



An Assessment of the Effectiveness of Settlement Gap Policies in South Hampshire in preventing Urban Sprawl & the Coalescence of Settlements

CPRE Hampshire

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Introduction

- 1.1 CPRE Hampshire has commissioned this study with a view to assessing the effectiveness of the Gap policies which have been adopted by South Hampshire local authorities, with particular reference to:
- whether Gaps have been effective or are succeeding in preventing sprawl & coalescence;
 - whether Gaps have been sufficiently robust to stand in the absence of a five year housing land supply.
- 1.2 In this respect, it is important to also consider whether Green Belt designation would provide stronger protection.

National Context

- 1.3 While Gap policies are used by other local planning authorities, most large urban areas in England are surrounded by Green Belts, with those created relating to:
- Birmingham/Coventry/West Midlands;
 - Blackpool;
 - Bournemouth;
 - Bristol & Bath;
 - Burton upon Trent;
 - Cambridge;
 - Derby & Nottingham;
 - Gloucester/Cheltenham;
 - Liverpool, Manchester & West Yorks;
 - Metropolitan (London area);
 - Morecombe;
 - North East;
 - Oxford;
 - Stoke;
 - York¹

¹ Table 3 in Ministry of Housing, Communities & Local Government 'Planning Authority Green Belt England 2017/18,' published 4 October 2018




- 1.4 Instead, in South Hampshire no Green Belt has been designated, with reliance instead being placed upon Gaps designated in Local Plans to prevent the coalescence of settlements. Given that Southampton and Portsmouth and the surrounding settlements including Chandler's Ford; Eastleigh; Fareham; Hedge End; Gosport; and Havant form both a large predominantly urban area and a dense network of settlements, this approach is very much the exception on a national scale.

National Policy with regard to Green Belt/Gaps Between Settlements

- 1.5 The National Planning Policy Framework (NPPF) (July 2018) sets out the Government's planning policies for England and how these should be applied. The NPPF must be taken into account in preparing development plans and is a material consideration in planning decisions.²
- 1.6 The NPPF contains a whole chapter entitled 'Protecting Green Belt Land,' but there is no direct reference to Gaps outside of Green Belts at all.
- 1.7 The importance Government policy attaches to Green Belts is set out in paragraph 133, which states that: *'The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to **prevent urban sprawl by keeping land permanently open**; the essential characteristics of Green Belts are **their openness and their permanence**.'*
- 1.8 There are five purposes of designating Green Belts which are:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to preserve the setting and special character of historic towns; and
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 1.9 It is to be noted that these are much broader than the purposes of Countryside Gap policies, which only relate to purpose 'b) *to prevent neighbouring towns merging into one another.*' Thus the proposed Strategic Development site north of Bishopstoke and Fair Oak proposed in the submission Eastleigh Local Plan 2016 - 2036, under proposed policy S5 is an area of undeveloped countryside at the northern edge of the current urban network of settlements and therefore if a Green Belt had been designated, it would be judged to make an important contribution to checking the unrestricted sprawl of large built-up areas and safeguarding the countryside from encroachment (purposes a) & c)). However, these purposes are not a consideration in Gap policy designation.
- 1.10 The permanence of Green Belts is emphasized in paragraph 136 of the NPPF, which states that: *'Once established, Green Belt boundaries should only be altered **where***

² Paras 1 & 3 in National Planning Policy Framework (NPPF) (July 2018)



exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period.’

1.11 Demonstrating that there are ‘exceptional circumstances,’ is a particularly rigorous process, with paragraph 137 emphasising that:

*‘Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has **examined fully all other reasonable options for meeting its identified need for development**. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:*

- a) makes as much use as possible of suitable brownfield sites and underutilised land;*
- b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and*
- c) has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.’*

1.12 The fact that there is no direct advice on Gaps means that there is no presumption in respect of their permanence and that exceptional circumstances are not required to remove them.

1.13 Equally strong advice relates to decision taking on planning applications affecting land in the Green Belt. Paragraph 143 states that: *‘Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.’*

1.14 Most development is also inappropriate in the Green Belt, with the only exceptions being small scale development and the redevelopment of previously developed land, as set out in paragraph 145 of the NPPF. This advice provides a powerful tool of protection for Green Belts. The fact that there is no such Government policy advice for Gaps means that the protection afforded to them is inevitably much weaker.

1.15 It is also important to note that *‘at the heart of the Framework is a presumption in favour of sustainable development,’* (para 10). This presumption in favour of sustainable development applies to both plan making and decision taking.



1.16 For plan making this means that:

- a) *'plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change;'*
- b) *'strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met in neighbouring areas.'* (paragraph 11)

1.17 However, there is an exception to the requirements of clause b) where *'the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area,'* (para 11 b) i). Footnote 6 indicates that one of these protections to which this text applies is Green Belt land. Effectively, therefore the presumption in favour of sustainable development does not apply to Green Belt land in relation to plan making. There is, however, no text indicating a similar level of protection to land designated as Gaps.

1.18 There is a second exception which is where *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole,'* (para 11 b) ii). Potentially, this could apply to Gaps, if the coalescence of two settlements was considered to have particularly serious consequences that outweighed the benefit of the housing provision. However, if there is an identified objectively assessed need for housing, this would be likely in many cases to be judged to outweigh the benefits of the Gap designation.

1.19 With regard to decision taking on planning applications, the presumption in favour of sustainable development means *'approving development proposals that accord with an up to date development plan without delay,'* (para 11 c). This would clearly not apply to land designated either as a Gap or in the Green Belt, so applications in conflict with up to date policies in relation to both areas would be likely to be refused. However, paragraph 11 d) goes on to state:

'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*



- 1.20 Footnote 7 states that the circumstances where planning policies are judged to be out of date include *'where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.'* Should housing delivery therefore fall below the required levels, the Gap policies would be judged out of date and development proposals would be judged against clauses 11 d) i. and 11 d) ii. as set out above. In many cases, the desirability of delivering an adequate supply of housing would be likely to be considered to outweigh the benefits of protecting the settlement Gap. However, in the case of Green Belt land, footnote 6 again applies in relation to clause 11 d) i., it being a protected area of particular importance that the Framework protects. Applications for housing development in the Green Belt in the absence of a five year housing land supply are therefore much more likely to be refused than in areas protected by a Gap policy.
- 1.21 There are various paragraphs from both the previous 2012 NPPF and the current 2018 NPPF that can be used to support a Countryside Gap policy, such as *'recognising the intrinsic character and beauty of the countryside,'* (para 17 of the 2012 NPPF & para 170 of the 2018 NPPF), and it is agreed that there is nothing in the NPPF that prevents their designation, and some advice can be used to support their designation. These paragraphs are quoted in Eastleigh Borough Council's 'Countryside Gaps Background Paper' (June 2018), which is the most recent South Hampshire Local Plan to be submitted for examination. However, the fact that Gaps are not explicitly referred to at all in the NPPF, in comparison to the strong policy advice protecting Green Belts, and that Gap policies would be judged out of date in the absence of a five year housing land supply, inevitably means that the weight that can be given to them in terms of the application of Government policy is much weaker than that which applies to Green Belt.

How Councils Have Treated Gaps Across South Hampshire

- 1.22 Countryside Gaps in South Hampshire have a long history, with Strategic Gaps being recognised in Hampshire Structure plans from the mid 1980s.³
- 1.23 At the present time all of the local authorities with areas of countryside in South Hampshire have Gap policies, including:
- Southampton;
 - Eastleigh;
 - Fareham
 - Havant;
 - Gosport;
 - Winchester;

³ Para 2.1 of EBC 'Countryside Gaps Background Paper (June 2018)



