

# **Micheldever Station**

## **Winchester Local Plan: Reg 19 Consultation**

O'Flynn Group

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**LICHFIELDS**

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## 1.0 **Introduction**

1.1 These representations have been prepared by Lichfields on behalf of O'Flynn Group which is promoting land at Micheldever Station for a new Hampshire Town of up to 6,000 dwellings within a new community focused on the existing rail station. In these representations, we do not focus on the omission site itself, but on the failures of the Local Plan as published to meet core legal and policy requirements.

1.2 This representations document sets out objections/representations in respect of:

- Strategic Policy SP2: Spatial Strategy and Development Principles
- Strategic Policy H1 – Housing Provision
- Strategic Policy H3 – Distribution of Housing Development
- Duty to Cooperate Statement
- Habitat Regulation Assessment
- IIA

## 2.0 **Strategic Policy SP2: Spatial Strategy and Development Principles**

2.1 O'Flynn Group objects to Strategic Policy SP2 (Spatial Strategy and Development Principles).

2.2 SP2 outlines the development strategy by which the vision and objectives of the plan will be achieved to ensure that the Council supports the delivery of new housing, economic growth and diversification across the three identified spatial areas of Winchester Town, South Hampshire Urban Areas and the Market Towns and Rural Areas.

2.3 Parts (i), (ii) and (iii) identify the quantum of homes that each of the respective areas are allocated to provide across the plan period, a total confirmed later on in the Local Plan to be 15,465 homes. Of this, c 5,650 new homes are to be provided in the South Hampshire Urban Areas, which the Local Plan indicates will *“contribute towards meeting the Partnership for South Hampshire strategy of improving economic performance, primarily by providing major housing, economic growth and community and physical infrastructure”*

2.4 The Council notes that it will:

*“support the delivery of this development strategy in a sustainable way, aligned with proposals in relevant documents such as the Local Transport Plan and Local Nature Reserve Strategy”.*

2.5 In conjunction with this, the Council considers that where development proposals are delivered in respect of the district's housing, proposals will be expected, where appropriate to:

*“make use of public transport, walking and cycling safe and accessible, and integrate the development of homes, jobs, services and facilities, to reduce car use;”*

2.6 O'Flynn Group considers that whilst these are positive overarching statements, the Local Plan itself (and its policies) does not reflect this commitment towards delivering positive, sustainable growth. Firstly, as Para 26 of the NPPF identifies, Plans should be positively prepared providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs and be informed by agreements with other authorities so that unmet needs can be accommodated. The accompanying Integrated Impact Assessment Report (2024) (“the IIA”) confirms at Page 590 that as a result of the Reg 18 consultation, the Council has considered further the unmet needs allowance within the Local Plan, and has increased this from 1,450 dwellings to c 1,900 dwellings within this current Reg 19 plan.

2.7 However, whilst this is an increase from that proposed at Reg 18 stage, the most recent Spatial Position Statement (December 2023) prepared by the Partnership for South Hampshire (PfSH) declares the full extent of the unmet need is 11,771 dwellings and therefore even an increased figure of 1,900 is still significantly short of addressing the full unmet need. As such, it is incumbent upon Winchester to plan positively to help meet this unmet need of neighbouring authorities as much as possible. However, the IIA which considers the development options for the District, has not considered any development options which would provide a significantly increased level of housing to help address the

full extent of the unmet need across the PFSH area. It is therefore unclear how it can be considered that Winchester has planned positively to deliver the greatest amount of housing possible to meet the wider unmet need, as the options for doing so have not been tested from either a feasibility or sustainability perspective.

- 2.8 As intimated by part (ii) of the policy, provision of housing in the South Hampshire urban areas is assumed by the Local Plan to contribute to meeting the needs of the PFSH. It should be noted that the quantum of housing being located in this area is significant, such that it exceeds the full requirement of Winchester’s pro-rata local housing need within the southern part of the District, which as identified by the PFSH Statement of Common Ground 2023, notes a requirement for the southern PFSH area of Winchester as 3,055. Additionally, the provision of housing within this area covers the entirety of the 1,900 homes to fulfil Winchester’s proposed contribution to unmet housing need, allowing for an additional c 600 homes. It can therefore be inferred that this is meeting some of the needs associated with the centre and north of the district and demonstrates an acceptance that needs from the north can be met in the south (and tacitly vice versa). This is plainly obvious given the modest scale of Winchester’s district and its strong north-south transport links.
- 2.9 Further, the Local Plan does not provide a breakdown between housing identified to meet its own local need and that of the wider unmet need, instead taking the view that any of the housing identified can either be used to meet the local housing need or wider unmet needs. As such, there is no evident reason why allocations cannot be identified in the north of the District to meet the wider unmet need of the PFSH.
- 2.10 Part (vi) places emphasis on the need to make use of public transport, and the integration of the development of homes, services and facilities to reduce car use. The IIA considers the potential for a new settlement option at Micheldever Station which would build upon the strong rail links in the north of the district which would firstly build upon the extant public transport links and encourage a shift away from car use as well as secondly align more with the Council’s other ambition to move towards carbon neutrality. However, this option is dismissed by the IIA.
- 2.11 O’Flynn Group considers that, as drafted, Policy SP2 is unsound, and the approach of the Local Plan’s spatial strategy cannot be justified. Paragraph 17 of the NPPF makes clear that development plans:
- “must include strategic policies to address each local planning authority’s priorities for the development and use of land in its area”,*
- 2.12 Paragraph 11b of the NPPF also requires plans to contain strategic policies which *“should as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas”*. Plans should also be prepared positively and with the objective of contributing to the achievement of sustainable development (Paras 16a and 16b).
- 2.13 In this context, the Council should have considered other reasonable spatial development options to increase the quantum of housing that Winchester District delivers to provide greater assistance to the wider PFSH region in addressing the unmet need position. A large strategic allocation such as a new town centre on strong public transport link, providing local services and facilities would undoubtedly be a sustainable strategy for growth and the

opportunity for this approach to address unmet need was prematurely rejected in a previous Regulation 18 stage of the Local Plan process and has not been appropriately re-assessed in light of the latest position.

