modification is required. Since each of the three bullets within criterion 3 of the policy is phrased to apply whatever the current standard is at the time of any planning proposal I do not believe that any can be said to be 'out-of-date' and not reflective of national policy as contended by a respondent to the main modifications consultation.
76. The Housing and Planning Bill was enacted on 12 May 2016. It provides a statutory framework for the delivery of starter homes. There are different views about the effect this will have on the number of affordable homes that will be delivered since the Act requires that planning permission could only be granted if specific requirements relating to starter homes were met (see for example ED32/3, Appendix A).
77. Affordable housing delivery is a matter that the Council will wish to keep under careful review. However, modifications to the Plan already discussed, particularly those relating to that part of the Plan area outside the three main settlements, will assist in the delivery of this much-needed housing type.

Housing in total

78. As already stated above, the Plan allocates specific sites for slightly less than 50% of the overall housing requirement during the Plan period. This is primarily because the Plan started life as a core strategy through which it would have been inappropriate to allocate non-strategic sites. Again as explained above, no further development plan documents are now to be brought forward. The outcome therefore is that just over 50% of the housing provision will have to come forward on sites that are, as yet, unidentified in the Plan.
79. On past evidence the Council is clearly confident that what are in effect windfall developments will continue to come forward in the required numbers (EB7, #81 to #84). However, that is the antithesis of the plan-led approach enshrined in the first of the 12 core planning principles set out in Framework paragraph 17.
80. This matter was raised in my initial letter to the Council (ED3, #37) and my second letter seeking clarification of the process by which the suggested interim (early) release sites might be brought forward for consultation (ED7, #8 to #11). A number of additional sites were ultimately approved by Full Council in December 2015 (ED15, ED16, ED18 and ED19) having a combined capacity of about 245 dwellings. These were not subject to any consultation

at that stage, the intention, at that time, being for that to take place as part of the consultation on the proposed main modifications that would be required in due course. They were however subject to a sustainability appraisal process with the outcomes (ED18a) informing the decisions of full council. That process did not identify any 'showstoppers' in respect of any of the sites approved.

81. The interim (early) release sites were selected from the SHLAA Update Report (EB5) where they are referenced as set out in the following text. Some of the sites selected (WAT9 and part of MIN30/MIN41) were discussed during the hearing sessions under Matter 6 since they were also put forward as additional sites at pre-submission consultation. These three and MIN4 and MIN5 are all within or in close proximity to the contiguous built-up areas of Watchet and Minehead/Alcombe respectively. In that respect, their development would be in accordance with the Plan strategy and policy SC1. Their combined capacity is in the order of at least 185 dwellings. Stogursey is defined as a primary village under policy SC1. The identified early release site has a capacity of some 60 dwellings. Whether this site would or would not be in accordance with the strategy and policy SC1 would depend on the rate and phasing of development and thus compliance with the 'limited development' criteria of policy SC1 and the terms of policy SV1.
82. Other sites were also put forward by landowners and/or developers to be considered if further land for housing needed to be identified in the Plan. These were also discussed under Matter 6. To the extent that matters were in contention, the three allocated sites (MD2, WA2 and WI2) were also discussed under Matter 5.
83. I shall deal with the allocated site and the two put forward on land at Watchet quite briefly. The allocated site (WA2) is, together with other land, wholly under the control of the Trustees of the Wyndham Estate. Uncontested evidence was given at the hearing sessions that master planning of the site and surrounding area had shown that the mixed-use development proposed could be accommodated while avoiding any effect on the setting of the heritage assets present. Development could be kept below the ridge line thus mitigating any landscape impact. No evidence was presented to suggest that this allocation should not be endorsed.
84. The allocated site is within an area described in the sustainability appraisal (SD14) as 'Watchet South' while the early release site and the two other proposed sites are in the 'Watchet East' area. The sustainability appraisal is quite clear that the two areas performed similarly when assessed. The sole reason for the allocated site being chosen is said to be that it was better related to the town centre.
85. One of the non-allocated sites put forward (WAT6) is an extension of that now suggested by the Council as an early release site (WAT9) and would be developed in a comprehensive manner with that site to provide around 200 dwellings. The other is land to the south of Doniford Road/Normandy Avenue and could accommodate about 150 dwellings.
86. Both sites have been subject to quite detailed appraisals and master planning, the results of which have been submitted in evidence. These demonstrate

that the various constraints affecting each site such as flood risk, highway connections and access, sites of nature conservation interest and landscape impact are capable of resolution subject to normal development management assessment at full planning application stage.

