

Proof of Evidence of Stephen Harris re: 5 Year Housing Land Supply
For Richborough | 26-099

Development of up to 600 dwellings - Land north of Little Green Lane, Croxley Green,
WD3 3SP

LPA ref: 24/2073/OUT; PINS ref: 6004972



Project: 26-099
Site Address: Three Rivers 5YHLS – Public Inquiry – Richborough
Client: Richborough
Date: July 2026
Author: Stephen Harris

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1. Introduction

- 1.1 This proof of evidence is submitted on behalf of Richborough (i.e. the Appellant) in support of their appeal against the decision of Three Rivers Council to refuse to grant outline planning permission for:

“Development of up to 600 residential dwellings (Use Class C3(a)), construction of a 5-bedroom property for childrens social care and supported living (Use Class C3(b)). Two vehicular access points from Little Green Lane and further pedestrian / cycleway accesses. A one form entry primary school (Use Class F1(a)) (plus expansion land for a two form entry primary school). A mixed use local centre including provision for NHS health and social care services (Use Class E(e)), community building (Use Class F2), retail and cafe provision (Use Class E(a-c)), car parking and associated infrastructure. A country park, areas for play and recreation, allotments, community orchard and landscaping with associated infrastructure including sustainable urban drainage systems. (Layout, scale, appearance and landscape as reserved matters).”

at land north of Little Green Lane, Croxley Green, WD3 3SP (LPA ref: 24/2073/OUT; PINS ref: 6004972).

- 1.2 This proof of evidence addresses the Council’s Five Year Housing Land Supply (5YHLS). It should be read alongside the proof of evidence of Cameron Austin-Fell, which deals with all other planning matters in relation to this appeal.
- 1.3 I address the 5YHLS position at 1st April 2025 in this proof of evidence. Should the Council update its 5YHLS position (i.e. to a base date of 1st April 2026) before the determination of this appeal, then I respectfully request the opportunity to comment on it on behalf of the Appellant.

Qualifications

- 1.4 I am Stephen Andrew Harris BSc (Hons) MRTPI. I have over 27 years’ experience in private practice. I am a Joint Managing Director of Emery Planning, based in Macclesfield, Cheshire.
- 1.5 I have extensive experience in dealing with housing supply matters and have prepared and presented evidence relating to five-year housing land supply calculations at Local Plan examinations and public inquiries across the country.
- 1.6 I understand my duty to the inquiry and have complied, and will continue to comply, with that duty. I confirm that this evidence identifies all facts which I regard as being relevant to the opinion that I have expressed, and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion. I believe that the facts stated within this proof are true and that the opinions expressed



are correct and comprise my true professional opinions which are expressed irrespective of by whom I am instructed.

Summary

1.7 The following matters in relation to 5YHLS are agreed:

- The base date for assessing the 5YHLS is 1st April 2025 and the 5YHLS period is to 31st March 2030;
- In accordance with paragraph 78 and footnote 39 of the Framework, the 5YHLS should be measured against the local housing need calculated using the standard method set out in the PPG. This is 752 dwellings per annum; and
- A 20% buffer should be applied.

1.8 The extent of the deliverable supply is not agreed. The Council considers the deliverable supply is 1,184 dwellings. I conclude that the deliverable supply is 533 dwellings. The reason for the difference of 651 dwellings is because the inclusion of the following sites and the windfall allowance is disputed:

Table 1.1 – Disputed sites

Site	Council's 5YHLS	Appellant's 5YHLS	Difference	Summary Reason
22/0601/OUT – Land at rear of 17-49 Church Lane, Sarratt	78	0	-78	The Council has not provided clear evidence for the inclusion of this category b) site.
H22 – Depot, Stockers Farm Road, Rickmansworth	60	0	-60	The Council has not provided clear evidence for the inclusion of this category b) site.
21/1872/PDR – Regus Building, Park Road, Rickmansworth	39	0	-39	Prior approval has expired on this site.
24/1265/PDM – Trinity Court, Church Street, Rickmansworth	38	0	-38	Prior approval not implemented. Full application for Class E use is pending determination.
22/1875/OUT – Knoll Oak, Sandy Lane, Northwood	28	0	-28	The Council has not provided clear evidence for the