## 3.0 **Strategic Policy H1 – Housing Provision**

3.1 O’Flynn Group objects to Strategic Policy H1 (Housing Provision), focused on both the housing requirement figure and the failure to properly address unmet housing need.

### **1 Housing Requirement**

3.2 As set out at Table H1 of the Local Plan, excluding any allowance for unmet housing needs, the housing requirement over the plan period 2020 to 2040 at Policy H1 is made up of the annual standard method figure in 2020-21 (685 dwellings), 2021-22 (666 dwellings), 2022-23 (707 dwellings), 2023-24 (691 dwellings) and then the latest standard method figure is used to 2024 through to the end of the plan period (676 dwellings per annum). The Local Plan at table H2 then seeks to offset “oversupply” against these standard method figures in the years 2020-2023. Supply in this period amounts to 3,170 dwellings relative to a need for 2,058 dwellings, an additional supply of 1,112 dwellings.

3.3 The Housing Topic Paper states at paragraph 2.4:

*“2.4. ... Given changes to the Local Plan programme (see Local Development Scheme 2023), it is agreed that the Plan period will need to be extended to 2040 to allow 15 years from adoption. It is also necessary to update the start date to 2020, so as to maintain a 20-year Plan period. This is also important to allow some of the Council’s recent good performance in terms of housing completions to be taken into account, as there is no specific provision in the NPPF or Planning Practice Guidance for past over-supply to be taken into account and this would otherwise be lost.” (emphasis added)*

3.4 Firstly, while it is a requirement of national policy to have a local plan that looks ahead 15 years on adoption (NPPF paragraph 22), there is no requirement to maintain a 20-year plan period as stated above and certainly not in order offset against future need and reduce the level of need for which is planned. There is no need for the start date to look back c. five years on adoption. Furthermore, the PPG states that *“The method provides authorities with an annual number, based on a 10-year base line, which can be applied to the whole plan period.”* (PPG 2a-012-20190220)

3.5 Secondly, whilst the Housing Topic Paper correctly identifies that the PPG makes no provision for past over-supply in the supply of housing/land, it does state the below regarding past under delivery:

*“The affordability adjustment is applied to take account of past under-delivery. The standard method identifies the minimum uplift that will be required and therefore it is not a requirement to specifically address under-delivery separately.”* (PPG 2a-011-20190220).

3.6 The affordability ratio used in this part of the standard method calculation is a nationally derived figure which compares average earnings and average housing costs. In this context, the affordability adjustment increases the uplift applied to the household projections to take account of under delivery (i.e. if insufficient homes are delivered to meet needs, then they become more unaffordable). The converse is self-evidently true of oversupply, if more homes are delivered than are required, then the ‘oversupply’ has a positive impact on affordability compared to what would otherwise be required. Therefore, if the Council has been ‘oversupplying’ against the standard method in the early years of the plan period, it

would not be surprising if the standard method figure had fallen (or not worsened as it might otherwise have done), as the affordability position would start to improve moderating the scale of uplift is necessary. In this context, incorporating both the ‘oversupply’ figure and the latest annual revised standard method figures in the Local Plan’s assessment of housing need and supply plainly amounts to double counting. The reduction in the standard method level over the first four years of the Local Plan period is because of the ‘oversupply’.

3.7 By pursuing this strategy, the Local Plan is not positively prepared because it is seeking to unnecessarily incorporate ‘oversupply’ of housing to decrease the quantum of housing needed in the later years of the Local Plan period when this already reflected in the reduced affordability ratio that applies to the Standard Method figure looking ahead.

3.8 To address this point of unreasonable double counting and an unnecessarily early start date for the Local Plan than required by national policy, the plan period start date should be brought forward to 2024. As set out above, it is not necessary for the Local Plan to cover a twenty-year period, simply a fifteen-year period on adoption. It is of note that the position on unmet need has a base date of 2023 and there is no reason why the Council should adopt a different position.

## 2. Unmet Needs

### A) the quantum of unmet need for the PfSH has been established for some time

3.9 The housing requirement of the Local Plan is not positively prepared because it does not accommodate as much unmet housing need of the PfSH area as it could or should. Indeed, it has not assessed how much it could feasibly accommodate. Further, the scale of unmet need is now only estimated between 2023 and 2036 when it is necessary for plans to look forward 15 years.

3.10 The scale of unmet housing need in PfSH is not new and the broad scale of unmet housing need has been known for close to a decade as summarised below.

- 1 **Partnership for South Hampshire Spatial Position Statement 2016** (Table H1 and supporting text) – a shortfall of -29,218 dwellings (2011-2034) “72% of the overall provision of new homes is already planned for/ can be delivered in urban areas”, relative to objectively assessed housing need. “More detailed considerations of an areas’ development capacity ... will come through the local plan-making processes”.
- 2 **PfSH agreed a draft framework SoCG October 2019** (Table 3): this identifies a shortfall of -17,754 dwellings (2016-2036).
- 3 **PfSH Common Ground September 2020** (Table 4): -10,750 dwellings (2020-2036).
- 4 **PfSH Common Ground 2021** (Table 4): -12,896 dwellings (2021 – 2036).
- 5 **PfSH Common Ground 2022** (Table 3): -19,865 dwellings (2022-2036)
- 6 **PfSH Common Ground September 2023** (Table 1): -14,531 dwellings (2022-2036)



**7 PFSH Spatial Position Statement December 2023** (Table 1): -11,771 dwellings (2023-2036) – this excludes the Southampton urban uplift.