– Test Valley

- 1.24 The form that the Gaps take substantially differs from authority to authority. In Southampton, Gaps are limited to the edge of the boundary, with small slivers adjoining the boundary with Eastleigh. In the other authority areas Gaps cover much larger areas. In Havant, they cover an extensive part of the countryside area within the borough, including most of the northern part of Hayling Island. In Fareham, there is a dense network of settlements and Gaps have been designated relating to the narrow undeveloped corridors separating the key settlements of Fareham; Lee-on-the-Solent; Stubbington and Bridgemary, with perhaps the most significant being the Meon Gap which follows the river valley. In the Test Valley, there are Gaps between Romsey and North Baddesley; Chandler’s Ford and North Baddesley and Chandler’s Ford/Eastleigh and Southampton. In Winchester City Council, there are substantial Gaps between Waterlooville and Denmead in the east of the district; Fareham and Whiteley; Bishop’s Waltham/Waltham Chase/Swanmore/Shirrell Heath/Shedfield and around the southern edges of Winchester. In Gosport, the Gap relates to the undeveloped corridor between Gosport and Lee-on-the-Solent.
- 1.25 In Eastleigh, there is a more extensive network of Gaps which reflects its tight settlement pattern, with a number of settlements being located in close proximity and therefore there is a danger of coalescence. Even so, there are substantial areas that are not covered by the Gap policy. The EBC ‘Countryside Gaps Background Paper,’ states in paragraph 4.1 that in the adopted Local Plan 2001 – 2011, the Gaps covered approximately 50% of the total area of countryside (outside of settlement boundaries). The submission Eastleigh Local Plan 2016 – 2036 designates a total of fifteen Gaps under policy S8, which are delineated on the key diagram and on the policies maps.
- 1.26 Within Eastleigh, many of the areas that were designated in the Local Plan Review 2001-2011 are now proposed for removal in the submission Local Plan 2016 – 2036 as indicated by the areas coloured blue on Figures 13 and 14 in the Countryside Gaps Background Paper. Section 9 of the report indicates the reasons for these changes, which in many cases is because planning permission has been granted for development. This indicates that the Gaps are not a long term designation such as Green Belt, but subject to frequent review.
- 1.27 The width of the Gaps varies, with sometimes only a narrow Gap of 250 metres such as between Eastleigh & Bishopstoke; and Romsey and North Baddesley in Test Valley at the narrowest points. Similarly, in Fareham the Gap between Titchfield and Fareham is only 330 m; that between HMS Collingwood and the eastern edge of Stubbington is only 400 metres and that between Peel Common and Stubbington is only 150 – 300 metres.

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⁴ P39; 41; & 44 of Part 3 of LDA Design ‘Fareham Landscape Assessment’ (2017)



- 1.28 Others are more substantial, such as the 1.5 km between the north-western edge of Stubbington and the southern edge of Titchfield; 1.6 km between Titchfield Park and Fareham; and 1 km between Fareham and Stubbington⁵ but they are all relatively small scale when compared with the extensive areas often covered by Green Belt such as the Metropolitan Green Belt; West Midland and Oxford Green Belt, which often extend many miles around the urban areas they are designed to protect from urban sprawl, (see plan on page 4 of the Ministry of Housing & Local Government publication 'Local Planning Authority: Green Belt: England 2017/18). Indeed, the Fareham Borough Gap Review (2012) by David Hares Landscape Architecture states that '*the width of the undeveloped area between Warsash and Stubbington is 5 kilometres and is too great to be considered a Gap area preventing the coalescence of the two settlements.*'⁶
- 1.29 The Fareham Landscape Assessment by LDA Design (2017), states that: '*There can be no hard and fast rules about how big a Gap needs to be to achieve that perception of separation. This will be dependent entirely on the particular character of the settlements and the land that lies between them. What is critical, however, is that there is a clear and distinctive experience of leaving one settlement behind, passing through another quite different area (the Gap) before entering another quite separate settlement. This experience of travelling from out of one place into another can be both physical and visual. Importantly, the 'bit in between' needs to have integrity and distinct character as an entity or place in its own right, rather than simply be a physical space or feature, such as a field or a block of woodland etc., in order for the two settlements to feel distinct and separated.*'⁷
- 1.30 The distribution of Gaps in South Hampshire is shown on Figure 12 in the EBC 'Countryside Gaps Background Paper.

Consistency with Partnership for Urban South Hampshire (PUSH) Gap Policy

- 1.31 Policy 15 of the 2012 PUSH 'South Hampshire Strategy – A framework to guide sustainable development and change to 2026', states that four Gaps would be designated by Partnership for Urban South Hampshire (PUSH) authorities, two of which are in Eastleigh Borough, namely:
- between Southampton and Eastleigh/Chandlers Ford
 - between Southampton and Hedge End/Bursledon/Netley
- 1.32 The other two were in Fareham Borough:
- between Fareham and Fareham Western Wards/Whiteley
 - between Fareham/Gosport and Stubbington/Lee on Solent.


⁵ P38; 39; & 41 Part 3 of LDA Design 'Fareham Landscape Assessment' (2017)

⁶ Para 10.2 on page 30 of David Hares Landscape Architecture 'Fareham Borough Gap Review' (2012)

⁷ P34 LDA Design *ibid*



- 1.33 Policy 15 also includes criteria for PUSH authorities to use to designate the location of other Gaps and to define the boundaries of all Gaps – as follows:
- a) The designation is needed to retain the open nature and/or sense of separation between settlements;*
 - b) The land to be included within the Gap performs an important role in defining the settlement character of the area and separating settlements at risk of coalescence;*
 - c) The Gap’s boundaries should not preclude provision being made for the development proposed in this Strategy;*
 - d) The Gap should include no more land than is necessary to prevent the coalescence of settlements having regard to maintaining their physical and visual separation”.*
- 1.34 With regard to the first two criteria the Gaps that have been designated are all located between existing urban areas and it would therefore appear that they do form an important role in separating settlements at risk of coalescence. It would therefore appear that the local planning authorities have had regard to these principles in designating Gaps.
- 1.35 Criteria c) and d), however, impose restrictions on the amount of land that can be designated.
- 1.36 Criteria c) states that the Gap’s boundaries should not preclude provision being made for the development proposed in this strategy. The PUSH ‘Spatial Position statement’ (June 2016) states that *‘the Position Statement is planning positively for long term growth, proposing 104,350 new homes and almost 1 million sq m of employment space,’* (para 1.5). It goes on to state that key components of the position statement are maximising housing delivery within existing urban areas and to minimise greenfield land take and to protect and enhance countryside Gaps. While these are similar provisions to some of the exceptional circumstances needed to justify a change in Green Belt boundaries, the fact that the Government policy does not require exceptional circumstances, means that Gaps can more easily be removed to accommodate the development being proposed. The Gap policy also does not safeguard areas of the countryside from development, such as the proposed strategic growth area north of Bishopstoke and Fair Oak, which would be likely to be covered by Green Belt, if one had been designated in South Hampshire.
- 1.37 Criteria d) limits Gaps to no more than is necessary to prevent the coalescence of settlements. This emphasises their restricted purpose and limits the areas that can be subject to the designation. The areas designated vary in size and whether they comply with this criteria is a question of judgment. However, this again indicates that Gaps have



a much more limited purpose than the five Green Belt purposes set out in paragraph 134 of the NPPF. There is no indication of a minimum size for a Gap, but given the wording it presumably could be as little as 200 or so metres, just sufficient to enable a meaningful separation of settlements. Clearly, however, the requirement limits the maximum length of a Gap and it would be expected that anything above a Gap of 2 km would exceed the minimum necessary to avoid their physical and visual separation.

- 1.38 In June 2016 the Partnership published a Spatial Position Statement. The principle and continuing relevance of Gaps was confirmed in the Key Principle D and Position Statement S1 of the 2016 PUSH Position Statement. Position Statement S1 relates to Strategic Gaps and states that:

‘Strategic Countryside Gaps between settlements are important in maintaining the sense of place, settlement identity and countryside setting for the sub region and local communities.

The Meon Valley is identified as a Strategic Gap of sub-regional strategic significance and should be protected from inappropriate development.

In addition to this area, Councils should identify in their Local Plans other Strategic Countryside Gaps of sub-regional significance as appropriate; and may also identify Local Countryside Gaps which are of fundamental local importance in their area. The precise extent of the Meon and other Gaps will be defined in Local Plans. Given the long term need for development, the number and extent of Gaps should only be that needed to achieve their purpose.’

Strategic & Local Gaps

- 1.39 The approach to Strategic and Local Gaps varies between local planning authorities.
- 1.40 Within Fareham Borough Council the Fareham Borough Gap Review prepared by David Hares Landscape Architecture (2012) concluded that *‘Local Gaps are subject to an appropriate level of protection by other core strategy policies and do not require a specific designation,’*⁸ As a result there are only Strategic Gaps and Local Gaps have not been retained in the Fareham Local Plan 2011 – 2029.
- 1.41 By contrast in the Test Valley Local Plan DPD 2011 – 2029 there are only Local Gaps designated under Policy E3 on Local Gaps. In the Winchester District Local Plan Part 1 – Joint Core Strategy there is only one policy CP18 relating to Settlement Gaps, though the supporting text makes it clear that the Local Plan Review 2006 designated most of these as Local Gaps, but the Gap between Whiteley and Fareham is a Strategic Gap.

⁸ Paragraph 10.1 on page 30 of David Hare Associates ibid



1.42 Within Eastleigh Borough, the Adopted Eastleigh Local Plan Review (2001-2011) includes both Strategic Gaps and Local Gaps. The Strategic Gaps are between:

1. Southampton – Eastleigh (446 Ha) and
2. Southampton - Hedge End/Bursledon/Netley (720 Ha)

1.43 The relevant policy **Policy 2.CO states that:**

“Planning permission will not be granted for development which would physically or visually diminish a strategic Gap as identified on the proposals map”.