Site	Council's 5YHLS	Appellant's 5YHLS	Difference	Summary Reason
				inclusion of this category b) site.
H17 – Police Station, Rectory Road, Rickmansworth	20	0	-20	The Council has not provided clear evidence for the inclusion of this category b) site.
22/1342/OUT – The Fairway Residential Home, Green Lane, Oxhey Hall	18	0	-18	The Council has not provided clear evidence for the inclusion of this category b) site.
23/0017/PDM – Batchworth House, Batchworth Place, Church Street, Rickmansworth	12	7	-5	Prior approval has expired on this site. A full application for 7 dwellings was approved after the base date.
H32 – Rear of Lytham Avenue, South Oxhey	20	10	-10	The Council has not provided clear evidence for the inclusion of this category b) site.
H8 – Royal British Legion, Church Lane, Sarratt	10	0	-10	The Council has not provided clear evidence for the inclusion of this category b) site.
22/0602/OUT – Land adjacent to 97 Church Lane, Sarratt	9	0	-9	The Council has not provided clear evidence for the inclusion of this category b) site.
24/0960/FUL – 42, The Fairway, Abbots Langley	2	-1	-3	The consented scheme results in a net loss of -1 C3 dwelling.
H15 – Garages rear of Drillyard, West Way, Rickmansworth	3	0	-3	The Council has not provided clear evidence for the inclusion of this category b) site.
Windfall allowance	330	0	-330	There is no compelling evidence to justify the



Site	Council's 5YHLS	Appellant's 5YHLS	Difference	Summary Reason
				inclusion of an additional windfall allowance.
Total	667	16	-651	

1.9 I therefore conclude that the deliverable supply in Three Rivers at 1st April 2025 is 533 dwellings. This equates to **0.59 years** and is a shortfall of almost 4,000 dwellings against the 5YHLS requirement, as shown in the table below.

Table 1.2 – Three Rivers' 5YHLS at 1st April 2025

	Requirement	Council	Appellant
A	Annual local housing need figure	752	752
B	Five year requirement	3,760	3,760
C	20% buffer	752	752
D	Total five year requirement including 20% buffer	4,512	4,512
E	Annual housing requirement including 20% buffer	902	902
	Supply		
F	Deliverable supply at 1 st April 2025	1,184	533
G	Supply in years (F / E)	1.31	0.59
H	Under/oversupply against the five year requirement (F – D)	-3,328	-3,979

1.10 The policy implications of this are addressed by Cameron Austin-Fell.



2. Planning policy context

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (“The Framework”) is a material consideration. The Framework sets out what a 5YHLS is, how it should be calculated and what the consequences are for failing to demonstrate a 5YHLS.

Development plan context

Existing development plan

- 2.2 The existing development plan comprises the Core Strategy (adopted 2011), the Site Allocations Local Development Document (adopted 2014) and the Development Management Policies Local Development Document (adopted 2013).

Emerging development plan

- 2.3 The Council is currently in the process of preparing a new local plan. On 27th January 2026 the Council resolved to proceed to Regulation 19 consultation with the draft Local Plan Parts 1 and 2. However, on 5th February 2026, the Housing Minister issued a Holding Direction to the Council which states:

“As it stands, your emerging plan proposes to meet only 56 per cent of the local housing needs identified by the standard method, leaving a shortfall of over 5,000 dwellings, with little explanation publicly available to justify this approach.

Section 20 of the Planning and Compulsory Purchase Act 2004 (the 2004 Act) requires local planning authorities to only submit a plan when they think it is ready for an independent examination. Your own committee report highlights a high risk that **the plan may fail at examination due to the scale of the shortfall in meeting housing need. As a result, I have little confidence that your emerging plan is satisfactory and capable of being found sound or legally compliant at examination.**

In light of this I have decided to exercise the Secretary of State’s powers under section 21A of the Planning and Compulsory Purchase Act 2004 (the 2004 Act) (inserted by section 145(5) of the Housing and Planning Act 2016), to direct Three Rivers not to take any step in connection with the adoption of the Plan, while I consider whether to give a direction in relation to the Plan under section 21 of the 2004 Act. This direction will remain in force until I withdraw it or give a direction under section 21 of the 2004 Act in relation to the Plan. I will also be considering directions under section 27 of the 2004 Act should this be necessary to drive the delivery of a sound plan.” [my emphasis]



2.4 The Housing Minister subsequently issued an Intervention Letter to the Council on 18 March 2026 which states:

“It is my firm view that the available evidence demonstrates that **the Council’s Regulation 19 draft plan fails to propose allocating all appropriate housing sites available that could contribute towards meeting housing need. The Council are therefore proposing a plan which is highly likely to be found unsound at examination.** On this basis, it is clear that the plan is unsatisfactory and that the Council is failing to do something necessary in respect of preparing the local plan. This meets the statutory test for intervention under section 21 and 27 of the 2004 Act.

