

# Hearing Statement

Examination of The Horsham District LP 2023 – 2040

Prepared by Savills on Behalf of Crest Nicholson Plc

**Matter 8 – Housing**

## 1. Response to MIQs – Matter 8: Housing

***Matter 8, Issue 1 - Whether the housing requirement is justified, effective, consistent with national policy and positively prepared?***

***Strategic Policy 37: Housing Provision***

***Q1. Is Strategic Policy 37: Housing Provision sound?***

***a) Is the requirement for 13,212 homes between 2023 and 2040, below the local housing need for the area as determined by the standard method justified?***

- 1.1. No. The Local Planning Authority (LPA) has determined to restrict the level of growth over the LP Period below the standard method due to the issue of 'Water Neutrality' (WN) as set out in the Regulation 19 LP (paragraphs 3.13, 4.3, 4.5, 4.7, 4.8 and 4.9) and LPA's topic papers on its Spatial Strategy and Housing Supply (refs: HDC 02 and HDC 03).
- 1.2. The requirement for development within Horsham District to achieve WN originated from the Natural England position statement issued in September 2021, which stated that supplies from a groundwater abstraction at Hardham which cannot, with certainty, conclude no adverse effect on the integrity of protected sites in the Arun Valley, advising that development must not add to this impact. NE suggested one way of mitigating this impact would be WN, which the use of water in the supply area before the development is the same or lower after the development is in place.
- 1.3. However, reduction or cessation in water use does not result in a reduction in abstraction.
- 1.4. The Environment Agency (EA) are the statutory undertaker for issuing licences for water abstraction. Southern Water (SW) hold the licence for abstraction at Hardham and are the statutory undertaker for the provision of water for development within Horsham. Both are bound by the Habitats Regulations. (HR).
- 1.5. As set out in Crest's Matter 3 Hearing Statement, the impact of groundwater abstraction on the Arun Valley sites is currently being investigated by the EA through a Sustainability Study which will establish in 2025 if the abstraction licence needs to be revised, to reduce abstraction to a sustainable level or needs to cease entirely.
- 1.6. In addition to the EA's Sustainability Study, SW is preparing a revised Water Resources Management Plan (WRMP) under its duties set out in the Water Industries Act (WIA) 1991. WRMPs are subject to HRA/AA as well as Government Guidance<sup>1</sup> (set out under paragraph 2.22 of Crest's Matter 3 Hearing Statement) and **is required** to plan to service future growth without unsustainable increases in abstraction under the HR.
- 1.7. The longstanding principle behind Paragraph 194 of the NPPF and relevant case law is clear that the Inspector has the right to assume that other regimes are operating effectively. This includes an assumption

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<sup>1</sup> Water Resources Management Guidelines

that statutory authorities and undertakers including EA, NE and SW are operating within the requirements of their statutory duties and frameworks. The Inspector, therefore, has the right to assume that those responsible for the regulation and provision of water supply operate within the requirements of their statutory duties. Therefore, given the timescales associated with the EA's Sustainability Study and SW's WRMP (both to be published in 2025) there is reasonable certainty that any actions necessary to ensure groundwater abstraction from Hardham is either at a level, or ceases, to ensure no adverse impact on protected sites will take place early in the plan period

- 1.8. Paragraph 22 of the NPPF states that strategic policies should look ahead over a minimum 15-year period from adoption. If found sound, the LP will likely be adopted in 2025. By then, the EA's Sustainability Study and SW's WRMP 2024 will be published and the impact of groundwater abstraction at Hardham, and any necessary actions to ensure that it does not have any adverse impacts on the Arun Valley sites, will be known. The NPPF also states that policies should anticipate and respond to long-term requirements and policies should look further ahead (at least 30 years), to take into account the likely timescales for delivery.
- 1.9. Through a recent appeal<sup>2</sup>, Crest presented evidence that demonstrates that alternative water supplies are available to deploy by SW to more than make up for any shortfall that may arise from cessation at Hardham. This is detailed in paragraph 2.18 and 2.19 of Crest's Hearing Statement on Matter 3. The Inspector and SoS concluded that there is reasonable certainty that other sources of supply would be available.
- 1.10. While WN is currently a live issue, it is expected to be resolved by 2025. With the LP looking to be adopted in 2025, only the first five years of the plan are likely to have to regard water supply limitations. By year six (circa 2031) the issue of WN will have fallen away for the reasons stated in paragraphs 1.3-1.9.
- 1.11. The requirement for development to achieve WN should therefore not limit the level of growth planned for in the LP as this approach does not comply with paragraphs 22 and 23 of the NPPF.
- 1.12. With the exception of WN, the Council state that the District is relatively unconstrained. Given Horsham's 2.4 YHLS; the housing shortfall over the plan period; and the duty to cooperate, further sites should be allocated to address these and be reflected in the housing supply figure over the plan period (2023-2034). There is no rationale for restricting housing growth over the plan period on the basis of WN.