1.44 Local Gaps were defined between:

- Eastleigh – Bishopstoke (180 Ha)
- Boyatt Wood – Otterbourne Hill and Allbrook (60 Ha)
- Hedge End - Horton Heath (178 Ha)
- Botley – Boorley Green (25 Ha)
- Hedge End – Botley (210 Ha)
- Hedge End - Bursledon (186 Ha)
- Bursledon – Hamble – Netley Abbey (373 Ha)
- Fair Oak – Horton Heath (74 Ha)

1.45 The relevant policy **Policy 3.CO states that:**

“Planning permission will only be permitted for appropriate development in a local Gap, if:


- i. it cannot be acceptably located elsewhere; and*
- ii. it would not diminish the Gap, physically or visually”.*

1.46 There is therefore a difference in the policy wording with the policy relating to Local Gaps making reference to appropriate development, which is not in the policy relating to Strategic Gaps. However, the Eastleigh Borough Council ‘Countryside Gaps Background Paper,’ states that:

‘the reference in Policy 3.CO to ‘appropriate development’ does little to distinguish how the local planning authority should assess development proposals in Local Gaps differently from development proposals in Strategic Gaps. In practice it is not evident any distinction has been applied.’⁹

1.47 However, in the appeal case relating to the creation of a new sustainable neighbourhood comprising up to 680 residential units on land to the northwest of Boorley Green

⁹ Para 2.6 of Countryside Gaps Background Paper (June 2018) by Eastleigh Borough Council




(application reference (O/15/75953), the Inspector, in granting permission, noted that while the policy on Strategic Gaps (2.CO) prohibits any development which would physically or visually diminish a Strategic Gap, the policy on Local Gaps (3.CO) does allow a further exception for development which could not be acceptably located elsewhere. He said that these differences in wording support the common sense interpretation of a Strategic Gap being more important than a Local Gap. This is also consistent with the Botley to Hedge End Gap being downgraded from Strategic to Local Gap, (para 12.4). He therefore clearly applied less weight to the designation of a Local Gap.

- 1.48 In the submission Local Plan 2016 – 2036, however, the distinction between Local and Strategic Gaps no longer is retained. If this plan is therefore found ‘sound’ and adopted, this distinction would therefore no longer apply.

Appeal Decisions

- 1.49 An important factor in determining the weight that has been given to Gap policies is considering the weight that has been given to them in appeal decisions by Government appointed planning inspectors. Appeal decisions relating to sites covered by Gap policies have therefore been assessed in relation to the following authorities over the past five years (back to 2013, apart from the inclusion of a couple of older appeals in relation to Test Valley), in relation to the following authorities:
- Eastleigh Borough Council;
 - Fareham Borough council;
 - Havant Borough Council;
 - Test Valley Borough Council;
 - Winchester City Council.
- 1.50 Summary tables of the appeal decisions, including the location; description of development; the decision and the key points in the Inspector’s reasoning in relation to Gaps are provided in Appendices 1; 2; 3; and 4. A summary of the key points is set out below.
- 1.51 In **Eastleigh Borough Council**, there have been 15 appeals relating to sites located in Gaps and six of these were allowed and nine dismissed. Four of the schemes that were allowed were for significant development, including:



– up to 150 dwellings approved at Hamble Lane, Bursledon, which was approved in April 2014.

– residential development on 4.2 ha (106 dwellings) on land to the east of Sovereign Drive and Precosa Rd, Botley, which was approved in October 2015;

– up to 100 dwellings approved on land off Botley Rd, West End in October 2016.

– the creation of a new sustainable neighbourhood comprising up to 680 residential units, a new local centre and primary school on land to the north west of Winchester Rd, Boorley Green which was approved in November 2016.

1.52 The two other schemes permitted were for minor development.


1.53 It is important to note that the Inspector in the appeal relating to land off Botley Road, West End found the Gaps policy to be a policy limiting the choice of sites available for housing and said that breaches of the Strategic Gap policy have proved necessary and will prove necessary to cater to meet current housing needs. He said that in the absence of a five year housing land supply, the policy on Strategic Gaps should be given no more than '*little weight*.' He also made reference to the significant amount of development that the Council had already approved in Strategic Gaps, which amounted to 1,451 dwellings (including 1,100 dwellings on land south of Chestnut Avenue) and there was a further 1,687 dwellings that were the subject of resolutions to grant permission.

1.54 A substantial amount of development has therefore been approved on appeal in the last five years relating to land subject to Gap policies, which totals 1,036. The justification for these decisions, which conflicted with the development plan policies, was the absence of a five year housing land supply, coupled with the argument that a sufficient Gap between settlements would still be retained.

1.55 The absence of a five year housing land supply was not always sufficient to overcome a Gap policy designation. In the case of applications for up to 230 dwellings on land to the east of Grange Road, Netley Abbey and for up to 335 dwellings on land off Bubb Lane, Hedge End, the Inspector considered that the impact on Strategic Gaps was sufficiently detrimental to outweigh the benefits arising from the extra housing provision.

1.56 In the case of **Fareham Borough Council**, there have been five appeals over the past five years relating to land subject to Gap designations. Four of these were dismissed and only one allowed and that was only an extension to a care home. The schemes that were dismissed were all for small scale developments. There has not therefore been any real testing of the Gap policy at appeal in this borough.

1.57 In **Havant Borough Council**, there were only two appeals and both were allowed. One related to an extension to a stable block. The other involved the provision of a single



pitch private gypsy and traveller site. The Inspector found that the council's Local Plan policies did not prevent the provision of gypsy and traveller sites in Gaps, and so again there has been no significant testing of Gap policy at appeal.

- 1.58 In **Test Valley Borough Council**, six appeal cases were reviewed. Only one was allowed which was outside of the general review period in 2010, when permission was granted for up to 350 dwellings at Redbridge Lane, Nursling, when the Council did not have a five year housing land supply. This again illustrates the importance of having a five year housing land supply in order to successfully defend Gap policy designations.
- 1.59 In **Winchester City Council** there were twelve appeal decisions, of which ten were dismissed and only two allowed. Of the two allowed, one was for a mobile home for a temporary period of three years, for occupation by an agricultural worker. The other was for the replacement of a 2 bedroom bungalow, with a four bedroom house, which would not undermine the function of the Gap. Again, therefore, the Gap policy has not been significantly tested at appeal. However, in the last few years several permissions have been granted by Winchester City Council on land which was previously designated as Gap around Waltham Chase.
- 1.60 It is noteworthy that apart from Eastleigh and the one scheme referred to in Test Valley, all of the schemes considered were small scale. The significant challenge to Gap policy therefore appears to have been confined to Eastleigh to date, but with future pressure for housing numbers continuing to increase, it is envisaged that challenges to Gaps in Fareham, Havant, Test Valley and Winchester will be likely in the future.

Eastleigh Borough Council Decisions on Gaps

- 1.61 Appendix 3 of the EBC Countryside Gaps Background Paper includes an analysis of major application decisions in Gaps going back to 1988. It is clear from this analysis that while many schemes have been refused, the first scheme to be approved in a Gap (for 98 dwellings) was in 1990 and there has been a constant trickle of further schemes being approved over the past 28 years.
- 1.62 Confining the analysis to full and reserved matters applications in order to avoid potential double counting and excluding those indicated to have been determined at appeal indicates that:
- between 1989 – 1998 – eight applications were approved for 245 dwellings;
 - between 1999 – 2008 - three applications were approved for 702 dwellings;
 - between 2009 – 2018 – twelve applications were approved for 1027 dwellings
- 1.63 These applications total 1,974 dwellings, which are in addition to those approved at appeal. It is clear therefore that the Gaps policy has been applied flexibly, and it is very unlikely that the same level of flexibility would have been applied if the Gaps had been in the Green Belt.



Recent Court Case relating to appeal decision relating to Land to the west of Hamble Lane, Hamble in Eastleigh Borough Council

- 1.64 In a recent Court of Appeal judgment an appeal decision relating to the refusal of planning permission for a development of up to 225 dwellings, a 60-bed care home and 40 bed care units was quashed on the basis that the Inspector and secretary of state had decided that the harm to the Local Gap outweighed the benefit from the increase in housing land supply, without determining what the level of the shortfall was. This again emphasises that where there is no five year housing land supply, the benefits of providing the extra housing has to be weighed against the harm to the Gap.

Recent Local Plan Reviews – Planning Inspectorate & Local Authority Position

- 1.65 The principle of Gaps have been considered by Inspectors in relation to several recent Local Plan Examinations.

Eastleigh Borough Council


- 1.66 At the previous Local plan Examination held in 2014, the Inspector Simon Emerson stated in his Post hearing Note 3 – Other Matters that he was concerned that he saw:

“nothing in the Council’s evidence base which seeks to justify on a rigorous and comprehensive basis the need for a Gap designation; the choice of location for Gaps or the extent of the designated area of any of the Gaps identified in the Plan.”