I have also considered the criteria laid out in the Planning Practice Guidance (PPG), which states that intervention under S27 of the 2004 Act “should have regard to plan progress and local development needs”:

- Plan Progress: The current Three Rivers Local Plan, adopted in October 2011, is now almost 15 years old. It therefore stands as one of the oldest in the country and the policies it contains are likely to be significantly out of date. Progressing an unsatisfactory plan risks failure at examination and long delays until an up-to-date adopted plan is in place, with work having to restart in the new planning system. This would continue to leave the Council vulnerable to piecemeal and speculative development, with reduced public engagement and fewer guarantees that it will make the most of the area’s potential.
- Development needs: The Council has consistently delivered below the target set by the standard method. The latest Housing Delivery Test (HDT) 2023 is the 5th lowest in the Country with a score of 30%, putting the LPA in the presumption in favour of sustainable development. This is unlikely to change without the adoption of an up-to-date Local Plan. The Council area is also one of the least affordable in the country, with an affordability ratio of 12.3 - meaning the median house price is 12.3 times the median annual earnings - compared with the England average of 7.7. There continues to be a significant need for additional social and affordable housing delivery in the area, which is unlikely to be met whilst the Council does not have an up to date local plan.

Taking all of the above into account, I consider that the intervention criteria are met, and that intervention is justified.” [my emphasis]

2.5 The letter therefore sets out 9 directions to the Council, as follows:

1. Make modifications to include, as a minimum, additional site allocations lifting the requirement to approximately 85% of need.
2. Review and update the draft plan and evidence base in readiness for Regulation 19 consultation including where necessary to account for additional site allocations.
3. Commence a revised Regulation 19 consultation by 31st July 2026 for a minimum of 6 weeks.
4. Submit the plan with any proposed minor modifications by 30th November 2026.



5. Not to take any step to withdraw the plan and report monthly on the progress of the plan.
6. Progress the plan up to the end of the examination process.
7. On conclusion of the examination, publish the planning inspector's recommendations and reasons.
8. On conclusion of the examination, to consider adopting the plan including any main modifications recommended by the inspector deemed necessary to make the plan sound.
9. Publish a revised Local Development Scheme to reflect the above directions by 30th June 2026.

2.6 A revised local development scheme has not been published to date.

Other material considerations

National Planning Policy Framework

2.7 The Framework was published in March 2012. It was revised in July 2018, February 2019, July 2021, September 2023, December 2023, and most recently on 12th December 2024 (with minor updates on 7th February 2025).

2.8 The relevant sections of the revised Framework in relation to my proof of evidence are:

- Footnote 8 which explains that the tilted balance to the presumption in favour of sustainable development applies where a) a local planning authority cannot demonstrate a 5YHLS or b) where the Housing Delivery Test result is less than 75%;
- Section 5: Delivering a sufficient supply of homes, including:
 - Paragraph 61, which refers to the Government's objective of significantly boosting the supply of homes;
 - Paragraph 62, which explains that to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment calculated using the standard method set out in the PPG. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for;
 - Paragraph 75, in relation to an allowance for windfall sites;
 - Paragraph 78, which states:

"Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update



annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies³⁸ or against their local housing need where the strategic policies are more than five years old³⁹. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

- a) 5% to ensure choice and competition in the market for land; or
- b) 20% where there has been significant under delivery⁴⁰ of housing over the previous three years, to improve the prospect of achieving the planned supply; or
- c) From 1 July 2026, for the purposes of decision-making only, 20% where a local planning authority has a housing requirement adopted in the last five years examined against a previous version of this Framework⁴¹, and whose annual average housing requirement⁴² is 80% or less of the most up to date local housing need figure calculated using the standard method set out in national planning practice guidance.

- Footnote 39 states: "Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning practice guidance"

Footnote 40 states: "This will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement"

- Paragraph 79, in relation to Housing Delivery Test Action Plans and the policy consequences for failing the HDT.
- Annex 1: Implementation, including:
 - Paragraph 232, which explains that where a local planning authority can demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78) and where the Housing Delivery Test indicates that the delivery of housing is more than 75% of the housing requirement over the previous three years, policies should not be regarded as out-of-date on the basis that the most up to date local housing need figure (calculated using the standard method set out in planning practice guidance) is greater than the housing requirement set out in adopted strategic policies, for a period of five years from the date of the plan's adoption.
 - Annex 2: Glossary, including:
 - The definition of "deliverable" on page 72; and
 - The definition of "windfall sites" on page 80.