- 3.11 The Council wrongly maintains throughout its Local Plan evidence base, as does the PFSH in its various documents, that the unmet housing needs position of the PFSH area collectively is uncertain.
- 3.12 The PFSH Statement of Common Ground (SoCG) dated 26th September 2023 also states:  
*“3.23. At the PFSH level the shortfall is best defined as need that is not yet planned for, rather than need that is definitively unmet. The shortfall would diminish over time as local plan reviews get underway or pending plans are progressed, not least because some currently adopted local plans in the PFSH area do not extend to 2036 and government requires plans to be updated every five years.”*
- 3.13 The PFSH Spatial Position Statement December 2023 states at paragraph 6.26 that:  
*“It is difficult to provide a definitive comparison between housing need and supply within the PFSH area, given the different stages reached in preparing local plans, the annual changes to the standard method figures, uncertainties over future Government policy and the fact that there are some ‘split’ districts. Table 1 can only provide a rough snapshot of the situation at a point in time and the true extent of any authority’s unmet needs will ultimately be determined through the local plan process.”*
- 3.14 For Winchester specifically, the Housing Topic Paper at paragraph 4.31 states in the context of the above PFSH Spatial Position Statement that:  
*“...However, these do not equate to unmet housing need over the period concerned, rather a ‘snapshot’ of the current situation. ... Also, the housing supply situation is based only on planning consents, allocations in adopted local plans, and SHELAA / windfall sites where justified. As the SoCGs consider the situation to 2036, all Local Plans within PFSH will need to be reviewed several times during this period, so have the opportunity to make additional provision.”*
- 3.15 However, this approach is ducking and deferring the difficult decisions. In reality, the unmet housing needs position in PFSH will always be a moving feast and to not seek to positively plan for it in full now is a failure of a constructive duty-to cooperate process and will result in unmet need now and in the years before any future Local Plan (whereupon one might expect the LPAs collectively to re-base their assessment and wipe the slate clean). Statements that local plans will be reviewed several times to 2036 is not a positive or effective way to meet needs, because by then there will be more unmet needs emerging well beyond 2036. There will never be a complete alignment of local plans all adopted in a similar timeframe with clear, examined, conclusions on development capacity. As above, the stated ‘snapshot’ of housing need versus housing supply in the PFSH area over the past eight years, despite the time period changing, has consistently shown unmet needs at or above 10,750 dwellings.
- 3.16 Whilst this quantum of unmet housing need is not the sole responsibility of the Council, both Portsmouth and Havant LPAs have specifically asked Winchester to meet its unmet housing needs. The Housing Topic Paper states at paragraph 4.40 that only Portsmouth and Havant have *“attempted to quantify their unmet needs”*. It goes on to suggest that

these unmet needs are not yet certain as they have not been “*independently examined to show that all options to meet needs have been rigorously assessed*”. The formal response of the Council to the requests to meet unmet housing needs from Portsmouth and Havant are found at Appendix 1 and 2 of the Housing Topic Paper. In both cases the Council states that it is unable to say how much unmet need it can take until work on the Reg 19 Local Plan is complete and, in any event, the PfSH agreed Spatial Position Statement 2023 to meet housing shortfall in the South Hampshire area is the best approach in supporting any unmet housing need arising.

3.17 This is a surprising and most unfortunate approach that should be seen for what it is: an attempt to avoid the requirement to meet unmet needs. It is self-evidently illogical and circular. Firstly, if an LPA asks for help in meeting unmet housing need (as Portsmouth and Havant have done) the council is seemingly not willing to accept that need until the requesting authority has had its plan examined and their identified capacity verified. However, that requesting authority’s plan needs to have a strategy in place for its unmet housing needs on submission for examination as per NPPF paragraphs 11 a) and b). The Council’s position is almost exactly the opposite of the what the NPPF seeks when it says at para 35 c) that to be ‘effective’ plans should be “*based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred*”.

3.18 On this basis, the Local Plan cannot be sound as it has not been positively prepared and nor is it effective. It has not been prepared to meet any unmet housing needs, it has only incidentally met some of that unmet need later in the local plan production process as additional capacity from a predetermined spatial strategy has come to light (and its creative approach to the plan period to double count past ‘oversupply’). Finally, with regards to the duty-to cooperate, the Council and the PfSH are relying on the unmet need being only a snapshot, and is only looking ahead to 2036 (i.e. not assessing the position over a 15-year period). In both respects this is not a constructive approach.

**B) The methodology adopted by the PfSH to deal with unmet housing need is not evidenced**

3.19 As is identified within Appendix 1 and 2 of the Housing Topic Paper (2024), the LPAs for Havant and Portsmouth both contacted Winchester, notifying them of the severe housing shortfall that is present within their respective authority areas and requesting assistance in helping to address this shortfall. Within their response, the Council indicated that they were unable to confirm what level of unmet housing need allowance will be in the Local Plan, referring to the PfSH Spatial Position Statement (December 2023) (“SPS”) and associated Broad Areas of Search that had been identified to deliver a significant quantum of housing. The Council further intimated that this would make a significant contribution to meeting the shortfall of the PfSH area (of which Havant and Portsmouth are both members) and that this was the best approach to assessing and supporting unmet housing need arising from the PfSH sub region. The Council also noted that they were committed to fully meeting their own needs and would provide some form of buffer if appropriate.