He recommended that if Gaps were accepted in principle, the criteria in Policy 15 of the ‘South Hampshire Strategy – A framework to guide sustainable development and change to 2026’ in October 2012 would seem a good starting point to consider their extent. This has not been tested further as he also considered that the Local Plan was not making enough provision for housing and the Examination for the revised Local Plan 2016 – 2036 is due to be held in the spring of 2019.

Havant Borough Council

- 1.67 The Havant Core Strategy which was adopted in 2011 stated in policy CS11 on Protecting and Enhancing the Special Environment and Heritage of Havant Borough that the Council would maintain ‘undeveloped Gaps between the settlements of Emsworth/Havant; Havant/Waterlooville; Havant/Portsmouth; Emsworth/Wesbourne and Leigh Park/Rowlands Castel as shown on the proposals Map.’ The boundary of the Gaps is also delineated on the Local Plan Allocations (adopted July 2014). However, in the Regulation 18 Local Plan 2036 on which the Council consulted from January to February 2018 the Council are proposing to allocate one of these Gaps at Southleigh for a mixed use development comprising about 2,100 dwellings, a local centre, a new access onto



the A27, and a primary school. If found sound, this will lead to the disappearance of the Gap between Denvilles and New Brighton.

Test Valley Local Plan Review


- 1.68 The current Test Valley Local Plan 2011 - 2029 was adopted in January 2016. Inspector Ware considered the proposed Gap policy to be justified. In his report (dated 15 December 2015) he refers to policy in the (NPPF) Framework that enables Local Plans to “*identify land where development would be inappropriate, for instance because of its environmental significance*”. Inspector Ware refers to the NPPF recommending that a “*strategic approach should be adopted in local plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure*”. The inspector considers that “*the coalescence of adjoining settlements, caused by development in the largely undeveloped Gaps, would clearly have an environmental effect*”, and concludes that “*The principle of such a designated area is therefore in line with national policy.*”¹⁰
- 1.69 The Inspector notes “*This (Gap) policy, which is broadly restrictive in nature, runs counter to the general national approach to enabling development. However that approach is qualified by the (NPPF) Framework policy that such development should be located in the right place, and that the natural environment should be protected.*” (Ref: PINS/C1760/429/5, page 31, paragraph 194). He also concluded that the boundaries of the Gaps themselves were justified.
- 1.70 All nine Local Gaps are retained from the previously adopted 2006 Local Plan, though four of them have revised boundaries as a result of their review. The accompanying policy E3: Local Gaps states that:
Development within Local Gaps (see Maps 48 - 56) will be permitted provided that:
a) it would not diminish the physical extent and/or visual separation; and
*b) it would not individually or cumulatively with other existing or proposed development compromise the integrity of the Gap.*¹¹

Fareham Borough

- 1.71 At the hearing sessions into the Local Plan 2011 - 2026 the Inspector raised concerns regarding the justification of the methodology for the Gap Review. However, following the response received, he confirmed that he was satisfied that the Council’s approach to Strategic Gaps was sound.
- 1.72 The Fareham Landscape Assessment - part 3 produced for the new Local Plan Regulation 18 assessment in the autumn of 2017 considered “*that all of the landscape*

¹⁰ PINS/C1760/429/5, page 31, paragraph 191

¹¹ paras 3.2 – 3.8 of EBC (June 2018) Countryside Gaps Background Paper



*that currently lies within the Strategic Gap contributes in some way (often in multiple ways) to the function and purpose of the designation and, therefore, there is justification for the boundaries to remain as they are currently defined.*¹². A further report on the timetable for the new Local Plan taking account of the new NPPF and methodology for determining housing numbers is to be taken to Council in February 2019.

Winchester City Council

- 1.73 The Winchester City Council Joint Core Strategy was adopted in March 2013. The Local Plan Part 2: Development Management and Site Allocations was adopted in April 2017. Winchester City Council has just commenced work on their Local Plan 2036, with the publication of a questionnaire, with responses requested by 21 September 2018.
- 1.74 With work proceeding on several Local Plans which are still at a relatively early stage of preparation in the case of Fareham; Havant and Winchester there is the potential for significant additional erosion of Gap policies, given the Government's priority of substantially increasing housing land supply.

2

Objector Comments


- 2.1 A number of developers and the House Builders have made objections to the Eastleigh Borough Council Gap policy in its submission Local Plan arguing that it is not compatible with advice in the NPPF. For example, the House Builders Federation make the following comments:

Strategic policy S8, Protection of Countryside Gaps

This policy is unsound as it is unjustified and not consistent with national policy

As outlined above we are concerned that the approach taken by the Council has been to use "Countryside Gaps" as a constraint as part of the process of developing its local plan. As highlighted above paragraph 35 of the Housing trajectory Paper outlines that the maintaining Countryside Gaps between town and cities informed the decision not to meet the housing needs of the Housing Market Area. The creation of these Gaps has the effect of creating a "Green Belt" around the eastern boundary of Southampton and will prevent any future expansion to what is a very tightly bound city. In taking forward such a policy the Council have set out in the Countryside Gaps background paper a number of paragraphs from the NPPF which they consider to support the use of Countryside Gaps. However, none of these paragraphs refer directly to the use of Countryside Gaps between settlements but provide general position with regard to the need to take environmental

¹² P47 of Part 3 of LDA Design 'Fareham Landscape Assessment (2017)



and landscape consideration into account when preparing a Local Plan and determining planning applications.

We would not disagree that the Local Plan should consider policies that allow for the consideration of important landscapes and environmental designation as part of the decision on any planning application. However, these elements of national policy are not relevant to the Council's reasons for including policy S8 within the Local Plan. The aim is to maintain Gaps between settlements and not the protection of the countryside, valued landscapes, or important habitats. In fact the Local Plan has policies (S7 on new development in the countryside and DM11 on nature conservation) to achieve these separate requirements of national policy and as such the Green Gap policy cannot be considered to be consistent with the NPPF.

Recommendation

That policy S8 be deleted.

- 2.2 While clearly these objections have not yet been tested at Examination and the Inspector may well take a different view, they do emphasise again the lack of specific Government policy support for Gap policies, which means that much less weight can be given to them when compared to Green Belt policy.
- 2.3 It is likely that similar comments will be made in relation to Gap policies in other local planning authorities where they are included in new Local Plans and are perceived by developers to be preventing the allocation of their land for development.

The NPPF Criteria for the Establishment of a New Green Belt

- 2.4 This report indicates that the protection afforded to Gaps in terms of Government policy in the NPPF is much less than that afforded to Green Belt. This is also reflected in appeal decisions where a number of significant developments that affect Gaps have been permitted in the absence of a five year housing land supply. There is also much less protection for Gaps in the plan making process as the exceptional circumstances needed to justify Green Belt boundary amendments are not required.
- 2.5 In order therefore to prevent urban sprawl and the coalescence of settlements, there is therefore a strong case for arguing for a Green Belt in South Hampshire. However, Government advice in paragraph 135 of the NPPF also emphasizes that Green Belts should also only be established in exceptional circumstances:

'for example when planning for larger scale development such as new settlements or major urban extensions. Any proposals for new Green Belts should be set out in strategic policies, which should:



a) demonstrate why normal planning and development management policies would not be adequate;

b) set out whether any major changes in circumstances have made the adoption of this exceptional measure necessary;

c) show what the consequences of the proposal would be for sustainable development;

d) demonstrate the necessity for the Green Belt and its consistency with strategic policies for adjoining areas; and

e) show how the Green Belt would meet the other objectives of the Framework.'

2.6 It will therefore be necessary to demonstrate compliance with these criteria if Local Authorities are to be successful in the designation of a Green Belt in South Hampshire. In this instance, I consider that a strong case can be made that all of these circumstances apply.

2.7 With regard to the overarching need, large scale development is proposed including major urban extensions, which are the circumstances necessary to justify the need for Green Belts.


2.8 With regard to meeting each of the specified criteria:

A) Normal planning and management policies are not adequate as most Gaps are not subject to any other form of policy designation and the Gap policies have not been sufficient to prevent significant development, which over time is likely to lead to coalescence. Essentially therefore the application of Gap policy has failed. Other areas of countryside surrounding the urban areas in South Hampshire are also vulnerable to development where they are not subject to specific environmental protection policies;

B) Circumstances have changed over time as the erosion of Gaps and current proposals for large scale development mean that there is now a significant risk of the various settlements in South Hampshire essentially forming one large conurbation and spreading out into the surrounding countryside;

C) The consequences of establishing a Green Belt would be to encourage regeneration within existing urban areas and thereby promote sustainable development. It would also be necessary to establish robust boundaries that would endure and allow necessary development in sustainable locations where this would be consistent with Green Belt purposes;

D & E) The significant erosion of Gaps demonstrates the need for a Green Belt and its designation would not conflict with strategic policies for adjoining areas provided



appropriate provision is made for new development in South Hampshire. In this way a Green Belt would **meet the other objectives of the Framework**.