87. Given that the Plan strategy and policy SC1 envisage development in close proximity to the contiguous built-up area of Watchet, once WAT9 (which is so sited) has been developed both other sites will meet this criterion. I see no reason why all three of the suggested sites should not come forward. All would be in accordance with the Plan strategy and policy SC1 and thus acceptable in principle.
88. Turning now to Williton, the land as allocated in the submitted Plan and that proposed by Summerfield Developments (SW) Ltd would form, when taken together with the submitted Plan employment allocation under policy EC2, an almost continuous development arc to the west, north and east of the town. The sustainability appraisal (SD14) notes that the land to the east, substantially that site now put forward by Summerfield, was discounted because of the difficulty in accessing the services in the High Street and the high probability of flooding, water pollution risk and drainage challenges.
89. Summerfield has submitted in evidence a number of studies including a draft master plan which seek to address the concerns that led the Council to discount this land on the basis of the sustainability appraisal. This shows how the land could be developed in ways that exclude all but essential infrastructure, open space and community playing fields from Flood Zone 3 and provides pedestrian links to the High Street and some other services with a walking time of around 10 minutes. Although a potential access to the A358 is indicated, this appears to be at the conceptual stage at this time and any benefits arising from this can be given only limited weight.
90. No 'in principle' objection was raised by the Environment Agency on flood risk grounds subject to the sequential and exception tests being met and site specific flood risk assessments being carried out in due course. The Plan strategy reflects the sequential and exception test outcomes. In principle therefore, the suggested site would appear to accord with the Plan strategy and policy SC1 being in close proximity to the contiguous built-up area of Williton.
91. Turning now to the site allocated under policy WI2, following representations at pre-submission consultation from Historic England (SD21/2), the Council proposed to delete part of the site allocation to the north of the school and ensure that the part of the allocation to the west closest to the town is retained as a green buffer to protect the Battlegore Cemetery scheduled monument (ED17). The effect of this proposed change would be to detach the small northern allocation and somewhat divorce that part of the western allocation to be master planned for development from the town centre.
92. The allocated land is under the control of the Trustees of the Wyndham Estate. The Trustees accept that the requirement to minimise flood risk means that the land that can be made available for housing would not be contiguous with the existing settlement boundary (ED32/5, #2.2). On the face of it, that would appear to undermine one of the reasons for the Council

selecting this area rather than the Summerfield land to the east. However, as noted by the Trustees at the hearing session, although the developable land is proposed to be reduced quite considerably in response to both Historic England and the flood risk issue, the development expected to come forward, some 400 dwellings and 3 hectares of appropriate and compatible non-residential uses, remains unchanged.