Planning Practice Guidance (PPG)

2.9 The relevant chapters of the PPG in relation to my proof of evidence are:

- Chapter 2a - Housing and economic needs assessment;
- Chapter 3 – Housing and economic land availability assessments; and
- Chapter 68 – Housing supply and delivery.

National Planning Policy Framework: proposed reforms

2.10 Between 16th December 2025 and 10th March 2026, the Government consulted on proposed reforms to the Framework. Key points of relevance are:

- LPAs will still be required to identify and update annually a supply of specific deliverable sites. This should be sufficient to provide a minimum of five years' worth of housing.
- This will be assessed against their housing requirement in the development plan, or against their local housing need (calculated using the standard method) where the development plan requirement is more than five years old.

2.11 The definition of 'deliverable' is not proposed to change significantly.

Housing Land Supply Update (24/25 Financial Year) – April 2026¹

2.12 The Council's position is that at 1st April 2025, the deliverable supply in Three Rivers at 1st April 2025 is 1,184 dwellings, which against the local housing need (calculated using the previous dwelling stock and affordability ratios) plus a 20% buffer equates to **1.185 years**.

¹ Core document **7.11**



3. What constitutes a deliverable site?

Previous National Planning Policy (2012) and Guidance (2014)

3.1 Footnote 11 of the 2012 Framework stated:

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

3.2 Paragraph 3-031 of the previous PPG (dated 6th March 2014): “What constitutes a ‘deliverable site’ in the context of housing policy?” stated:

“Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within 5 years.

However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the 5-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints (eg infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a 5-year timeframe.

The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust 5-year housing supply.”

3.3 Therefore, under the 2012 Framework, all sites with planning permission, regardless of their size or whether the planning permission was in outline or in full were to be considered deliverable until permission expired unless there was clear evidence that schemes would not be “implemented” within five years. The PPG went further by stating that allocated sites “could” be deliverable and even non-allocated sites without planning permission “can” be considered capable of being delivered.

3.4 The Government consulted on the draft revised Framework between March and May 2018. The draft revised Framework provided the following definition of “deliverable” in the glossary:



“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. Small sites, and sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (e.g. they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

3.5 Question 43 of the Government’s consultation on the draft revised Framework asked: “do you have any comments on the glossary?”

3.6 There were 750 responses to question 43 of the consultation. Some of the points raised included:

“Local authorities called for the proposed definition of ‘deliverable’ to be reconsidered, as it may result in them being unable to prove a five year land supply and place additional burdens on local authorities to produce evidence. Private sector organisations were supportive of the proposed definition.” (emphasis added)

3.7 The government’s response was as follows:

“The Government has considered whether the definition of ‘deliverable’ should be amended further, but having assessed the responses it has not made additional changes. This is because **the wording proposed in the consultation is considered to set appropriate and realistic expectations for when sites of different types are likely to come forward.**” (emphasis added)

Current National Planning Policy and Guidance

3.8 The definition of “deliverable” is set out on page 72 of the Framework (December 2024) and states:

“Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified



on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

3.9 The definition of deliverable was not amended in the revised Framework published in December 2024.

3.10 The PPG was most recently updated on 12 December 2024. Paragraph 68-007 of the PPG² provides some examples of the types of evidence, which could be provided to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission. It states:

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- have outline planning permission for major development;
- are allocated in a development plan;
- have a grant of permission in principle; or
- are identified on a brownfield register.

Such evidence, to demonstrate deliverability, may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;
- firm progress with site assessment work; or
- clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.

Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites.”

² Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”



Assessment

- 3.11 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition in the current Framework is clear that sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). It also states that those sites with outline planning permission or allocations without planning permission should only be considered deliverable where there is clear evidence that housing completions will begin in five years.
- 3.12 As above, the PPG has been updated to provide some examples of the type of evidence which may be provided to be able to consider that sites with outline planning permission for major development, allocated sites and sites identified on a brownfield register are deliverable.