3.20 The Broad Areas of Search referred to within the SPS arise from a piece of work commissioned by the PfSH (Broad Areas of Search for Growth Dec 2023) which mapped various development constraints to identify seven areas which fall within the PfSH area. These locations were subsequently included as a separate policy within the most recent

PfSH Spatial Position Statement (Dec 2023) (SPS8: Strategic Principles for new broad areas of search for growth). The policy considers that:

*“The following locations are identified as broad areas of search for sustainable strategic-scale development to potentially deliver a combined total of approximately 9,700 homes”.*

- 3.21 Whilst the Broad Areas of Search identified do not fall within areas subject to significant development constraints, no work at all has been undertaken to identify whether they are deliverable or developable or whether the land in question is available for development or whether any respective landowners would be interesting in facilitating these areas of search for development. It must also be highlighted that it is not the responsibility of a sub-regional body to identify allocations for individual LPAs. There are no plans by the individual authorities to bring forward development in the Broad Areas of Search to meet the unmet need.
- 3.22 Interestingly, the SPS claims within Policy SPS8 that the capacity of the Broad Areas of Search is 9,700. However, it is wholly unclear how or from where this figure is derived. The Broad Areas of Search document does not provide reference to any capacity figure and there is no reference to capacity analysis being undertaken. Similarly, within the SPS there are no capacity calculations or further analysis to understand whether these broad areas have any realistic chance of coming forward or over what period (e.g. before 2036 or any other date). Further, there is also no apportionment of this capacity to the individual areas identified. Self-evidently, to make a dent in the scale of unmet need to 2036, these areas (none of which are understood to be allocated or benefit from a permission) would need to be proposed for allocation, confirmed in an adopted plan, achieve an outline and then full permission, and then for the site to be opened up for homes to begin being developed. No evidence at all exists to support the idea this is at all likely.
- 3.23 Given the lack of any work being undertaken to establish the deliverability of these sites it should be considered most unlikely that firstly all the identified broad areas will result in future developments being brought forward, and secondly that those areas will be delivered to their maximum capacity within the period to 2036.
- 3.24 Even where these fundamental concerns are set aside, it assumed that the capacity figure is correct and that all of the areas are identified could be delivered to their maximum capacity, the 9,700 homes delivered still would be insufficient to meet the current unmet need. Therefore, even if the Council can reasonably assume that all of these 9,700 homes will be delivered (and we say it cannot), it should still be proactively looking to identify sites that could deliver additional housing to meet the remaining unmet need.
- 3.25 This draws attention to the Integrated Impact Assessment (IIA). A version of this document was produced in respect of the Reg 18 consultation in 2022 which only assessed meeting either 14,000 homes in three scenarios (below the district’s local housing need) or 15,620 homes in Option 3 which is shown within Table 4.1 of the document. The IIA accompanying the Reg 19 Local Plan is no different and does not consider how a higher quantum of development arising from the unmet need in the PfSH area might reasonably be accommodated within the District. Firstly, it is unclear why no higher growth options have been assessed, and secondly why since 2022 the Council has not been working positively from the start of its Local Plan work to consider higher growth options that would help to meet a greater amount of unmet need arising from the PfSH. If for no other reason, had the

Council explored the option and found it could not meet higher levels of unmet need, it would have been in a stronger position to engage with its neighbours on the subject.

3.26 The PfSH first produced a Statement Position Statement (SPS) in June 2016 which noted at para 5.27 that:

*“A key role that the Position Statement has played has been to consider the ability of other authorities within the PUSH area to contribute to meeting unmet housing needs from these areas, where it is reasonable to do so and consistent with achieving sustainable development”.*

3.27 That the Council played a key role in shaping the first position statement produced by the PfSH would suggest that the issue of unmet need was important, and that the quantum of unmet need was significant. Following the 2016 SPS, an initial framework Statement of Common Ground (SoCG) was published in 2020, which identified an unmet need across the PfSH area of 10,750 dwellings. This was then followed up by the 2021 Statement of Common Ground (SoCG) which confirmed an unmet need of c 13,000 and c 20,000 as per the PfSH ‘Statement of Common Ground 2022’ (30th November 2022)

3.28 Given the scope of unmet need, if the Local Plan was being positively prepared then higher scenarios should reasonably have been tested to accurately judge the ceiling of how much unmet need Winchester District could accommodate.

3.29 The O’Flynn Group consider that all the evidence points to the issue of wider unmet need not having been seriously addressed by the Council. The Reg 18 Local Plan, albeit nominally providing a recognition of the unmet need arising from the PfSH area, only included a ‘buffer’ of 1,450 units which was to be utilised to both help address unmet need as well as provide allowance for fluctuation to the standard method. This was despite the identified unmet need being c 13,000 in the 2021 SoCG.

3.30 Despite the unmet need stubbornly staying above 10,000 homes across the PfSH, and the Council receiving two formal requests from Portsmouth and Havant for assistance in meeting their unmet need in the intervening period between the Reg 18 and Reg 19 plans being produced, there has been no testing of a higher housing capacity across the District within the IIA. It cannot therefore be said that the 1,900 home figure is the most that the Council are able to accommodate.

3.31 To be positively prepared and justified, and further to discharge the Duty-to-Cooperate, a constructive, active and ongoing co-operation on matters including unmet need was required. The O’Flynn Group considers that it the Council has not done this. Attending the PUSH/PfSH meetings and contributing to Position Statements does not demonstrate that the Council has engaged constructively in a way that is likely to solve an acute housing problem across the wider area. The lack of any dedicated unmet need buffer at Reg 18 stage, and then a subsequent lack of higher options testing within the IIA does not reflect a positive and active approach.

### **C) The Local Plan fails to test how much of the PfSH’s unmet housing need it can deliver**

3.32 The Local Plan has never tested its ability to meet unmet housing needs. Despite the broad quantum of unmet housing need being clear for the best part of a decade, it did not assess

any scenario in its IIA to test how much unmet housing need it could accommodate. Even when formal requests from Portsmouth and Havant were made to help meet unmet housing needs, reasonable alternatives to meet their needs were not tested. Rather, a spatial strategy was continually advanced which over time was incidentally able to facilitate development of more homes than was needed to meet the Council's own housing needs (partly because their standard method figure reduced).