93. I agree with the Trustees that the changes proposed by the Council are not justified. They would serve to undermine the master planning process that, on the evidence, requires some development to the north of the school to achieve the housing numbers envisaged (ED32/5, #2.1). Retaining the submitted allocation would allow greater opportunity to achieve a development that delivered the requirement of policy WI2 while protecting the heritage asset. As a whole, the allocated site would then remain in accordance with the Plan strategy and policy SC1. Nevertheless, **MM10** is required to ensure that the development achieves through the master planning process the enhancement of the heritage asset. A consequential change to SD5, Figure 5 (the policies map) is also necessary.
94. The land allocated under policy MD2 at Minehead is acknowledged to be challenging. Ownership of the land is fragmented and, unlike the sites in Watchet and Williton, the Council expects to lead the master planning process. A respondent commenting on the main modifications queried whether this was still the Council's intention but who it is prepared by is not a soundness matter. The topography creates some development issues and flood risk off-site from the development of the land is an issue that needs to be addressed. Nevertheless, the consensus view among participants at the hearing session was that as landowners' expectations of land values became more realistic development would occur. Moreover, the involvement already of the Homes & Communities Agency on land in the area gave confidence that the required affordable housing would come forward.
95. The site off Bratton Lane put forward by Mr Shapland is within the Porlock Road area assessed as part of the sustainability appraisal. The reasons for rejecting development in this area are given as significant negative effects on flooding (as parts are in Flood Zone 3) and significant effects on landscape (since parts of the area are clearly visible from Exmoor National Park).
96. Nevertheless, early release sites MIN4, MIN5, MIN30 and MIN41 now suggested by the Council and that put forward on behalf of several owners and within the boundary of MIN30 and MIN41 are all within the Porlock Road area. Evidence from the Environment Agency is that while parts of MIN30 and MIN41 are within Flood Zone 3, Mr Shapland's site is within Flood Zone 1 and thus acceptable, at least on flood risk grounds (ED21).
97. Turning to visual and landscape impact, ENPA advises that the effect on the National Park from development of the suggested early release sites would be neutral on both landscape character and visual amenity provided that screen planting is retained and/or reinforced (ED25/3, #4.2). In considering the effect on the National Park of Mr Shapland's site, ENPA make essentially the same comments under the 'description and discussion' section but conclude that the effect on both landscape character and visual amenity would be 'moderate adverse' (ED25/6). It is not clear why this different conclusion was

drawn or why screen planting, as advocated by those representing Mr Shapland in evidence, could not be employed in mitigation.

98. As I saw during my inspection of the area, the topography of this part of Minehead is complex. It seems to me that development of each of these five sites is broadly in accordance with the Plan strategy and policy SC1 since all are in close proximity to the contiguous built-up area. Whether any could be developed would seem to depend on site specific proposals relating to flood risk, access and landscape and visual impact. These are matters of detail for the development management process; in principle they would all appear to be acceptable.
99. The final area of additional land suggested in the event that more or alternative sites need to be identified is Crown Estate land at Dunster Marsh. Indicative development of the land in three roughly equal phases was submitted in evidence and would provide some 215 dwellings (ED23/6). The development would be on the western side of the settlement and would be an extension of a 54 dwelling phase now under construction. The effect would be to begin to close the gap between the settlement and the eastern side of Minehead.
100. As with the other sites that have been put forward by or on behalf of landowners and developers I have little doubt that this land could be master planned to address any issues in sufficient detail to allow consideration through the development management process. However, Dunster Marsh is defined by policy SC1 as a secondary village with a dwelling total at the start of the Plan period of 183. Development of even phase 1 alone, as was suggested at the hearing session, would be completely at odds with even the more flexible interpretation now given to policy SC1 as a result of **MM3**. Furthermore, the facilities that are available in Dunster are on the other side of the busy A39 and not well related to any significant further development at the proposed site. Development here would not therefore be in accordance with the Plan strategy and policy SC1 and would not be acceptable in principle at this time.
101. Finally, I turn briefly to the development proposed at Minehead and Watchet under policy LT1. Both sites are identified for development post-2026 and, in that regard, are intended to be consistent with Framework paragraph 47, bullet 3 in indicating broad locations for development at the end of the 11-15 year period. No development capacity is indicated in the Plan.
102. The site at Minehead adjoins the allocated policy MD2 site and is likely to be phased with development of that land given the linkages in highway access terms. That at Watchet is proposed as it offers an opportunity to realign the B3191, the current route of which will be subject to coastal erosion. The Council explained that this was a vital part of the strategic highway network in the event that the A39 was unavailable for any reason. Changes to the policy wording in respect of the safeguarding and enhancement of the Daws Castle and associated heritage assets have been agreed with Historic England (ED57). On the evidence before me I see no reason why either site should not be included within the Plan with the change in **MM11** required for consistency with national heritage policy.