***b) Would the adverse impacts of the Plan not providing for objectively assessed housing needs significantly and demonstrably outweigh the benefits of doing so when assessed against the policies in the NPPF taken as a whole? Is the overall housing requirement justified?***

- 1.13. No. Adequate housing was recognised as part of the right to an adequate standard of living in article 25 of the 1948 Universal Declaration of Human Rights and in article 11.1 of the 1966 International Covenant on Economic, Social and Cultural Rights. Access to housing is therefore a human right not a commodity.
- 1.14. The adverse impacts of a lack of housing supply is well-documented by the UK Government and independent organisations, such as Shelter and Crisis and include homelessness, worsening public health,

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<sup>2</sup> APP/Z3825/W/23/3333968

environmental harm from unplanned housing, social exclusion, inequality and restricting economic growth and social mobility.

- 1.15. The UK Government has recognised that we have been in the midst of a 'housing crisis' for over a decade. A Written Ministerial Statement (WMS) was issued by the SoS for Housing, Communities and Local Government in July 2024 which underlines that the UK is in the middle of the most acute housing crisis in living memory and places an expectation on LPAs to **make every effort to allocate land in line with their housing need** and will need to demonstrate that they have done so at examination of their plan.
- 1.16. The NPPF highlights the benefits of delivering housing. Paragraph 60 emphasises the Government's objective of significantly boosting the supply of homes, acknowledging that delivering sufficient housing is vital to meet the needs of communities, while Paragraphs 119 and 124 recognise that housing delivery helps to promote sustainable development for the overall well-being of communities.
- 1.17. The benefits of providing for objectively assessed housing needs (OAN) are significant and impacts of continually not doing so are disastrous. Whilst Crest agrees that provision of housing must not be at the detriment of the environment, by HDC's own admission, other than WN, they don't consider there to be significant environmental designations to limit planning for OAN over the plan period. HDC's Sustainability Appraisal (Dec 2023) acknowledges a higher quantum of housing supply within the district, performs positively against socio-economic objectives.
- 1.18. Crest has set out that there is reasonable certainty that requirement for WN will fall away in the early part of the plan period and should not limit the LPA's ability to plan for housing growth to meet their OAN and address unmet needs from Crawley.
- 1.19. Failing to plan for OAN is unjustified, and significantly limits the ability of the LP contribute to the creation of stable and sustainable communities, and does not perform sufficiently against the NPPF policies as a whole.

***c) With reference to evidence, are the stepped annual requirements justified (in principle and scale of the step)?***

- 1.20. No. Spatial Strategy Topic Paper (ref: HDC 02 – Topic Paper 1 – Spatial Strategy) and Housing Topic Paper (ref: HDC 03 – Topic Paper 2 – Housing Supply) set out that 'stepped annual requirements' are largely due to WN. Whilst it is acknowledged that WN has had a significant impact on planning consents since NE issued its position statement in 2021, based on evidence accepted by the SoS in a recent appeal decision on Kilnwood Vale (KV), alternative water supplies will be available from 2025/2026 to enable reasonable certainty that groundwater abstraction at Hardham can cease if necessary, allowing housing delivery to rise significantly shortly thereafter.
- 1.21. Crest has 902 homes and a neighbourhood centre for KV that are subject of live Reserved Matters Applications (RMAs) but are held up on the issue of WN at KV. The appeal decision on a RM application for 280 homes at KV confirmed that planning permission could be granted on the basis of achieving WN **prior to occupation** through either a bespoke scheme or through the LPA's SNOWs 'off-setting' scheme. The appointed Inspector considered the condition necessary *at this time* to meet the 'reasonable certainty' required by the HR. If the requirement for WN is deemed unnecessary, the condition can be removed

under the relevant provisions of the TCPA 1990 (as amended). This would also apply to other developments at similar stages that have been or will be granted planning consent under similar conditions.

- 1.22. Applications that are significantly advanced/are consented with a Grampian condition on WN are likely to complete sooner once WN is resolved, which is expected no later than 2025/2026. This is likely to result in a higher level of completions in the first five years, between 2026/2027-2029/2030, especially given the precedent set in the Phase 3DEFG Appeal that allows consent and implementation via a pre-occupation condition.

***d) Is the approach to the shortfall (the Liverpool method) justified?***

- 1.23. No. Crest asserts there is no need to spread supply shortfalls across the Plan Period, given the timelines for resolving WN as set out above.