- 3.33 The NPPF paragraph 26 is clear that *“effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.”* This is where the Council and the Local Plan have failed, they have not tested whether development needs that cannot be met in PFSH can be met in the district, or even how many can be met.
- 3.34 The Reg 18 IIA (October 2022) tested a range of scenarios. At paragraph 2.28 the IIA Full Report states *“For consistency, the same overall housing target is used for all of the options”*. This is confirmed in Table 4.1 of the IIA whereby options 1, 2, 3 and 4 all assess the impacts of delivering 14,000 homes. Option 1a came later and assessed the impact on delivery of 15,620 homes. This option takes account of existing commitments, opportunities for ongoing development and an additional 2,000 dwellings to take account of windfall projections. A headroom/buffer was then built in to allow any further changes to the standard method and any potential unmet need arising from the PFSH. Table 4.1 of the Reg 19 IIA (July 2024) confirms the exact same amount of housing has been tested under every option (1, 1a, 2, 3 and 4) for the Local Plan.
- 3.35 The Housing Topic Paper explains that the Council's spatial strategy is:-  
*“4.49. The proposed development strategy therefore is based on Approach 1, reflecting the legacy of the current Local Plan commitments, with elements of Approach 2 (particularly the allocation of Sir John Moore Barracks in Winchester) and Approach 4 (with the inclusion of housing targets for additional rural settlements).”*
- 3.36 The Council state at paragraph 4.51 of the Housing Topic Paper that as per (PPG ID: 61-022-20190315), the Council is ‘not obliged to accept needs from other areas where it can be demonstrated it would have an adverse impact when assessed against policies in the National Planning Policy Framework’. However, the Council has not tested anything in its IIA to demonstrate it cannot deliver any more than 15,620 homes. Indeed, paragraph 4.49 of the Housing Topic Paper is clear that *“The proposed development strategy is supported by the evidence base, including the fact that the level of PFSH unmet need remains to be defined precisely.”* As above, the Council relies on the perceived lack of certainty, despite the broad quantum of unmet need being at least 10,750 homes for over 8 years, and formal requests to meet unmet housing needs from Portsmouth and Havant totalling 4,377 and 4,309 dwellings respectfully.
- 3.37 It is clear that the Council did not at the Reg 18 stage or subsequently ever consider or test how much of the unmet need the district could accommodate. Further, the Council has been unwilling to reassess its development strategy to seek to meet unmet needs from PFSH. This is confirmed in the Housing Topic Paper which at paragraph 4.50 states:

*“The 1,450 dwelling ‘buffer’ was derived from the development capacity that can be achieved through the proposed development strategy, also taking account of the approach and quantum of housing offered to meet unmet needs in the adopted Fareham Local Plan. The Local Plan’s housing requirement, land supply, development strategy and site allocations have been reviewed in the light of representations received and updated evidence. However, it is not accepted or considered reasonable that the Local Plan’s development strategy should be changed to achieve a higher housing supply solely on the basis of the (currently not fully defined) unmet needs of the PFSH area.”*

- 3.38 It is also of note that trying to align itself with the quantum of unmet need in the adopted Fareham Local Plan is a completely unjustified approach to meeting unmet housing need. The ability to meet this need in Fareham will be aligned with its own unique circumstances including constraints and development capacity which are not a like-for-like comparison to Winchester.

### **Test of soundness**

- 3.39 In this context, the Council has failed to produce a plan that is positively prepared. The test of soundness states that it should “... *seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*” The Council has not tested whether it can accommodate any housing need in excess of 15,620 in the IIA. In that context, how can it be concluded that the output would not achieve sustainable development?
- 3.40 Further, the Local Plan is not justified. While the Council claims it has tested reasonable alternatives and it only needs to pursue an appropriate strategy and not the most appropriate strategy, the alternatives tested are not reasonable. A reasonable alternative would test how much of the unmet need from the PFSH could be met, not the amount that can be met in pursuing their pre-determined spatial strategy.
- 3.41 It is also not effective. Whilst it might be based on joint working on cross-boundary strategic matters, it is very clear that the issue of unmet housing need has not been dealt with and has been deferred to the medium to long term.

## **3 Future Delivery**

- 3.42 Utilising the current standard method, the Local Plan is putting forward a position where Winchester’s local housing need is met, in addition to providing for 1,900 of unmet need arising from the PFSH area, the total of which sits at 11,771 as per the most recent PFSH SPS (2023). Even if the wholly implausible assumption that the Broad Areas of Search identified by the PFSH will deliver 9,700 homes, there will still be a shortfall against the total housing need across the PFSH even before 2036. In reality, far less than 9,700 homes will arise from these areas and that there will be further unmet need beyond 2036.
- 3.43 As part of new planning policy proposals, the Government recently went to consultation on a revised NPPF and standard method calculation, which would see a general increase in housing requirement aimed at ensuring that England hits the 300,000 dwellings per annum target that has proved elusive. However, the revisions to the standard method calculation have a particularly large effect across the PFSH area.

- 3.44 Taking the proposed standard method and applying it to the PfSH area including Winchester results in the Local Plan unable to meet its own needs or around 6,000. Across the wider PfSH area the unmet of all the member authorities need would be c. 35,000.
- 3.45 Instead of the Local Plan being planned positively, the Council has prepared it simply to hit existing targets for Winchester in a minimal fashion without due regard to future changes. As such, the plan cannot be described to have been planned in a way that is aspirational but deliverable. In making larger scale proposals for growth, it has also failed to set these within a 30-year vision as required by NPPF para 22.