Three Rivers' approach to "clear evidence"

- 3.13 The change to the definition of deliverable since the 2012 version of the Framework is significant in this case because the Council relies on category b) sites in its 5YHLS.
- 3.14 No clear evidence was provided alongside the Council's trajectory when it was published. The Council's position statement provides limited and generic commentary about the deliverability of sites i.e., simply stating that a site is available and achievable within the 5 year period.
- 3.15 The onus is on the Council to provide clear evidence of deliverability for category b) sites. This was confirmed in a decision dated 28th September 2018 soon after the definition of "deliverable" was made relating to an appeal made by Landex Ltd against the decision of Mid Suffolk District Council to refuse to grant outline planning permission for up to 49 dwellings at land on east side of Green Road, Woolpit³. Paragraph 65 of the appeal decision states:

"The NPPF 2018 provides specific guidance in relation to the calculation of the five years supply but specifically with regard to qualifying sites, the Glossary definition of 'Deliverable' in Annex 2 goes further than its predecessor. Small sites and those with detailed permission should be considered deliverable until permission expires unless there is clear evidence that they will not be delivered. Sites with outline permission, or those sites that have been allocated, should only be considered deliverable where there is clear evidence that housing completions will begin on sites within five years.

³ PINS ref: 3194926 – 28th September 2018 – core document 5.6



The onus is on the LPA to provide that clear evidence for outline planning permissions and allocated sites.” (my emphasis added)

3.16 Paragraph 68 of the same appeal decision states:

“Sites with outline planning permission make up a very large proportion of the Council’s claimed supply. The onus is on the Council to provide the clear evidence that each of these sites would start to provide housing completions within 5 years. I accept that there was clear evidence of what was necessary on one site provided in Mr Robert’s evidence and so the 200 dwellings in respect of that site should be added to the Appellant’s supply calculations. As for the other 1,244 dwellings with outline permission, the Council has not even come close to discharging the burden to provide the clear evidence that is needed for it to be able to rely upon those sites.” (my emphasis added)

3.17 I make the following general points with reference to relevant appeal decisions where the definition of “deliverable” and “clear evidence” have been considered.

Relevant appeal decisions

3.18 There have been several appeal decisions which have considered the definition of “deliverable” as set out in the 2023 version of the Framework and whether “clear evidence” has been provided for the inclusion of sites which only have outline planning permission for major development or are allocated without planning permission. Whilst each appeal has been determined on a case by case basis on the evidence before the decision-maker, several themes have arisen in appeal decisions, which we discuss below.

The absence of any written evidence

3.19 Where no evidence has been provided for the inclusion of category b) sites, the Secretary of State and Inspectors have concluded that these sites should be removed. For example:

- In an appeal decision regarding land off Audlem Road, Stapeley, Nantwich and land off Peter De Stapeleigh Way, Nantwich⁴, the Secretary of State removed 301 dwellings from Cheshire East Council’s supply from sites including: *“sites with outline planning permission which had no reserved matters applications and no evidence of a written agreement”* (paragraph 21 of the decision letter dated 15th July 2020);
- In an appeal decision regarding land to the south of Cox Green Road, Surrey⁵ an Inspector removed 563 dwellings on 24 sites from Waverley Council’s supply because the Council had not

⁴ PINS refs: 2197532 and 2197529

⁵ PINS ref: 3227970



provided any evidence for their inclusion (paragraphs 22 to 24 of the appeal decision dated 16th September 2019);

- In an appeal decision regarding land at Station Road, Stalbridge, North Dorset⁶ an Inspector removed 2 large sites from North Dorset's supply (references A02 and A04) because the Council had not provided any up to date information from the developers for these sites and applications for reserved matters had not been made (paragraphs 53 and 57); and
- In an appeal decision regarding land within the Westhampnett / North East Strategic Development Location, North of Madgwick Lane, Chichester⁷, an Inspector removed the second phase of a wider site that is under construction on the basis that an application for reserved matters had not been made for phase 2 and the fact that a major housebuilder was progressing phase 1 was not in itself clear evidence (paragraph 82).

The most up to date evidence

3.20 Paragraph 68-004 of the PPG⁸ explains that for decision-taking purposes, an authority will need to be able to demonstrate a five year housing land supply when dealing with applications and appeals. They can do this in one of two ways:

- *"using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);*
- *'confirming' the 5 year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework)."*

3.21 In this case, the Council's five year housing land supply has not been confirmed through a recently adopted plan or an annual position statement and therefore the latest available evidence should be used. As above, paragraph 68-007 of the PPG also states that *"robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions"*. It also states that the "current" planning status of a site is one example of the type of evidence that could be used to support the inclusion of category b) sites. Therefore, the latest available evidence should be used but this is only in relation to sites already in the supply.