***Q2. Are main modifications needed to the Plan to clarify the latest position with regard to the Crawley LP and unmet housing need in the housing market area?***

- 1.24. Yes. The unmet need within Crawley is acute and significant. Crawley's inability to meet its housing OAN was established early in the Crawley Borough LP preparation due to its small, geographically constrained area. In contrast, Horsham is not as constrained geographically or by environmental designations.
- 1.25. The Inspector's Report (September 2024) for Crawley Borough LP states that Crawley or other LPAs cannot meet/take on its housing need due to WN. With the exception of WN, which will be resolved in the early part of the plan period, there are no constraints on the ability of Horsham to meet some of Crawley's unmet need.
- 1.26. LWKV is a entirely available and deliverable option to meet some of this unmet need due to its proximity to Crawley; its sustainable location; and the availability of built/committed infrastructure associated with the wider settlement at KV. Modifications are needed to address the housing shortfall in Crawley and allocate additional sites to meet both HDC's shortfall and some of Crawley's unmet need.

***Q3. Is there any substantive evidence that the Plan should be accommodating unmet need from neighbours, and if so, would it be sound to do so? In any event, should any unmet needs from other relevant areas be clearly identified in the Plan?***

- 1.27. Yes. Crest has provided evidence that the issue of WN should not restrict housing growth or limit HDC's ability to plan for and allocate enough suitable sites to meet its OAN.

***Matter 8, Issue 2 – Whether the overall housing land supply and site selection process is justified, effective, consistent with national policy and positively prepared?***

***Q1. Were the proposed housing allocations selected on the basis of an understanding of what land is suitable, available and achievable for housing in the plan area using an appropriate and proportionate***

**methodology, and are there clear reasons why other land which has not been allocated has been discounted?**

- 1.28. Crest does not oppose the allocation of sites identified within the draft LP. Given the acute need for housing and shortfall in housing land supply, Crest considers that these allocations need to be bolstered by equally sustainable, suitable, available and achievable sites.
- 1.29. The Council states in both the Regulation 19 Cabinet Report 2021 and Site Assessment Report (December 2023), that it has an “*unfettered view*” that leads to the conclusion that LWKV (Site ref: SA291) has potential for allocation for new homes. However, the Updated Sustainability Appraisal (December 2023) states **it had been agreed with the site promoter that it would be premature to allocate further land in this LP due to uncertainties of delivery timescales following on from the existing permitted development at KV**. This is simply untrue.
- 1.30. Crest has been promoting LWKV as an available, suitable and sustainable location for new homes consistently for over a decade. Crest strongly contends that the site is both deliverable and developable within this LP period. Crest has detailed its views on the Council’s assessment of LWKV in the Updated Sustainability Appraisal (December 2023) within their Reg 19 representations, and emphasizes its suitability for sustainable development and housing allocation.
- 1.31. Notwithstanding the Council’s stated “*unfettered view*” that leads to the conclusion that LWKV has potential for allocation for new homes, the Council has omitted the site for allocation. The Site Assessment Report (December 2023) states that KV is still undergoing construction and is yet to deliver a number of services and facilities that are necessary to support a new community. This is the same for a number of sites that the Council has determined to allocate but it is Crest Nicholson Plc’s firm intention to deliver the remaining homes, services and facilities at KV that already have outline planning permission.
- 1.32. Crest Nicholson Plc’s commitment to this can be demonstrated through the submission of RMAs for the remaining consented development, which have been delayed due to WN. This includes the Neighbourhood Centre RM consented (expected imminently) following the allowed appeal for Phase 3DEFG. Moreover, the pursuit of an appeal decision in order to unlock development at KV is another indication of Crest Nicholson Plc’s firm intention to deliver the remainder of the development.
- 1.33. The SoS’s decision has set a precedent which allows for pre-occupation conditions to be attached to planning permissions for policy compliant schemes. The Council has stated that it will prioritise the Neighbourhood Centre for SNOWs credit’s, which Crest intends to complete in 2026. Additionally, the KV development has completed social and green infrastructure and more being implemented currently. This highlights that there are already facilities in place to support an established community, with additional facilities being brought forward imminently.
- 1.34. The Updated Sustainability Appraisal (Dec 2023) states that the Council’s preferred option is to allocate sites that are urban extension sites. LWKV will effectively form part of an urban extension of a designated Tier 2 settlement at KV. KV is still under construction, which will aid in the delivery of the NC and remaining homes as well as RM, and LWKV, by having a committed construction team on site.

**Q2. The NPPF at paragraph 74 states strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period? Is this achieved by Figure 6 of the Plan?**

1.35. No. As set out above, the expected quantum of housing delivery should be higher over the plan period and the rate of housing delivery should be higher between 2026/2027 and 2029/2030 given the reasonable certainty that the requirement for WN will fall away in the early part of the plan period. This is supported by the recent appeal decision at KV which enables sites to be commenced with mitigation to achieve WN required prior to first occupation.