## 4.0 **Strategic Policy H3 – Distribution of Housing Development**

4.1 O’Flynn Group objects to Strategic Policy H3 (Distribution of Housing Development).

4.2 Paragraph 60 of the NPPF (2023) states it is important that a sufficient amount and variety of land can come forward where it is needed. The Local Plan heavily weights its housing allocations to the south of the District, resulting in an unbalanced spatial distribution.

4.3 As noted previously, the level of unmet need across the PFSH has remained above 10,000 since the production of the first spatial position statement in 2020 and yet the Council is only intending to provide 1,900 homes to help address meeting the shortfall. Despite testing a number of alternative growth options through the IIA, none of these considered the reasonable option of allocating a significant quantum of growth in the north of the District.

4.4 It is unclear why the Council has not positively pursued an approach of tapping into sustainable locations in the north of the District which utilise strong public transport links or why a disproportionate level of development of housing is located in the south of the District. A strategic scale allocation in the north of the District would result in additional homes being delivered, achieving a balanced pattern of growth. It would also free up capacity in the south of the District to meet more of unmet need from South Hampshire in locations close to its urban edge. For example, the Council could allocate Micheldever Station in the north of the District to meet Winchester District’s own needs, freeing up sites in the south to be allocated for PFSH unmet needs, but also providing a source of capacity for unmet needs by virtue of the direct train links that pass through the site.

4.5 The Council has not actively explored this option or shown it to be a sustainable way of meeting housing needs.

4.6 Further, no consideration has been given by the Council to whether or how there could be cross-boundary synergy between the proposal by Basingstoke to allocate land at Popham Airfield (north of the A303) for a new community of 3,000 homes. There is plainly an opportunity to make that proposal – if acceptable – more sustainable by using an allocation for a new 6,000 home town at Micheldever Station (as promoted) to unlock the connections to the rail station from Popham Airfield and create a synergy and support social and community infrastructure.



## 5.0 **Duty to Cooperate Statement**

- 5.1 O’Flynn Group considers that the Council has failed the legal duty to cooperate and has not complied with the NPPF policy requirements at para 35 (c) in that the Local Plan is not *“based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred.”*
- 5.2 The duty to cooperate places a legal duty on local planning authorities to engage constructively, actively and on an ongoing basis to maximise the effectiveness of local plan and marine plan preparation in the context of strategic cross boundary matters.
- 5.3 It does not appear that the engagement of the Council with the PfSH more broadly, or individual LPAs, especially Portsmouth and Havant, has been constructive.
- 5.4 The unmet housing needs position in PfSH will always change but this is the same in any housing market area with unmet housing needs across the country. There will never be complete alignment of local plans all adopted in a similar timeframe with clear, examined, conclusions on development capacity. To not plan for it in full now is a failure of a constructive duty-to cooperate process. The ‘snapshot’ of housing need versus housing supply in the PfSH area over the past eight years, despite the time period changing, has consistently shown unmet needs at or above 10,750 dwellings. The NPPF para 35 establishes that the purpose of the duty to cooperate is to ensure that issues are dealt with and not deferred, and yet the Council’s mode of operation has plainly been to do the latter.
- 5.5 Whilst the quantum of unmet housing need is not the sole responsibility of Winchester, both Portsmouth and Havant LPAs have specifically asked the Council to meet its unmet housing needs. The Council’s formal responses to the requests to meet unmet housing needs from Portsmouth and Havant are found at Appendix 1 and 2 of the Housing Topic Paper. In both cases the Council states that it is unable to say how much unmet need it can take until work on the Local Plan is complete and, in any event, the PfSH agreed Spatial Position Statement to meet housing shortfall in the South Hampshire area is the best approach to support any unmet housing need.
- 5.6 Firstly, there is an illogical circular argument in the Council’s approach to considering unmet housing needs. If it is not the job of the Local Plan to try and assess how much of the unmet need it can accommodate, when should it be done? If a neighbouring LPA asks for help in meeting unmet housing need, a constructive approach would be for the Council to explore its ability to do so. Instead, the Council is seemingly unwilling to accept their unmet needs until the Portsmouth and Havant plans have been examined. It is self-evident their plans need to have a strategy in place for unmet housing needs on submission for examination as per NPPF paragraphs 11 a) and b). Failing to do so is not constructive.
- 5.7 Secondly, the Local Plan has not been prepared on the basis of testing to meet any unmet housing needs. Neither the IIA (2022) nor the IIA (July 2024) undertook any testing of reasonable alternatives to ascertain how much of the PfSH unmet housing need the District could accommodate. The Council has been unwilling to compromise on its spatial strategy to undertake this testing and has only incidentally met some unmet housing needs later in the local plan production process as additional capacity from a predetermined spatial strategy has come to light and a ‘buffer’ to accommodate an increased standard method figure is no longer needed.

- 5.8 Further, looking north to Basingstoke, the Council has failed to actively or constructively engage in exploring the options for linking the proposal for a new community at Popham Airfield for 3,000 homes to a new settlement around Micheldever Station given the obvious benefits to the Basingstoke proposal if it had access to the wider infrastructure provision inherent in a larger-scale new community, including a dedicated route to improved services at the railway station. This would have the benefit of tackling the challenge of housing need in Winchester, Basingstoke and the PfSH area in a sustainable way. The Council did not take the opportunity to properly revisit its previous strategic choices when Basingstoke Council proposed that allocation.