Conclusion

- 2.9 As noted in the section on the national context, South Hampshire is fairly unique among the large urban areas in England in having no designated Green Belt, with reliance instead being placed upon Gaps designated in Local Plans to prevent the coalescence of settlements. Given that South Hampshire contains two cities (Southampton and Portsmouth) with a number of urban areas in between, it has all of the characteristic of many of the other Green Belt areas, whose fundamental purpose is to check the unrestricted sprawl of large built-up areas and to prevent neighbouring towns from merging into one another. Examples elsewhere, include Liverpool & Manchester; West Yorkshire (Leeds/Sheffield etc); the North East (Newcastle/Sunderland/Gateshead); Derby & Nottingham; West Midlands (Coventry/Birmingham); Gloucester & Cheltenham; Bristol & Bath. South Hampshire is therefore a classic example of an area that needs Green Belt protection that virtually all of the other areas with similar characteristics already have it.
- 2.10 This argument is reinforced by the findings of this report. Given the major urban extensions currently being proposed and the past history of erosion of Gaps through subsequent permissions being granted, a strong argument can be made that the current Gap policies across the sub-region are failing in their remit to prevent coalescence and sprawl, which is ultimately likely to lead to currently separate settlements forming one large South Hampshire conurbation and expanding out into the adjoining areas of countryside. The exceptional circumstances therefore exist to demonstrate that a new stronger policy backed by explicit Government advice is needed to prevent this happening and the tool for this is a Green Belt, which is already in use around most large urban areas in England. South Hampshire is the exception in having no such designation.

Appendix 1: Table relating to appeal decisions relating to Countryside Gaps in Eastleigh Borough					
Location	Proposed development & application ref nos	Decision	Role of Countryside Gaps in decision	Strategic or local gap	Date of decision (the appeal decisions are listed in chronological order)
Bay farm, Grange Road, Burlesdon	Demolition of existing dwelling house & ancillary building & the erection of a replacement dwelling. (F/13/71899)	Dismissed	Permission had previously been granted in 1999 for a mobile home. However, the Inspector stated that the new dwelling would have a floorspace more than double the size of the mobile home. The proposal was found to be contrary to the aim of the policy which seeks to protect strategic gaps.	Located in the Southampton – Hedge End/Burlesdon/Netley Strategic gap	10.2.14
Land at Hamble Lane, Bursledon	Outline application for up to 150 homes (O/12/71828)	Allowed	The sites value as part of the strategic gap limited by the number of view points from where the loss of the gap would be apparent. The decision letter states that the council had already granted planning permission for two sites within the (Policy 2.CO) strategic gap. Council was found not to have a five year housing land supply. Harm to countryside gap did not outweigh the benefits.	Located in the Southampton – Hedge End/Burlesdon/Netley Strategic gap	29.4.14
The Orchard, Blind Lane, Horton Heath	Three detached dwellings (F/14/74339)	Dismissed	The scheme would link the linear development at the southern end of the settlement of Horton Heath to the more informal & sporadic housing in Blind Lane,	Local Gap between Horton Heath & Hedge End	29.5.15

			<p>resulting in a continuous linear & suburban form of development. The Inspector found that the development would encroach into & undermine the purpose of the local gap & the character & appearance of the surrounding rural area. This outweighed the benefits of the housing despite the Council not having a five year supply.</p> <p>The Inspector states that <i>'the appellant has referred to a High Court decision & two appeal decisions which relate to new housing outside settlement boundaries & in areas that are subject to countryside & other specific controls, including a local gap. They highlight the need for housing applications to be considered in the context of the presumption in favour of sustainable development.'</i></p>		
Land to the east of Sovereign Drive & Precosa Rd, Botley	Demolition of two properties & creation of new access road & for residential development on 4.2 ha of land (what was actually proposed was 106 new	Allowed	The proposed development poses no substantial threat to the maintenance of the separate identities of Botley & Hedge End. As a consequence, its impact on the effectiveness of the local gap between the two settlements would be limited. Given the absence of a five year housing land supply, the	Local gap between Hedge End & Botley	21.10.15

	<p>dwellings) (F/13/73606)</p>		<p>benefits were held to outweigh the disbenefits. In his conclusions the inspector addresses the issue of his decision undermining the protection afforded by the gaps policy and makes the following comments:</p> <p><i>'Having taken all other matters raised into account, including numerous legal rulings, I consider, for the reasons I have given, that the appeal should be allowed. In coming to that conclusion I am conscious of the concerns of the Council and others that, pending the ultimate replacement of the local plan, land elsewhere in the Borough particularly that within local and strategic gaps currently defined as such in the local plan, could become increasingly vulnerable to development pressure as a consequence. However, it is clear that the Council itself is constrained to allow such departures on their specific individual merits in the absence of an adequate housing land supply and, in that sense, this appeal decision is no different. My decision in this</i></p>		
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			<i>case turns on the specific merits and circumstances of the appeal proposal and site and, therefore, cannot and should not be taken as an indication that other such proposals would necessarily be allowed.'</i> (para 61)		
Land to the east of Grange Rd, Netley abbey	Residential development of up to 230 dwellings (O/14/75435)	Dismissed	It was acknowledged again that the Council was not able to demonstrate a five year housing land supply. The inspector gives the social benefits of this housing provision substantial weight. However, the harm to local character & the conflict with LP Policy 2.CO in what is an extremely spatially constrained peninsula is a matter to which he gave very substantial weight. He therefore concludes that the harm would significantly & demonstrably outweigh the benefits of the proposal.	Located in the Southampton – Hedge End/Burlesdon/Netley Strategic gap	14.12.15
Land off Bubb Lane, Hedge End	Residential development comprising up to 335 residential dwellings (O/14/75166)	Dismissed	The Inspector makes some important comments on the history & use of gaps: <i>'Some development within gaps has been permitted on the basis that the benefits of the additional housing outweighed any harm and policy conflict. Furthermore, Submission Eastleigh Local Plan (SEL) proposed the allocation of some land for</i>	Located in the Southampton – Hedge End/Burlesdon/Netley Strategic gap	24.5.16

			<p><i>residential development within strategic and local gaps designated in the EBLP. However, neither of these considerations necessarily means that Policy 2.CO should be given no weight. Clearly the policy and designations shown on the proposals map will remain part of the development plan until replaced. The appellant considers that there is no proper evidence base for Policy 2.CO, and cites the SELP Inspector's preliminary concerns that he had seen nothing in the Council's evidence base which seeks to justify on a rigorous and comprehensive basis the need for a gap designation; the choice of location for gaps or the extent of the designated area of any of the gaps identified in the SELP. This again is an issue for future policy that does not alter the current policy position as set out in the development plan. Insofar as an evidence base is concerned for determining this appeal, the Inquiry and my site visits provided considerable evidence about factors relevant to local circumstances here</i></p>		
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		<p><i>regarding the relationship between settlements.</i></p> <p><i>The use of strategic gaps, as a planning instrument, has a long and respectable provenance in South Hampshire. There are clear indications that local planning authorities would like to continue to rely on such designations to assist in shaping future growth. What form these might take is a matter for the development plan process, but the concept of strategic separation of settlements, as an important planning policy tool, is a consideration which should not be dismissed in determining this appeal.'</i></p> <p>(para 29 & 30)</p> <p>The proposed development would be likely to significantly erode the gap between the urban settlements of Southampton and Hedge End. This would result in harm to the proper planning of the area. In my judgement, it is appropriate here to give some weight to the conflict with Policy 2.CO, notwithstanding that this policy is out-of-date.</p>		
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			The Inspector considered that: <i>'Given the current scale of the housing shortfall, the provision of additional market and affordable housing would be a significant benefit of the proposal.'</i> However, owing to the harm to the character & appearance of the area & that it would thwart the underlying aims of local planning policy & practice to retain the separate identity of settlements, this resulted in the Inspector concluding that: <i>'the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.'</i> (paras 55 – 57)		
Southwards, Saltern Lane, Burlesdon	New dwelling of exceptional design in a lake in the garden of an existing property (C/15/76178)	Allowed	The Inspector considered that if accompanied by the sensitive landscaping proposed, the development would provide a significant enhancement to its immediate setting & there would be very limited public views.	Burlesdon-Hamble Nettley Abbey Local Gap	12.8.16
Land off Botley Rd, West End	Up to 100 dwellings (O/15/76418)	Allowed	The Council argued that Policy 2.CO is not a relevant policy for the supply of housing as there is sufficient land available for housing outside the strategic gaps	Hedge End & West End Strategic Gap	7.10.16