103. To summarise my conclusions on this sub-issue, the submitted Plan proposes some 1,440 dwellings on the three strategic sites (MD2, WA2 and WI2). The early release sites suggested by the Council add a further 185 dwellings or 245 dwellings if the development at Stogursey can come forward in accordance with the Plan strategy and policies SC1 and SV1. Other sites which I have concluded would accord with the Plan strategy and policy SC1 would add a further 250 dwellings across the two Watchet sites, between 190 and 250 dwellings at Williton East and about 55 dwellings at Bratton Lane, Minehead. That adds a further 495 to 555 dwellings. In all therefore, land could be developed in accordance with the Plan strategy and policy SC1 with a capacity of between 2,120 and 2,240 dwellings or between 73% and 77% of the Plan requirement of 2,900.
104. During the hearing sessions evidence was given by those directly involved in the proposed development of all of the above sites except MD2, the four early release sites in Minehead and the site at Stogursey. The four Minehead early release sites have a relatively limited capacity of some 85 dwellings. All confirmed that sufficient appraisal and investigative work had taken place to allow master planning to be relatively well advanced. All confirmed that a start could be expected in not later than 24 months and all confirmed that viability testing gave confidence that, in current conditions, affordable housing provision at 35% could be secured. I do not accept the argument now put forward in response to the main modification consultation that these comments were only given on the understanding that the sites would be allocated in the Plan thus creating the appropriate investment climate. The Planning Inspectorate deals with numerous appeals involving development of unallocated sites pursued in any event in what is perceived to be a situation where there is no five year housing land supply.
105. Ideally these sites should be included as specific allocations in the Plan. That is not however the proposal of the Council for the reasons set out briefly (ED58, section 4) and more fully at the Matter 8 hearing session. In essence, this is a concern at the further delay that would be caused to the adoption of the Plan by the likely requirement to re-open the hearing sessions following consultation on the main modifications if they included a number of additional development sites.
106. I have considered carefully the preliminary views expressed at the hearing session and, since Document ED58 could only be tabled at the hearing session, the more considered points made in response to the publication of the main modifications. I do not believe that the Plan would be unsound as proposed to be modified (or, strictly, not modified in this instance) for the following reasons.
107. First, while the uncertainty that prevailed at the time of the hearing sessions concerning the Housing and Planning Bill and the Court of Appeal judgement has now been resolved, an understanding of their effects and the implications for the delivery of affordable housing in particular will take some time to become apparent. That is an argument for early adoption of the Plan followed by a rapid review once these implications become clear. The future of the Hinkley Point C project remains uncertain at the time of writing.

108. Second, there are advantages in early adoption for those wishing to prepare and complete a Neighbourhood Plan and this was a point made in evidence at the hearing session.
109. Third, while an allocation in a plan is clearly desirable, there is little evidence to suggest that in this case the schemes put forward would be delayed or prevented by not being specifically identified. No insurmountable barriers to development were identified to prevent those sites coming forward. Indeed, all the evidence was to the contrary. Given the strength of the evidence given about the deliverability of each site, it is not clear what additional security will be afforded by allocation in the Plan for those advocating development.
110. Fourth, I consider that development would still be plan-led in the sense that the sites are all in accordance with the Plan strategy and policy SC1. They would not be windfall sites as defined in the Framework Glossary since they would have been specifically identified as available through the local plan process and they would clearly not become available unexpectedly. In the context of West Somerset a residual windfall allowance of some 30% of the total Plan provision would not be inconsistent with Framework paragraph 48.
111. Fifthly, at the hearing sessions the Council has committed to an early review of the Plan to prepare the comprehensive document envisaged by Framework paragraph 153. The Council indicated that this would commence within 18 months to two years. As is clear from the exchange of correspondence (ED62 and ED64) this timescale is now less clear for the reasons set out by the Council. This is unfortunate and I would urge that the review be undertaken as soon as resources permit.
112. With that caveat I nevertheless support the Council's approach subject to the evidence demonstrating that a five year supply of housing land is available now (April 2016). I turn to consider that next.