**Q4. Criterion 5 of the Strategic Policy 37: Housing Provision states 1,680 dwellings are anticipated to be delivered over the plan period from windfall sites? What is the compelling evidence this will be a reliable source of supply? Is this windfall allowance realistic and justified?**

1.36. No. The NPPF promotes a genuinely 'plan-led' system. The Council's Housing Topic Paper states that 11% of its identified housing land supply constitutes a reliance on windfall allowance. This compares to just 14% from allocated smaller site allocations. This seems perverse in a plan-led system and in the circumstances where sustainable, suitable, available and achievable housing sites, by the Council's own admission, have been discounted because of WN and given that WN equally impacts both. Windfall sites are less likely to access mitigation through SNOWs, as the Council has indicated it will prioritise allocating credits to planned sites.

1.37. There is reasonable certainty that the requirement for WN will fall away early in the plan period, therefore does not present an impediment for HDC to **plan** for housing growth to meet its OAN over the plan period through a greater proportion of allocated sites in sustainable locations.

**Q5. What is the housing requirement for the first five years following the adoption of the Plan and what buffer should be applied?**

1.38. The recent appeal decision for KV provides a precedent to enable the issue of planning permission and the commencement of policy compliant housing schemes in advance of securing mitigation for WN, indicating that there is an acceptance that WN can be achieved if required.

1.39. Given the LPA's ability to issue and commence planning consents and the reasonable certainty that WN will be resolved in the early part of the plan period, there is no impediment to increasing the housing requirement from 2026/2027 within the first five years of adoption. Crest agrees that a 20% buffer should be applied.

**Would the Plan realistically provide for a five year supply of deliverable sites on adoption? Is a five year supply likely to be maintained thereafter?**

1.40. No. Not enough sites have been allocated to provide or maintain a 5YHLS. There is an under provision of smaller site allocations, which can assist in bolstering supply in the event that strategic allocations are delayed due to unforeseen circumstances/infrastructure provision; and there is an over reliance on windfall sites, which is not plan led.

**Q6. What is the estimated total supply of developable sites, from each source of supply, for years 6-10 and 11-15? What is the evidence to support this and are the estimates justified?**

- 1.41. Evidence provided by the LPA. However, this overlooks the reasonable certainty that the requirement for WN will be resolved early in the plan period.

**Matter 8, Issue 3 – Whether the other housing policies are justified, effective, consistent with national policy and positively prepared?**

**Q1. Is Strategic Policy 38: Meeting Local Housing Needs sound? Is it consistent with the relevant evidence, particularly the Strategic Housing Market Assessment?**

- 1.42. No. The emerging policy's uniform housing mix for both market and affordable homes could impede delivery, as housing mix should also be adaptable to market conditions over the LP period.
- 1.43. It is not effective to prescribe a fixed housing mix to market housing. This should be kept flexible to respond ensure the LP remains effective over the plan period.

**Q2. Is Strategic Policy 39: Affordable Housing sound?**

**a) Is it consistent with the relevant evidence, particularly the Strategic Housing Market Assessment?**

- 1.44. N/A

**b) Is the approach to First Homes consistent with national policy?**

- 1.45. No. The July 2024 WMS and draft NPPF indicate the Government's intention to remove the requirement for a minimum number of Affordable Housing (AH) units to be First Homes.
- 1.46. Incorporating First Homes into housing projects impacts developers differently than traditional affordable housing. Unlike pre-sold units to Registered Providers (RPs) that provide early income and reduce finance costs, First Homes are sold only after construction, increasing financial strain. Developers also face higher marketing costs and apply higher profit margins due to the similar risk profile to private housing. Additionally, RPs may reduce their overall offers if shared ownership units decrease, impacting their ability to subsidise rented housing. To maintain affordability comparable to shared ownership, First Homes must be sold at a 30-50% discount. First Homes pose significant viability issues, recognised in the WMS (July 2024)

**c) Is criterion 5 effective?**

- 1.47. N/A

**d) Would the needs identified be met?**

- 1.48. No. HDC is planning for a considerable shortfall of housing supply, with only 13,212 homes considered to be deliverable in the Plan period. This equates to 777 homes per annum. The NWS SHMA (2019) states that there is an affordable housing need of 739 affordable homes per year in Horsham. Even if the highest



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percentage of affordable housing could be achieved on all draft allocation sites, the affordable housing need would not be met. This underlines the demonstrable need for additional sites to be allocated to allow both market and affordable housing needs to be met.

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