			<p>such that it is not necessary to develop in the gaps to have a 5 year supply of housing land. However, the Inspector stated that: <i>'The gaps, by their nature, are drawn tightly against many of the urban boundaries. In general, sites closer to existing settlements are more likely to benefit from existing facilities and are more likely to be in sustainable locations (like the appeal site). The adopted development plan with its current gap boundaries caters for housing need only up to 2011; there is an OAN of 630dpa and a requirement of 1,120 dpa, with no clear indication from the Council of how the substantial current shortfall is to be met, and there is certainly no convincing evidence from the Council that it can all be met on sites outside the gaps.'</i> (para 26)</p> <p>The Inspector went on to refer to the number of dwellings the Council had already permitted in strategic gaps, stating that: <i>'Planning permission has been granted for a number of sites which have included dwellings in the strategic gaps. Some</i></p>		
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			<p><i>1,451 dwellings including the 1,100 unit site at land south of Chestnut Avenue have been permitted on gap sites and 1,687 further units are the subject of resolutions to grant. The Council see Chestnut Avenue as skewing the picture, but even though it enabled infrastructure to be provided it is difficult to see why it should be seen as an exception. Even if it were taken out of the equation there would still be 351 homes permitted on sites within or partially within the gaps. These permissions were presented as the Council's "choice" – that it had allowed development in the gaps but did not need to. But the Council's argument that present needs can be met substantially within the land outside the gaps is wholly unconvincing; even with the permissions on gap land, there is still no 5 year housing land supply and without them, even on the Council's unduly optimistic housing land supply calculations, there would be only 3.4 years' supply of housing land. On the contrary, the evidence is that the gaps are a factor in</i></p>		
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		<p><i>limiting the choice of sites available for the provision of housing, and that breaches of the strategic gap policy have proved necessary and will prove necessary to cater to meet current housing needs.'</i></p> <p>He went on to state that he <i>'considered Policy 2.CO to be a relevant policy for the supply of housing & thus out of date. They do of course still carry weight as planning tools to protect the countryside and ensure the separation of settlements; they are not 'disapplied'. But the question is whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.'</i> (paras 28 & 29)</p> <p>The Inspector also found that the site is well screened & the scheme would have no effect on the separate identities of West End & Hedge End.</p> <p><i>Despite the narrowness of the gap, the development would not cause the visual or physical coalescence of</i></p>		
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			<p><i>Hedge End and West End.'</i> <i>(para 32)</i></p> <p>The Inspector states that: <i>'The circumstances of this scheme are very different from those of the Bubb Lane appeal (APP/W1715/W/15/3063753) which involved the same parties as the present appeal. In that case the Inspector concluded that a change from open rural land to suburban development in a sensitive location between settlements would be a dramatic and adverse alteration to the landscape and would thwart the aims of planning policy to retain the separate identity of settlements. That site was more clearly in open countryside, and was much larger. It was nothing like as well enclosed, being on a slight rise with wider visibility. Development there would have had a much more noticeable impact on the countryside, the landscape and the strategic gap; it would have been seen as an intrusion into the gap.'</i> (para 35)</p> <p>With regard to gaps, the inspector concluded that:</p>		
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			<i>'The scheme would conflict with Policy 2.CO but would not harm the purposes of the policy to protect the separate identities of settlements and to prevent coalescence. The visual diminution of the gap would be minimal..'</i> (para 36)		
Land north of Boyatt Lane, Eastleigh	Two three bedroom dwellings (O/15/77009)	Dismissed	The Inspector considered that: <i>'the dwellings would introduce a built form into what is essentially a natural area at present, extend the settlement of Otterbourne Hill towards the A335 and thereby result in a visual and physical reduction of the Local Gap to the detriment of the current landscape character here. There is no robust evidence before me to indicate that two homes could not be acceptably located elsewhere,'</i> (para 13). The Council acknowledged that it could not demonstrate a five year housing land supply. It was disputed as to whether the local gaps policy 3.CO is a relevant policy for the supply of housing. In this respect the Inspector said that: <i>'The Hopkins Judgement explains that the concept of relevant policies for the supply of housing 'extends to plan policies</i>	Boyatt Otterbourne Hill & Allbrook Local Gap	Wood-Hill & 4.11.16

			<p><i>whose effect is to influence the supply of housing land by restricting the locations where new housing may be developed’, and that ‘we cannot see any logical basis for distinguishing here between restrictive policies of a general nature and those with a more specific purpose’, a wider interpretation than was arrived at in certain previous judgements. (Suffolk Coastal District Council v Hopkins Homes Ltd) The Inspector therefore found: ‘that saved policy 3.CO is a relevant policy for the supply of housing, and in the absence of a five year supply of deliverable housing sites must necessarily be considered out-of-date.’ Notwithstanding this he stated that:</i></p> <p><i>‘However paragraph 47 of the Hopkins Judgement explains that the weight to be accorded in decision-taking to policies for the supply of housing which are out-of-date is a matter of planning judgement. With this in mind it appeared to me from my site visit that the settlements of Chandler’s Ford, Allbrook, Otterbourne Hill and Otterbourne fall within close</i></p>		
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			<p><i>proximity to one another and that the distinctiveness of each results to a greater or lesser degree from the presence of undeveloped land separating them. This is particularly the case in respect of the undeveloped land between the properties comprising Otterbourne Hill and those of Allbrook: such land in my view contributes to the semi-rural character of these settlements, and mitigates the extent to which arterial traffic routes are apparent and visually connect separate settlements by virtue of their form and presence.’ (paras 22 – 23)</i> The Inspector concluded that the adverse effects would significantly & demonstrably outweigh the modest benefits that would result.</p>		
Land west of Hamble Lane, Hamble	Up to 225 residential units plus a 60 bed care home and 40 extra care units	Dismissed	<p>Inspector’s report recommended dismissal of appeal which was accepted by the Secretary of state.</p> <p>The Inspector stated that the gap: <i>‘has a specific purpose: to prevent the coalescence of smaller settlements in order to maintain their separate identity. Such an objective requires some degree of</i></p>	Hamble to Netley Abbey Local Gap	9.11.16

			<p><i>continuity, otherwise a temporary cessation could materially prejudice its future operation. That is not to say that the boundaries may not be modified over time to meet development needs, either through the statutory plan process, or in response to specific proposals, but the decision is made in relation to the level of need established, and the degree to which the land in question contributes to the objectives of the policy.'</i> The Inspector concluded that there was no justification for giving any substantial reduction to the weight applied to policy 3.CO.</p> <p>He said that: <i>'whilst the site does not demonstrate any special landscape quality, its function in forming part of a Local Gap is served by its openness. It is not within a settlement, nor is it a natural extension of any settlement, and its central location would increase the impact of the loss of openness on the setting of the surrounding towns. It would harm the character and appearance of the countryside to the extent of undermining its role in</i></p>		
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		<p><i>separating communities, and contribute to their coalescence and loss of independent identity, contrary to the objectives of Local Plan Policy 3.CO.'</i></p> <p>The Council acknowledge that they are not able to demonstrate more than a four and a half years supply of deliverable housing land, and it is the appellants' view that the actual level is significantly less. In the Inspector's view it was not necessary for this report to carry out a detailed analysis of the housing land supply position, which is better left to the Local Plan examination, where all the evidence is available to the inspector.</p> <p>The Secretary of State agreed with the Inspector and considered that overall the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits.</p> <p>Subsequently this decision was overturned in the Court of Appeal as detailed in the main report on the grounds that a sufficient evaluation of</p>		
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			the extent of the housing shortfall did not happen.		
Land to the north west of Boorley Green, Winchester Road, Boorley Green	Creation of a new sustainable neighbourhood comprising up to 680 residential units, a new local centre, land for a two-form entry primary school, open space & sports provision, access roads & new junction (O/15/75953)	Allowed	<p>The Inspector notes that the policy on strategic gaps (2.CO) prohibits any development which would physically or visually diminish a strategic gap, the policy on local gaps (3.CO) does allow a further exception for development which could not be acceptably located elsewhere. These differences in wording support the common sense interpretation of a strategic gap being more important than a local gap. This is also consistent with the Botley Hedge End gap being downgraded from strategic to local, (para 12.4). The Inspector stated that:</p> <p><i>At the time of the Inquiry, the parties were essentially agreed on the approach now required by the NPPF as interpreted by the Courts. That is that if policies are out-of-date the special emphasis in NPPF14 applies but that the final weight to be given to policies is for the decision-taker. This means that conflict with a gap policy may render a proposal unsustainable. Equally, it may not. The 3 tests in</i></p>	Botley to Hedge End Local Gap	30.11.16