Five year housing land supply at 1 April 2016

113. The Council has produced three estimates of housing land supply each of which shows that a five year supply can be demonstrated on the assumptions made. Those shown in Document EB7 (#75 to #87) and ED34/4 (#4.3.1 to 4.3.6, Table 4.1) spread the 2,900 dwelling requirement equally over the 20 year period of the Plan (145 dwellings per annum) and apply the buffer required by Framework paragraph 47, bullet 2 at a rate of 5% before adding the shortfall in the first years which itself is spread across the whole of the remaining Plan period (the 'Liverpool' method). Having considered the points made at the relevant hearing session, the final assessment (ED58, #4.1 to #4.7, Appendix B) steps the dwelling requirement and spreads the shortfall in the first years across the next five years of the Plan (the 'Sedgefield' method) before adding a 5% buffer.
114. The 450 dwellings assumed to be required as a result of the Hinkley Point C project represents about 16% of the Plan requirement but some 21% of the calculated OAN for the HMA relied upon by the other local planning authorities within it (ED25/2, Appendix 4). The way that this is treated in the calculation of the five year housing supply is therefore important since it has a significant effect on the shortfall in the early years in particular.

115. It was not unreasonable for the Council to spread the requirement evenly across the Plan period in the first instance since the project was supposed to have started by now; indeed, 2016 should have been the peak year for workforce numbers (EB7, #68). That has not in fact occurred and it is right therefore for the Council to review its approach. It now assumes that the requirement will arise from 2018/19, year seven of the Plan. For the first six years therefore the long term annual average of 122 dwellings per annum is assumed with 155 dwellings per annum thereafter.
116. I agree that this approach is justified. As a consequence, the Council also now applies the 'Sedgefield' method to the treatment of the shortfall. This is also justified since the 'Liverpool' approach previously advocated was on the basis that the Hinkley Point C effect was also spread across the Plan period; that is no longer now the case. **MM4** adds an explanation to this effect to the supporting text for policy SC2.
117. The Council also now proposes to add the buffer after adding the shortfall. This is widely held to be the correct approach. The issue therefore is whether it should be 5% as the Council suggests or 20% as some, but not all, those making representations contend.
118. The PPG advises that identifying whether or not there has been a record of persistent under delivery of housing is a matter of judgement. It does however suggest that the assessment is likely to be more robust if a longer term view is taken so that peaks and troughs in the housing market cycle are likely to be evened out⁵. The Council's evidence (EB7, Table 3) is that over the period 1977 to 2011 the annual average rate of completions over the four Structure Plan periods covered has varied from 116 dwellings per annum to 128 dwellings per annum; a modest variation. The requirements against which this delivery must be set, however, has varied from 108 dwellings per annum to 193 dwellings per annum; a considerably wider range. Over two of the four periods there has been under performance against the target while over the other two there has been an over performance. The most recent (1991 to 2011) is a period of slight over performance, 116 against 108.
119. On the basis of this evidence I see no justification for a buffer of 20% to be added since there is no evidence of persistent under performance.
120. Looking first at the 'demand' side, the Council's calculation of the five year Plan requirement presented at the hearing session ran from April 2015 to April 2020 (ED58, Appendix B). However, it should run from April 2016 to April 2021 and this is what is shown in the main modifications consultation document (Appendix C). This shows actual completions to 2015/16 of 405 against a requirement over the same period of 488 giving a shortfall-to-date of 83 dwellings. The overall dwelling requirement (including the 5% buffer) over the next five years would therefore be 832 dwellings (or 166 dwellings per annum) because that period comprises two years at the long term average rate of development (122 dwellings per annum) and three years at the higher 'Hinkley' rate of 155 dwellings per annum.