## 6.0 Habitat Regulation Assessment

- 6.1 The O'Flynn Group considers that the Habitat Regulations Assessment (HRA) (July 2024) does not demonstrate that the Local Plan is not likely to have significant adverse effects on protected sites, with a particular focus on its approach to nutrients.
- 6.2 The HRA has been prepared following the earlier iteration of the document (HRA 2022) which accompanied the Reg 18 consultation. A key update includes the identification of several nutrient mitigation schemes at Table 5.3. These three identified sites form the strategic mitigation available which it said will come forward to mitigate development within Winchester District that will discharge within the East Hampshire catchment.
- 6.3 The HRA has correctly identified that likely significant effects on protected sites cannot be ruled out and it is therefore necessary for the Council to undertake an Appropriate Assessment. In undertaking the Appropriate Assessment, the Council may take into account mitigation measures but only where there is sufficient certainty at the time of the assessment that those mitigation measures will be effective to avoid harm to the integrity of the protected site by guaranteeing beyond all reasonable doubt that the plan will not adversely affect the integrity of the protected site(s) in question – see the Dutch Nitrogen cases.
- 6.4 Having reviewed the sites identified to form suitable mitigation, all but one fall outside of Winchester District. These include:
- Whitewool Wetlands (Winchester District)
  - Wanford Park (Fareham Borough)
  - Knowle (Fareham Borough)
- 6.5 It would therefore seem likely that other developments within those neighbouring authorities will also seek to use this resource for their own strategic mitigation. Therefore, the accompanying Nutrients Topic Paper (2024) is likely to be misleading. Para 5.3 of the Topic Paper considers that its Table 2 provides details of the “*the total number of kilograms of total nitrogen per year (Kg/TN/yr) available for use by development in Winchester*”. This does not reflect that this allowance is also available for use by development in any local authority within the East Hampshire catchment; and therefore, the total nutrient capacity figure that those schemes provide is meaningless in and of itself. The HRA and the Local Plan must have regard to the combined demand being placed on that capacity from developments across the wider catchment and how that relates to the prospective availability of mitigation or its deliverability.
- 6.6 The HRA does not appear to have had regard to this issue, with no consideration being given to what quantum of mitigation is available to prevent development in Winchester District having adverse effects on protected sites as opposed to the total amount of mitigation that these sites can provide across East Hampshire. Nor is there consideration of the phasing of mitigation and development across the relevant areas. By way of example, the mitigation site located in Winchester District (Whitewool Wetlands) provides credits for development proposals for schemes within:
- Fareham Borough Council

- East Hampshire District Council
- Portsmouth City Council
- Winchester City Council
- Havant Borough Council
- New Forest District Council
- Eastleigh Borough Council

- 6.7 Nor is there is any evidence to demonstrate that the mitigation forecast in Figures 2 and 3 of the Topic Paper is deliverable. The reference at para 5.6 of the Topic Paper asserts confidence in future supply based on what has been provided over the past four years not a forward-looking identification of what specifically will secure future capacity. There does not appear to be any analysis or strategy for future provision. Nor is there an alternative credible land use strategy for meeting development needs should it transpire that Winchester is unable to drawdown all the credits that it currently considers will be available to it.
- 6.8 The capacity of the East Hampshire catchment mitigation is thus clearly unproven, and it is directly acknowledged by Para 5.64 of the HRA that:
- “Capacity within the Test and Itchen mitigation schemes does not fully meet the required Local Plan demand for nitrogen or phosphorus. About half of the nitrogen demand is met, but only a small proportion of the phosphorus demand.”*
- 6.9 It is claimed by Para 5.66 of the HRA that the inclusion of Policy NE16 is sufficient to avoid adverse impacts on the integrity of the River Itchen SAC and Solent Habitat Sites, and Para 5.18 of the Nutrients Topic Paper states that the Council is in line to receive funding to upgrade the Council owned sewage treatment works.
- 6.10 However, at the current time, details of the proposed upgrades and the quantum of mitigation that they will generate is not confirmed, merely that *“it is anticipated that these upgrades will generate further Nitrogen and Phosphorous credits”*.
- 6.11 Para 6.4 of the HRA states:
- “For changes in water quantity and quality relating to abstraction and impacts on the River Itchen SAC, adverse effects on integrity are not anticipated; however this will be confirmed via the Statement of Common Ground (SOCG) with Southern Water, as set out below.” (Our emphasis)*
- 6.12 However, the HRA, paras 6.5 (on the SOCG with Natural England) and 6.8 (on the SOCG with Southern Water) expresses in very clear terms the gap between what is being asserted on mitigation and adverse effects, and what has been demonstrated:

**6.5** *Although the Local Plan policies are sufficient to avoid adverse effects on the integrity of Habitats Sites due to nutrients from wastewater, some of the work on strategic mitigation is still underway, although this is being resolved through a SOCG with Natural England. Capacity within the Test and Itchen mitigation schemes does not fully meet the required Local Plan demand for nitrogen or phosphorus. About half of the nitrogen demand is met, but only a small proportion of the phosphorus demand. Work to identify additional mitigation is in progress and the nutrient topic paper states that “Winchester District Council are in line to receive a portion of the funding to deliver upgrades to two Council owned projects. This includes upgrades to Council owned wastewater treatment works to Package Treatment Plants.” and that “Further information will be provided in due course in the Natural England and Winchester City Council Statement of Common Ground.”*

**6.8** *The SOCG with Southern Water will confirm that development allocated in the Local Plan has been planned for in the 2024 WRMP and confirm agreements on water supply and wastewater infrastructure, such as ensuring compatibility between Southern Water’s proposed infrastructure upgrades and Local Plan development. Once the SOCG has been finalised, this will confirm that the measures being relied upon to meet this demand are feasible and certain, and enable the HRA to reach the conclusion of ‘no adverse effects on integrity’ for the impacts of abstraction on the River Itchen SAC. Note that there are no adverse effects on integrity associated with wastewater treatment, but the SOCG will confirm the strategic mitigation (as for ‘SOCG with Natural England’, above).*