		<p><i>Suffolk/Richborough simply throw the planning judgement squarely back to the decision-maker. Whether or not Policy 3.CO prevents any possibility of achieving a 5YHLS, when 50% of the Borough is not covered by gaps, is not the test. The policy severely limits the possible locations, and so restricts housing, and therefore significantly affects its supply. The final weight to be given to it depends on the 3 tests.'</i>(para 12.7).</p> <p>The Inspector concluded that the housing land supply was about 4 years.</p> <p>The Inspector considered that: <i>'While the effect of the appeal scheme would be to make the separation from Hedge End look slim on a map or from the air, on account of the railway line and associated green infrastructure on both sides, there would be an effective separation on the ground. The accompanied site visit demonstrated that, at the two crossing points over the railway line adjacent to the site, the bridges and adjoining trees provide a clear demarcation and serve</i></p>		
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		<p><i>to separate Hedge End from the land on the other side regardless of the appeal site. The lack of likely integration with Hedge End, as a result of the railway line, would not be a flaw in the proposals but a benefit as it would help both to retain the separate identities of the settlements,' (para 12.34)</i></p> <p><i>In his conclusions on the weight to be given to the gap policy the inspector referred to the 3 Suffolk/Richborough tests and said: 'the Council's HLS, at 4 years, falls well short of that required and has done for many years; notwithstanding its efforts, the action it has taken has not remedied this; and, as described in policy and set out in the PUSH Study, the site is in the least important part of the relevant named gap and the purpose of the gap would largely remain. As the Council could not demonstrate a five year housing land supply, policy 3.CO should be assessed as being out of date & 'given no more than little weight....Given policy in NPPF14, even if the harm were to outweigh the benefits</i></p>		
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		<p><i>on a straightforward balance, which it would not, in this case the tilted balance means that the adverse impacts would need to significantly and demonstrably outweigh the benefits, to which they do not come close. This is a material consideration which should outweigh the limited conflict with the development plan and the appeal should be allowed,' (para 12.59).</i></p> <p>The appeal was recovered for the Secretary of State's determination. He agreed with the Inspector's findings stating that: <i>'the Secretary of State agrees with the Inspector's conclusion that the scheme would also be contrary to LP Policy 3.CO. He agrees that, not only does that policy affect housing land supply and, for that reason, should be regarded as out-of-date but that other factors also limit the weight to be given to the conflict. These include: the Inspector's findings with regard to the lack of harm to named settlements; the limited viewpoints from which harm to the local gap could be experienced; the proposal for</i></p>		
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			<p><i>a significant landscape buffer to complement the railway line separation; and the precedent of other development being allocated within local gaps (IR12.57). Thus, overall, the Secretary of State gives limited weight to the conflict with LP Policy 3.CO,' (para 14).</i></p>		
<p>Land to the south of Mallards Rd, Bursledon</p>	<p>80 dwellings (O/15/76491)</p>	<p>Dismissed</p>	<p>In this case the Inspector concluded that the Council was able to demonstrate a supply of deliverable housing sites of around five years.</p> <p>He therefore concluded that: <i>'Given the location of the appeal site beyond an urban edge and in a local gap, as well as its adverse impact upon the character and appearance of the area, there can be no doubt that the appeal scheme would conflict with the development plan when taken as a whole. I have found that the development plan is up-to-date and, thus, this conflict is a matter that attracts very substantial weight. Government planning policy seeks to boost significantly the supply of housing. It also firmly favours a plan-led</i></p>	<p>Burlesdon, Netley & Hamble Local Gap</p>	<p>2.8.17</p>

			<i>system. In these circumstances there is not, in my judgement, a body of material considerations powerful enough to override the appeal proposal's conflict with the adopted development plan.,' (paras 86 – 87).</i>		
Hillier Garden Centre, Woodhouse Lane, Botley	Extension to the main building & the provision of an overflow car park (F/16/79511)	Allowed	The Inspector concluded that the proposal would accord with the Local Gap policy 3.CO.	Botley & Hedge End Local Gap	3.8.17
Land to the rear of Blackthorn Health Centre, Satchell Lane, Hamble-Le-Rice	64 bed dementia care centre (F17/80218)	Dismissed	The Inspector concluded that there would be considerable & permanent harm to the local gap & there were considerable concerns as to whether the appeal site is the only option for this care home facility.	Burlesdon/Hamble/Hound local gap	5.4.18
Land adj to Roll Call, Woolston Rd, Netley Abbey	Erection of bungalow following demolition of existing building, removal of stored vehicles & mobile home (F/17/80875)	Dismissed	Found ¾ of site used for keeping horses & proposed development would harm the strategic gap.	Southampton – Hedge End/Burlesdon/Netley Strategic Gap	31.8.18

Appendix 2: Table relating to appeal decisions relating to Countryside Gaps in Fareham Borough Council					
Location	Proposed development & application ref nos	Decision	Role of Countryside Gaps in decision	Strategic or local gap	Date of decision (the appeal decisions are listed in chronological order)
247 Titchfield Rd, Titchfield, Fareham	Replacement dwelling (P/13/0919/FP)	Dismissed	<p>Found that views of the proposal from public vantage points would be limited and the perception of the undeveloped nature of the site would not be substantially affected to the detriment of the integrity of the Strategic Gap.</p> <p>However, dismissed as contrary to policies which seek to restrict new development in the countryside.</p>	Strategic gap	26.9.14
Peel House Rest Home, Woodcote Lane, Fareham	Extensions providing 12 additional bedrooms (P/14/0804/FP)	Allowed	Although located within a Strategic Gap the development would not conflict with the purposes of that designation.	Strategic gap	6.2.16
18 Lychgate Green, Fareham	Erection of dwelling house & garage (P/16/0829/OA)	Dismissed	While the Inspector accepted that the scale and nature of the proposed development would not compromise the integrity of the gap itself, a lack of harm in this regard does not alter the harm in relation to development outside the settlement limits and encroachment on the open countryside.	Meon Strategic Gap	31.3.17

Meon View Farm, Old Street, fareham	Erection of four detached four-bedroomed chalet style dwellings, following demolition of agricultural buildings and cessation of the existing commercial vehicle storage use. (P/16/0873/OA)	Dismissed	Would be harmful to the character & appearance of the countryside and Meon Gap.	Doesn't say. As it is the Meon Gap that would be affected it is presumably a Strategic Gap as per the appeal decision above.	14.9.17
247 Titchfield Rd, Stubbington, Fareham	Nine holiday let properties, outdoor swimming pool, car parking (P/17/1356/FP)	Dismissed	The proposal would not have a significant adverse effect on the integrity of the gap or on the physical and visual separation of settlements. The appeal was dismissed on account of the impact on the living conditions of the occupiers of 249 Titchfield Rd.	Strategic gap	5.10.18

Appendix 3: Table relating to appeal decisions relating to Countryside Gaps in Havant Borough Council					
Location	Proposed development & application ref nos	Decision	Role of Countryside Gaps in decision	Strategic or local gap	Date of decision (the appeal decisions are listed in chronological order)
Hollybank Cottage, Long Copse Lane, Emsworth	The development proposed is an extension to the existing private stable block to provide feed/cart store for continued private use (APP/14/00381).	Allowed	The extension is a reasonable & proportionate addition to the existing building which would blend seamlessly with the existing structure. It would not erode the Emsworth – Westbourne Gap, or result in any perception of its erosion.	Not specified Emsworth – Westbourne Gap	1.9.14
Stables at Long Copse Lane, Emsworth	Change of use from private equestrian yard, to a mixed use comprising private equestrian yard and a single-pitch private gypsy and traveller site, including a mobile home and single touring caravan pitch. (APP/16/00021)	Allowed	There is a need for gypsy accommodation. Policy CS10, which provides specifically for gypsy and traveller sites, does not exclude locations in the countryside or Gaps, and given that these two designations cover the whole of the Borough outside the urban areas, it seems unlikely that suitable sites could be found anywhere else than within them. In addition, the Inspector found no conflict with the relevant policies for the protection of the landscape and local character.	Not specified Emsworth – Westbourne Gap	28.2.18

Appendix 4: Table relating to appeal decisions relating to Countryside Gaps in Test Valley Borough Council					
Location	Proposed development & application ref nos	Decision	Role of Countryside Gaps in decision	Strategic or local gap	Date of decision (the appeal decisions are listed in chronological order)
Land at Redbridge Lane, Nursling	Up to 350 dwellings (09/01706/OUTS)	Allowed	<p>The conflict between the appeal proposal & the statutory development plan in relation to the local gap could only be overridden by other weighty material considerations, such as a substantial shortfall in housing land supply.</p> <p>Found housing land supply to lie between 1.98 & 2.67 years, representing a substantial shortfall of between 2.33 & 3.02 years.</p> <p>Taking into account that the separate identity of the centre of Nursling would be substantially maintained & that negative landscape impact beyond the site itself would be minor, the shortfall in the housing land supply is sufficiently serious to override the conflict with Local Plan policies.</p>	Local gap between Nursling & Southampton	3.11.10
Land at Halterworth Lane & Highwood Lane, Romsey	59 units of residential accommodation (10/00623/OUTS)	Dismissed	Despite the absence of a five year supply, the inspector found that this did not outweigh the unsuitability of the site in other ways, including the gap policy.	Not specified Romsey/North Baddesley Gap	16.11.11
Land at Fred Woolley	Detached dwelling (15/02219/FULLS)	Dismissed	Proposal would have a significant harmful effect on the	Southampton – Eastleigh Local Gap	1.7.16