⁶ PINS ref: 3284485

⁷ PINS ref: 3270721

⁸ Paragraph: 004 Reference ID: 68-004-20190722: *"How can an authority demonstrate a 5 year supply of deliverable housing sites?"*



3.22 In an appeal regarding land on the east side of Green Road, Woolpit⁹, the Inspector found Mid Suffolk Council's approach in publishing its AMR and then retrospectively seeking evidence to justify its position "wholly inadequate". Paragraph 70 of the appeal decision states:

"the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published."

3.23 However, evidence can post date the base date to support the sites in the deliverable supply and not seek to introduce new sites. In an appeal regarding land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands (Milton Keynes)¹⁰, the Secretary of State agreed with Inspector Gilbert-Woolridge that the latest available evidence should be used when considering deliverability. Paragraph 12 of the Secretary of State's decision letter dated 25th June 2020 states:

"For the reasons given at IR12.8-12.12 the Secretary of State agrees with the Inspector that it is acceptable that the evidence can post-date the base date provided that it is used to support sites identified as deliverable as of 1 April 2019 (IR12.11)".

3.24 Similarly, in a decision regarding land off Darnhall School Lane, Winsford¹¹, the Secretary of State agreed with Inspector Middleton that it is appropriate to take into account information received after the base date if it affects sites included in the deliverable supply¹².

3.25 This means that where sites have not progressed as the Council's trajectory claimed at the time the position statement was published, the supply should be reduced. In the Audlem Road appeal¹³, the Secretary of State removed from Cheshire East Council's supply;

"a site where there is no application and the written agreement indicates an application submission date of August 2019 which has not been forthcoming, with no other evidence of progress". (paragraph 21 of the Decision Letter dated 15th July 2020)

3.26 Cheshire East Council's Housing Monitoring Update (HMU) had a base date of 31st March 2019 and was published in November 2019. Representations by both parties on the HMU were received with the final comments received on 12th February 2020 (DL paragraph 7). Therefore, whilst the written evidence for this site explained a planning application would be made on this site in August 2019 because the

⁹ PINS ref: 3194926

¹⁰ PINS ref: 3169314

¹¹ PINS ref: 2212671

¹² Paragraph 344 of the Inspector's Report and paragraph 15 of the Decision Letter.

¹³ PINS refs: 2197532 and 2197529



application was not forthcoming by the time the decision was made and no other evidence of progress had been provided, the Secretary of State removed the site from the supply.

The form and value of the evidence

- 3.27 In the Woburn Sands appeal decision referred to above, the Secretary of State agreed with the Inspector that a proforma can, in principle, provide clear evidence of a site's deliverability (please see paragraph 12 of the decision letter and paragraphs 12.13 to 12.15 of the Inspector's Report). However, the evidential value of the written information is dependent on its content. The Secretary of State and Inspectors have concluded that it is simply not sufficient for Councils to provide agreement from landowners and promoters that their intention is to bring sites forward. The evidence needs to provide a realistic prospect that housing will be delivered on the site within five years.
- 3.28 For example, in allowing an appeal for 120 dwellings at land east of Gleneagles Way, Hatfield Peverel¹⁴, the Secretary of State found Braintree Council could not demonstrate a five year housing land supply.
- 3.29 Braintree Council claimed that it could demonstrate a 5.29 year supply. In determining the appeal, the Secretary of State concluded that the Council could only demonstrate a 4.15 year supply. The reason for this is set out in paragraph 41 of the decision letter (page 7), which states:
- “Having reviewed the housing trajectory published on 11 April, the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more, and sites without planning permission do not meet the requirement in the Framework Glossary definition of “deliverable” that there be clear evidence that housing completions will begin on site within five years. He has therefore removed ten sites from the housing trajectory”
- 3.30 The ten removed sites are listed in a table provided at Annex D on page 24 of the Secretary of State's decision letter. Of the ten sites removed from Braintree's supply, 9 had outline planning permission and the remaining site was an allocated site with a hybrid planning application pending determination. For these sites, Braintree Council had submitted completed forms and emails from landowners, developers and their agents providing the timescales for the submission of reserved matters applications and anticipated build rates. However, the Secretary of State removed these sites because he did not consider they met the definition of “deliverable” as set out in the Framework.
- 3.31 As part of its case in seeking to defend an appeal against its decision to refuse to grant outline planning permission for up to 140 no. dwellings at land off Popes Lane, Sturry¹⁵, Canterbury City Council claimed

¹⁴ PINS ref: 3180729

¹⁵ PINS ref: 3216104



that it could demonstrate a 6.72 year supply. For there to be a shortfall in the supply, Canterbury Council claimed that some 1,654 dwellings (out of 6,455 dwellings) would have to be removed from the “deliverable” supply.