(Our emphasis)

- 6.13 Crucially, the assurance that is being ascribed to these SOCGs by the HRA is in the future tense. No SOCGs exist.
- 6.14 Thus, on the Council’s own HRA, it is clear that there is not the requisite degree of certainty that the proposed mitigation measures will be effective to avoid harm to the integrity of the protected sites. On this basis, the HRA does not (and cannot) conclude that there will be no adverse effects on the integrity of relevant Habitats Sites.
- 6.15 Consequently, the Council is required (but has failed) to undertake the next stage of the assessment required by the Habitat Regulations i.e. identify imperative reasons of overriding public interest, demonstrate that no alternatives exist and identify compensatory measures.
- 6.16 The inability of the Council to demonstrate to the requisite degree of certainty that the mitigation the Local Plan relies on to avoid harm to the integrity of the protected sites also puts in doubt the ability of the Council to deliver the allocated sites necessary to meet its identified housing needs let alone the unmet needs from the wider PfSH area. Indeed, Policy NE16 of the Local Plan prevents any development (including development on allocated sites) from being granted permission unless it can be demonstrated that the integrity of protected sites will not be affected. With the uncertainty that exists as to the effectiveness of the Council’s strategic mitigation measures relied on by the Council it will not be possible for any development that is required to undertake an appropriate assessment and which relies on those strategic measures to be able to demonstrate that it will not have an adverse effect on the integrity of the protected sites. Put simply, in the absence of sufficiently certain strategic mitigation to address nutrient neutrality, there is

significant uncertainty as to the delivery of development, particularly housing, which may impact on the protected sites.

- 6.17 In summary, it cannot be concluded that the approach to dealing with the nutrient issues have been effectively addressed as part of this Local Plan or that the strategy in this respect is sound. The strategic mitigation identified is acknowledged as being insufficient, with the prospect of additional works and improvements being asserted rather than demonstrated. Whilst the Council states that these issues will be resolved through SOCGs with Natural England and Southern Water, neither is currently in place. The approach to mitigation and how different development approaches (such as a new settlement dealing with nutrient mitigation on site) have not been adequately addressed in the local plan strategy. This then has direct consequence for the delivery of new development, particularly housing.
- 6.18 In contrast to the position that the Council finds itself in, allocating land at Micheldever Station for a new settlement (an option rejected by the Local Plan earlier in the plan making process) would enable a development to come forward because the wider landholding allows all the necessary mitigation to be provided to avoid adverse effects to the integrity of any protected site.

## 7.0 IIA

- 7.1 The O’Flynn Group considers that the Integrated Impact Assessment Report (2024) (“the IIA”) does not meet the legal or policy requirements for a sustainability appraisal and strategic environmental assessment, with a particular focus on its failure to test reasonable alternatives in the context of achieving sustainable development.
- 7.2 As part of our response to Policy H3 we have considered the IIA and its effectiveness in assessing development options to deliver an increased level of housing in Winchester to help address the unmet need across the wider PfSH area.
- 7.3 It is the responsibility of the Council to plan positively to help meet this unmet need of neighbouring authorities as much as possible, and the PPG (ID: 11-018-20140306) is clear that sustainability appraisal should: “*consider and compare all reasonable alternatives*”. However, the IIA has not considered any development options which would provide a significantly increased level of housing to help address the full extent of the unmet need across the PfSH area. The IIA produced in 2022 to accompany the Reg 18 consultation only assessed meeting either 14,000 homes in three scenarios (below the district’s local housing need) or 15,620 homes in Option 3 which is shown within Table 4.1 of the document. The IIA accompanying the Reg 19 Local Plan is no different and does not consider how a higher quantum of development arising from the unmet need in the PfSH area might reasonably be accommodated within the District.
- 7.4 It is unclear why no higher growth options have been assessed, and why since 2022 the Council has not been working positively on its Local Plan work to consider higher growth options that would help to meet a greater amount of unmet need arising from the PfSH. If for no other reason, had the Council correctly explored that option and hypothetically found it could not meet higher levels of unmet need, it would have been in a stronger position to engage with its neighbours on the subject.
- 7.5 We also have concerns with how the IIA has assessed sites against the stated objectives, which has resulted in potential large strategic allocations such as MIO4 (Land at Micheldever Station) being assessed critically against Objective 2 (To reduce the need to travel by private vehicle in the District and improve air quality’). Appendix D presents the baseline sustainability information for the District. However, this is related to the ‘as-is’ situation across the District and provides little context for estimating the future nature of how individual development proposals might affect carbon emissions. Para D.9 states that the highest level of emissions continued to be from transport sources, however there is no breakdown of this information between private and public transport sources, with ‘transport’ being considered as one source of emissions within Table D.2.
- 7.6 When reviewing the IIA appraisals it would appear that this has resulted in large allocations such as Site MIO4, which would inevitably focus on the utilisation of an active travel approach incorporating public transport use, achieving a negative score in respect of sustainability. This would indicate a flaw in the methodology of the IIA, in that any scheme which would be accompanied by a large increase in the use of transport is considered negatively, whereas smaller dispersed schemes that in aggregate would generate the same (or probably more) emissions score more positively. This appears to be an embedded

logical fallacy within the IIA, which fails to consider what modal share of transport could occur and the consequent impact on climate change objectives.

- 7.7 It is therefore considered that the IIA is flawed first two reasons. Firstly, the assessment of strategic sites has been incorrectly assessed, notably in respect of their sustainably credentials in respect of transport. Secondly, it cannot be claimed that the Council has planned positively to deliver the greatest amount of housing possible to meet the wider unmet need, as the options for doing so have not been considered by the IIA.