Wood, Chilworth			<p>character and appearance of the area and would compromise the integrity of the Southampton- Eastleigh Local Gap.</p> <p>Council could demonstrate a deliverable five year supply of housing sites & therefore policies for the supply of housing can be considered up to date.</p>		
Roundabouts Copse, Botley Rd, North Baddesley	Up to 33 dwellings (15/00800/OUTS)	Dismissed	<p>Local plan up to date & accords with the NPPF.</p> <p>The Inspector states: 'Even were I to accept, which I do not, that the proposed development would have little adverse impact on the purpose of the Local Gap and landscape policies of the LP, the positive benefit of the scheme, which I have found above, would not outweigh the substantial weight which I accord to the provisions of Policy COM2 of the Local Plan.'</p>	Local Gap between North Baddesley & Chilworth Villages	25.11.16
Nutburn Hollow, Sandy Lane, North Baddesley	5 houses (16/01154/FULLS)	Dismissed	The Local Gap between North Baddesley and Valley Park is substantial, with significant amounts of woodland between the two settlements. The appeal scheme would extend out into the Local Gap but, given the extent of the Local Gap and the contained nature of the site when viewed from a	Local Gap between North Baddesley & Valley Park	26.5.17

			<p>distance, the Inspector concludes that there would be no diminution of the sense of separation between North Baddesley and Valley Park, and that the integrity of the gap would not be compromised.</p> <p>However, the Inspector considered that the appeal proposal would have an adverse effect upon the character and appearance of the area.</p>		
Land at Woodside, Chilworth, Southampton	Two Dwellings (15/02824/OUTS)	Dismissed	The proposal would nibble away at the edge of what is a substantial gap, and, if allowed, it would make it difficult for the Council to resist other small incursions, the cumulative effect of which would be to compromise the integrity of the gap.	Southampton & Eastleigh Local Gap	20.3.17

Appendix 5: Table relating to appeal decisions relating to Countryside Gaps in Winchester City Council					
Location	Proposed development & application ref nos	Decision	Role of Countryside Gaps in decision	Strategic or local gap	Date of decision (the appeal decisions are listed in chronological order)
Sandy Hills Farm, Winchester Rd, Shedfield, Southampton	Mobile home for a temporary period of 3 years for occupation by an agricultural worker. (13/01871/FUL)	Allowed	Given the modest size of the mobile home I consider that its siting would not physically or visually diminish the Local Gap	Bishop's Waltham – Swanmore – Waltham Chase – Shedfield – Shirrell Heath Local Gap	22.4.14
Five Oaks Farm, Winchester Rd, Shedfield, Southampton	Replacement residential mobile home with detached 1 no. three bedroom dwelling (13/01607/FUL)	Dismissed	The development of the proposed dwelling, its associated double garage and driveway would have a detrimental impact as it would introduce built form which would both physically and visually diminish the gap.	Unspecified. States that the site falls within a settlement gap as identified in the LPP1	14.7.14
Woodburn Cottage, High St, Shirrell Heath, Southampton	Erection of new dwelling (14/00116/FUL)	Dismissed	The proposal would have a limited visual impact on the gap in which it is located. However, irrespective of whether the proposal would visually diminish the gap, it would be contrary to Policy CP18 of the LPP1 and Policy CE.2 of the LPR as it would physically diminish the gap that currently exists.	Settlement Gap & a Local Gap	18.11.14

1 Texas, Texas Drive, Oliver's Battery, Winchester	Demolition of existing dwelling & erection of replacement dwelling (14/00868/FUL)	Dismissed	The proposal would have an adverse impact in diminishing the gap, thereby conflicting with Policies CP18 and CE.2. In terms of the gap's primary function that adverse impact would not be very great but, even so, it is a negative rather than a positive factor.	Compton Street Local Gap	15.12.14
Oak Tree Farm, Hambleton Rd, Denmead, Waterloooville	Change of use of land from equestrian yard, barn and stabling to three pitch site comprising the stationing of three mobile homes for settled gypsy accommodation (14/00283/FUL)	Dismissed	Local Plan Policy CE.2 says that development that would physically or visually diminish a Local Gap will not be permitted. This is reiterated in Policy CP18 of the Core Strategy. Policy CP5 of the Core Strategy says that proposals for sites for gypsies and travellers should be consistent with other policies in the Local Plan and protect areas designated for their local importance such as Gaps. The proposals would harm the Local Gap. However, as the Council could not demonstrate a five year housing land supply, the principle factor was the harm to the living conditions of occupiers of adjoining dwellings.	Denmead/Waterlooville Local Gap	3.3.15
Melita, Lee Ground, Fareham	Demolition of 2 bedroom bungalow & erection of	Allowed	The Council confirmed that given the size of the properties on Lee Ground,	Strategic Meon Gap	29.4.15

	replacement 4 bedroom dwelling (14/01794/FUL)		the increase in built form arising from the proposal would not undermine the function of the gap. The Inspector shared that view		
Stares Farm, Solomon's Lane, Waltham Chase, Southampton	Pair of 4-bedroom semi-detached houses (14/01257/FUL)	Dismissed	The height and bulk of the new building would result in a greater presence of physical development which would erode this recognised gap between established settlements.	Bishop's Waldron – Swanmore – Waltham Chase – Shedfield – Shirrell Heath Settlement Gap	3.8.15
Oak Tree Farm, Hambledon Rd, Denmead, Waterlooville	Change of use of land from equestrian yard, barn and stabling to mixed use including single pitch site comprising the stationing of one mobile home for settled gypsy accommodation (14/00283/FUL)	Dismissed	The proposed development would consolidate the sporadic stretch of residential development along Hambledon Road to the substantial detriment of its character and appearance and of the openness of the Denmead-Waterlooville Gap, contrary to development plan policies aimed at protecting the character and appearance of the area and the openness of the Gap which is of primary importance in preventing the coalescence of the two built up areas.	Denmead/Waterville Local Gap	23.6.16
Land adj Lodge Green, Whitely Lane, Titchfield	Five bedroom detached dwelling (16/00142/FUL)	Dismissed	The site is a very small parcel of land within a large Strategic Gap and it does not assist in the intended role to	Meon Strategic Gap	12.1.17

			<p>define and retain the separate identity of settlements. These are characteristics which are very particular to the appeal site. As a result of these factors, the site no longer performs a role in the visual and physical separation of Whiteley and Fareham and the proposal would not diminish the Strategic Gap. For these reasons, the proposal would not be in conflict with Policy CP18 of the LPP1.</p> <p>It was, however, found to adversely affect the character & appearance of the area.</p>		
South View Park Homes, Oliver's Battery Gardens, Winchester	Change of use of the land from the storage of caravans to one for the siting of 8 residential park homes. (16/00013/FUL)	Dismissed	Inspector concludes that the principal of a permanent residential use of the site with 8 new park homes would not accord with the development strategy set out in the development plan and the proposal would also have a moderately harmful physical effect on the maintenance of the open gap contrary of Policy CP18.	Settlement Gap between Winchester & Compton Street	27.6.17

Land off Lee Ground to the East of Whiteley, Titchfield	80 bed care home (16/01994/FUL)	Dismissed	The proposal would result in a physical reduction in the size of the Gap. While I note that in terms of the Gap's overall area, the reduction would be small, the Gap in this location is around 1800m wide and a reduction of around 10% of its width would have a material impact. Even though I acknowledge that the appeal site is located along the periphery of the Gap, the explanatory text to Policy CP18 recognises that the land included within it performs an important role in defining the settlement character of the area and in separating settlements at risk of coalescence.	Whiteley-Fareham/Fareham Western Wards strategic gap	21.11.17
Land adj Alexandra Cottage, Lower Chase Rd, Swanmore	6 dwellings (16/02527/FUL)	Dismissed	By adding to the built up appearance of the area the proposed development would detract from the generally open and undeveloped nature of the Settlement Gap. Given the relatively small scale of the development the extent to which, taken in isolation, it would cause such harm would be limited. However, such arguments could be raised too frequently and cumulatively development of this type and scale within the	Settlement Gap between Swanmore and Bishop's Waltham.	11.12.17

			Settlement Gap would detract from the extent to which this area helps to define and retain the separate identity of Swanmore and Bishop's Waltham/Waltham Chase.		
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