- 3.32 The Inspector, however, found that the Council could not demonstrate a five year housing land supply. The Inspector concluded that the deliverable supply was 4,644 dwellings, which equates to 4.8 years. The reason why the Inspector concluded that the deliverable supply was 1,811 dwellings (28%) less than the Council claimed was because he found that 10 sites should be removed from the supply because:

“there is insufficient clear evidence to show that they meet the NPPF’s definition of deliverable. Sites which are not deliverable cannot be counted as part of the supply for the purposes of meeting the 5-year requirement.” (paragraph 23)

- 3.33 In this case, Canterbury Council had provided statements of common ground between the Council and the developer or landowner to support the inclusion of several of the disputed sites. However, the Inspector found that the statements of common ground did not demonstrate that the development prospect was realistic. Paragraph 23 of the appeal decision states:

“For a number of the disputed sites, the Council’s evidence is founded on site-specific SCGs which have been agreed with the developer or landowner of the site in question. I appreciate that the PPG refers to SCGs as an admissible type of evidence, and I have had full regard to that advice. But nevertheless, the evidential value of any particular SCG in this context is dependent on its content. In a number of cases, the SCGs produced by the Council primarily record the developer’s or landowner’s stated intentions. Without any further detail, as to the means by which infrastructure requirements or other likely obstacles are to be overcome, and the timescales involved, this type of SCG does not seem to me to demonstrate that the development prospect is realistic. In addition, most of the site-specific SCGs are undated, thus leaving some uncertainty as to whether they represent the most up-to-date position.”

- 3.34 Similarly, as part of its case in seeking to defend an appeal made by Parkes Ltd against its decision to refuse to grant outline planning permission for up to 53 dwellings at land to the south of Cox Green Road, Rudgwick¹⁶, Waverley Council claimed it could demonstrate a supply of 5,708 dwellings, which equated to just under 5.2 years against its housing requirement and buffer.
- 3.35 The Inspector concluded that the supply should be reduced by 928 dwellings and therefore that Waverley Council could only demonstrate a “deliverable” supply of 4.3 years. The reasons why the Inspector considered the supply should be reduced are set out in paragraphs 10 to 27 of the appeal decision. We note that whilst Waverley Council’s assumptions of delivery on a site at Dunsfold Park relied on estimated numbers of delivery from a pro-forma returned by the site’s lead developer, the Inspector however

¹⁶ PINS ref: 3227970



considered that the details contained within it were “scant”. There was no explanation as to how the timings of delivery could be achieved including the intended timescales for submitting and approving reserved matters, applications of discharge of conditions, site preparation and installing infrastructure. The Inspector therefore did not include the site.

3.36 In an appeal decision dated 25th August 2022 regarding an appeal made by Salter Property Investments Ltd against the decision of Exeter City Council to refuse to grant outline planning permission for up to 93 dwellings at land off Spruce Close, Exeter¹⁷, the Inspector found:

- The pro-formas used by Exeter were undated, unsigned and deficient (paragraph 39);
- That 2 sites with outline planning permission and no reserved matters applications pending, and no clear evidence for their inclusion should be removed (paragraphs 40 and 41); and
- That even where reserved matters application had been made, where those applications are subject to outstanding objections and there is no written agreement with the developer, the sites should not be included because no clear evidence had been provided (paragraphs 42 and 43).

3.37 In summary, the above appeal decisions found that sites with outline planning permission for major development and allocated sites without planning permission should not be included in the deliverable supply where the respective Councils had failed to provide the clear evidence required. In some cases those Councils had provided proformas and other evidence from those promoting sites, and Inspectors and the Secretary of State found this not to be clear evidence.