⁵ Paragraph 035 Reference ID: 3-035-20140306

121. Turning now to the 'supply' side, the PPG is quite clear about what constitutes a deliverable site⁶. These include those with planning permission and allocations in a local plan. However, the latter is not a prerequisite for a site being deliverable in terms of five year supply as contended by some participants at the hearing sessions (emphasis added). The PPG continues by saying that where there are no significant constraints such as infrastructure to be overcome sites not allocated in a development plan or without planning permission can be considered capable of being deliverable within a five year time-frame. This is entirely consistent with Framework footnote 11. The sites promoted by those making representations are clearly deliverable as defined.
122. What constitutes a developable site is set out in Framework footnote 12 and the PPG⁷. In this respect the evidence in the Strategic Housing Land Availability Assessment (SHLAA) is important and the latest information available (EB5) is reflected in the most up-to-date housing trajectory available (main modifications consultation Appendix C). The evidence given at the hearing session about the development that would come forward on sites that should be included in the Plan is also very important in this context. The sites promoted by those making representations are clearly developable as defined.
123. The Council's housing trajectory and latest assessment (main modifications consultation Appendix C) is drawn from the SHLAA and I have no evidence to suggest that these assumptions will not be delivered for large and small sites with planning permission. Over the period April 2016 to April 2021 this would amount to some 534 dwellings.
124. As set out above, I have concluded that sites put forward either by the Council as either allocated or early release sites and by others in Watchet, Williton and Minehead would be in accordance with the Plan strategy and policy SC1. During the hearing sessions clear evidence was given that each was viable and, after allowing a lead-in time of some two years, could each deliver between 25 and 35 dwellings per annum.
125. The Council has assumed a total of 310 dwellings from these sources over the relevant five year period of the Plan. On the basis of the evidence given during the examination I consider this to be a conservative assumption. Not all of the sites that I believe would be in accordance with the Plan strategy if brought forward have been included and for those that have, the assumed annual contribution is less than that suggested by the prospective developer or landowner. Against this, some 50 dwellings have been assumed at the Stogursey site which may or may not be in accordance with policy SC1 as set out above.
126. Added to assumed completions, it can be seen that this figure (some 834 dwellings) is almost equal to the requirement without any account being taken of development on windfall sites.
127. I consider the Council's evidence (EB7, #81 to #84) in respect of the numbers that will come forward on windfall sites as defined in the Framework Glossary to be compelling and thus justified in terms of Framework paragraph 48. The Council assumes some 130 dwellings coming forward from this source; 80 on

⁶ Paragraph 031 Reference ID: 3-031-20140306

⁷ Paragraph 032 Reference ID: 3-032-20140306

small sites, 50 on large sites. It may well be that development on large sites would, in reality, be on sites coming forward in accordance with Plan strategy that have already been taken into account. There may therefore be an element of double counting in the Council's analysis. Even so, adding the 80 dwellings on small sites still gives a total 'supply' of some 914 dwellings.

128. At a required rate of 166 dwellings per annum, this would amount to a supply of some 5.5 years. Given the conservative nature of some of the assumptions made by the Council I consider that to be a healthy margin and thus conclude that at 1 April 2016 there would have been a five year supply of deliverable and developable housing land. Moreover, adding the assumed annual small site windfall of 40 dwellings to the capacity of between 2,120 and 2,240 dwellings that I consider could come forward on large sites could bring the 'supply' now to within some 300 dwellings of the overall Plan requirement of 2,900. I see no reason on the evidence to believe that a supply of specific developable sites would not come forward in years 6 to 10 of the Plan as indicated in Framework paragraph 47.

Employment

129. In my initial letter to the Council I raised a concern over the deliverability of the major employment site identified at Williton in policy EC2 in view of the evidence given to me in March 2015 at a hearing into an appeal on land within the allocated site area (ED3, #59). In the light of that evidence and confirmation by the Environment Agency that, given the partial location of the land within the functional floodplain, development of the land would not be consistent with the Framework (ED58, page 4), the Council indicated that it would delete the allocation. **MM14** is therefore necessary to achieve soundness in this respect and a consequential change to the submitted policies map is required.
130. As discussed under Issue 2, the employment land allocations in the Plan are indicative rather than required to meet a specific quantitative need. It does however emphasise the need to allow for employment opportunities to come forward in association with the mixed-use developments proposed for the three main towns.
131. In that respect, the Council's proposed change to policy EC6 is welcome. It casts the policy in the much more positive and enabling light suggested by participants at the hearing session and several of those making representations at pre-submission consultation. The Council will be able to use appropriate conditions to avoid new dwellings being achieved in unsustainable locations which I understand to be the Council's prime concern and the objective of the submitted policy EC6 wording. **MM15** is therefore required to ensure that the Plan is effective in this regard.

Overall conclusion on Issue 3

132. The changes to be made by way of main modifications to policies SC1, OC1 and EC6 will set a positive framework for the delivery of the sustainable development required over the Plan period. The evidence shows that housing can come forward on sites that are both deliverable and developable as defined in the Framework. While it would be preferable for all these sites to be allocated in the Plan now, they can and will contribute to a five year

housing land supply now. The further delay to a Plan that has already taken a very long time to prepare that would be caused is not therefore justified. The number of other issues that are now uncertain but which will have to be addressed lends further support to the approach of adoption followed by early review proposed by the Council. The main failing of the Plan is the probable inability to achieve the level of affordable housing needed. However, the steps taken by the Council in the prevailing circumstances are pragmatic. This is one area that is likely to be affected by changes in legislation and is therefore a further justification for adoption and early review once the consequences of those changes are better understood.

Issue 4 - Whether the policies in the Plan are effective and consistent with national policy

133. In my initial letter to the Council (ED3) I referred to a number of policies that I considered either inconsistent with national policy or likely not to be effective; two of the tests of soundness. The changes to some and the reasons for them have already been discussed in relation to policies SC1, OC1, EC2 and EC6. The others are addressed now.
134. Submitted policies EN2 and CC1 both address developments that would generate energy from, among other things, renewable and low carbon sources. The only substantive difference between the two is that policy CC1 relates to small-scale schemes whereas EN2 relates to 'major' proposals. However, neither term is defined so it is wholly unclear which policy would apply to any particular proposal. **MM1** deletes policy EN2 while **MM17** alters the wording of policy CC1 thus addressing these failings. In doing so, the Council makes clear that the criteria-based support given by policy CC1 does not relate to proposals for wind turbines since the Written Ministerial Statement issued on 18 June 2015 does not permit criteria-based policies to be included for such developments in local plans. This is therefore recognised as an interim policy stance pending an early review (ED8, #14), thus lending further weight to this approach.
135. While policy SC3 is intended to give effect to Framework paragraph 50, bullets 1 and 2, the latest Annual Monitoring Report (EB24) illustrates the weakness of the policy as drafted. While the percentages of dwellings provided in each category measured is set out in the Annual Monitoring Report, there is no benchmark against which to set it and thus no indication of the success or otherwise of the policy. **MM5** addresses this by an addition to the 'justification' wording.
136. As submitted, policy CF1 is not consistent with Framework paragraph 70 since it implies that it is only recreational facilities whose loss should be replaced. **MM16** rectifies this inconsistency with national policy and has been supported by the Theatres Trust following the main modifications consultation.
137. Submitted policy NH5 introduces without any local justification a threshold of 10 hectares below which the best and most versatile agricultural land would not be protected from significant development. No such threshold is stated or implied in Framework paragraph 112 and, in the West Somerset context, many of the development sites coming forward could therefore not be

protected. **MM24** is necessary to bring the policy into consistency with national policy.

138. **MM26** introduces a new policy (NH11) that is required for consistency with national policy and the advice in the PPG. Framework paragraph 115 is clear that great weight should be given to conserving landscape and scenic beauty in the AONB while the PPG makes clear also that this extends to development proposals outside of an AONB but which might nevertheless have an impact upon its setting⁸.
139. The form of words put forward at the main modifications consultation attracted significant objection from the Quantock Hills AONB Service, Natural England and ENPA. The policy wording that is subject of **MM26** is that which derives from the exchange of correspondence with the Council (ED66 and ED67).
140. Similarly, **MM27** reflects the same exchange of correspondence. As submitted, there was a mismatch between the wording of policy GT1, which appears supportive, and the justification which could be interpreted as being negative. Moreover, the Plan gave no guidance as to how any proposal coming forward would be assessed. The changed wording consulted upon was roundly criticised by the National Federation of Gypsy Liaison Groups and was not consistent with national policy at all. That now put in the Plan by **MM27** is an interim policy pending the identification of specific sites through either the early review of the Plan or the preparation of another, perhaps joint, local plan and further work with other authorities. It is not inconsistent with *Planning policy for traveller sites* published in August 2015.
141. The Council and EDF Energy have produced a statement of common ground with the Office for Nuclear Regulation (ED56). This contains modifications that include a re-instated policy NH7. I have considered carefully the statements made by EDF Energy, particularly the representation (SD21/34) and the various references to the Framework and the PPG within it. In my view, all of these are in the form of procedural advice to local authorities on the way to carry out the development management function so as to comply with the requirements of the Town and Country Planning (Development Management Procedure) Order 2015. The representations and further statements do not explain why the Plan would be unsound without the policy. Nevertheless, to the extent that a policy is required for the Plan to be effective in this regard **MM25** and the consequential changes to the policies map achieve that purpose.
142. At pre-submission stage and during the examination Historic England has made a number of detailed representations about the extent to which the policies in the Plan reflect national policy. This has been the subject of considerable correspondence with the Council (ED3, ED4, ED59, ED60, ED62 and ED66). As a consequence a number of changes are necessary for consistency with national policy (**MM20** and **MM21**) and clarity (**MM6** to **MM9** inclusive). In the main these modifications reflect the wording suggested by Historic England and particularly that put forward in its main

⁸ Paragraph 003 Reference ID: 8-003-20140306

modification consultation response⁹, which was prepared in the light of my remarks in ED62. Having reflected on that response and my observations on it (ED66) the Council has asked me to recommend the wording now proposed by Historic England (ED67). **MM20** and **MM21** as now drafted correctly reflect the balance between statute and national policy on the one hand and local circumstances on the other. In its main modification consultation response Historic England also made a number of suggested changes to the supporting text for clarity. As these do not affect the soundness of the Plan it is for the Council to consider if it wishes to make them

143. Finally, **MM13**, **MM18**, **MM19**, **MM22** and **MM23** address some slight ambiguities and anomalies in the submitted policies rather than matters of substance. They are nevertheless necessary to ensure that the 'effective' test of soundness is met. **MM28** and **MM29** simply replace the words 'proposals map' by 'policies map' but, since some are within the body of a policy they are strictly required to be main modifications.

Public Sector Equality Duty

144. In conducting the examination I have had due regard to the above Duty and s149 of the Equality Act 2010. In particular I do not consider that policy GT1 as submitted or the policy as proposed to be changed by the Council and consulted upon as part of the post-hearing sessions consultation on the main modifications would respect the qualified rights of the gypsy and traveller community in relation to respect for private and family life. **MM27** introduces a modified policy that does.

Assessment of Legal Compliance

145. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The West Somerset Local Plan to 2032 is identified within the approved LDS January 2015 which sets out an expected adoption date of Month Year. The Local Plan's content and timing are compliant with the LDS up to formal submission.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in December 2014 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed 'main modification' changes (MM)
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Appropriate Assessment (AA)	The Habitats Regulations AA Screening Report (December 2014) sets out that the policies within

⁹ <https://www.westsomersetonline.gov.uk/Docs/WSLP-Proposed-Modifications-Representations/Historic-England.aspx>

	the draft local plan are unlikely to have a significant effect on the integrity of a European and/or Ramsar site provided that policies NH3, NH8 and NH9 are maintained which they are.
National Policy	The Local Plan complies with national policy except where indicated and modifications are recommended.
2004 Act (as amended) and 2012 Regulations.	The Local Plan complies with the Act and the Regulations.

Overall Conclusion and Recommendation

146. The Plan has a number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

147. The Plan is not the single plan for the area envisaged by Framework paragraph 153. Importantly, it does not identify a full range of housing sites. A number of sites have been discussed and found to be in accordance with the Plan strategy. It would clearly be preferable if they were to be included in the Plan now as was the Council's initial intention in responding to my preliminary queries and concerns. However, these would have to be proposed as MMs. It is quite likely that new matters would be raised through consultation that may lead to the hearing sessions being re-opened. The delay to the adoption of the Plan would run counter to the very clear message from Government referred to at the end of the Preamble. Allied to the commitment to an early review to address the major uncertainties regarding infrastructure provision and policy effects highlighted in this report I consider that the balance of advantage for the proper planning of the area is for the Council to adopt the Plan now with the main modifications the Council has requested that I recommend to make the Plan sound and capable of adoption.

148. I conclude that with the recommended main modifications set out in the Appendix the West Somerset Local Plan to 2032 satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Inspector Signature

Brian Cook

Inspector

This report is accompanied by the Appendix containing the main modifications