¹⁷ PINS ref: 3292721



4. Matters agreed re: 5YHLS

4.1 The following matters are agreed in relation to 5YHLS.

The base date and the 5YHLS period

- 4.2 The base date is the start date for the five year period for which both the requirement and supply should relate. It is agreed that the relevant base date for assessing the 5YHLS for the purposes of this appeal is 1st April 2025 and the relevant 5YHLS period is to 31st March 2030.
- 4.3 The Council should not attempt to include any new sites which are not already within its schedule of sites. This would effectively mean changing the base date to beyond 1st April 2025. Within this context, there have been several appeal decisions, which have found such an approach to be inappropriate.
- 4.4 A recent example is dated 16th December 2025 and relates to an appeal made by Richborough against the decision of Cherwell District Council to refuse to grant outline planning permission for up to 99 no. dwellings at land west of Fringford Road, Caversfield¹⁸. In that case, Cherwell District Council sought to rely on the inclusion of sites that had become “deliverable” since the base date – specifically, those allowed on appeal. The Inspector disagreed. Paragraphs 14 and 15 of the appeal decision states:

“14. A key point made by the appellant relates to the defined period for calculations. Essentially, that a base date is set and the figures should be based on that point in time. I agree with that view as new sites coming forward after that base date should not be counted unless a total recalculation is undertaken thereby creating a new base date. This is because adding new deliverable sites is only one side of the equation as other sites may be being lost from being deliverable, for instance because the land is used for other purposes or development stalls because of unanticipated problems. In this respect I concur with the views of my Inspector colleague in the ‘Woolpit’ decision.

15. The Council considers that where the need for housing has resulted in dwellings being allowed on appeal those dwellings should form part of the deliverable sites. However, for the reasons set out above they will form part of the supply when it is next calculated. I am aware that some planning authorities recalculate housing land supply more than annually but in this case it seems that those sites will form part of the data for the 5 year HLS starting on 1 April 2025, even if these dwellings could be delivered before 31 March 2029.”

- 4.5 A further example is dated 22nd March 2021 and relates to an appeal made by Wates Developments Ltd against the decision of Tonbridge & Malling Borough Council to refuse to grant outline planning permission

¹⁸ PINS ref: 3355576 – core document 5.8



for up to 250 no. dwellings at land west of Winterfield Lane, East Malling. In that case, the Tonbridge & Malling Council sought to rely on the inclusion of sites that had become “deliverable” since the base date. The Inspector disagreed. Paragraph 9 of the appeal decision states:

“Whilst I see merit in using information that becomes available after the base date to inform deliverability, I note that the Inspector in Woburn Sands was referring solely to sites that were already identified in the housing supply at the base date, in line with the approach taken in Woolpit. Indeed, he noted that to do otherwise would skew the housing supply. I share this view. An assessment of housing supply which introduces new sites would only be accurate if it also took account of lapsed sites, completions and other factors which might reduce sites at that point in time. The Council have not been in a position to supply all of this information and have not reviewed the phasing of extant permissions or indeed all of the permissions granted subsequent to the base date. I therefore have no confidence that the Council’s approach would provide an accurate assessment of the actual state of supply in the district and I must therefore rely instead on the Council’s previous position as of 1st April 2019 as a starting point.”

4.6 Reference is made to the decision in relation to an appeal made by Wavendon Properties Ltd against the decision of Milton Keynes Council to refuse to grant outline planning permission for a mixed use development including up to 203 dwellings at land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands¹⁹. In that appeal, the Secretary of State agreed with Inspector Gilbert-Wooldridge that whilst evidence which post-dated the base date was acceptable, this was only in relation to sites already in the schedule of sites. New sites should not be added after the base date²⁰.

4.7 Reference is also made to the Woolpit appeal decision²¹. Paragraph 67 of that appeal decision states:

“The inclusion of sites beyond the cut-off date skews the data by overinflating the supply without a corresponding adjustment of need.”

4.8 The Woburn Sands appeal decision made reference to an appeal made by the Darnhall Estate against the decision of Cheshire West and Chester Council to refuse to grant residential development for up to 184 dwellings at land off Darnhall School Lane, Winsford²². In that case, the Secretary of State agreed with Inspector Middleton and the appellant’s evidence that it would be inappropriate for new sites to be included after the base date and that their insertion should await the next full review of the housing land supply position²³. Paragraph 344 of the Inspector’s Report states:

¹⁹ PINS ref: 3169314

²⁰ Please see DL paragraph 12 and IR paragraph 12.12

²¹ PINS ref: 3194926 – core document **5.7**

²² PINS ref: 2212671 – core document **5.9**

²³ Please see DL paragraph 15 and IR paragraph 344



“There is a dispute about the introduction of post-base date information by the Council in its review of the April 2018 assessment for the purpose of this Inquiry [ID 17]. Whilst I agree that it is not appropriate to introduce new sites at this stage, their insertion should await the next full review, it is nevertheless appropriate to take into account information received after 1 April 2018 if it affects sites that were in the last full assessment. Subsequent information that supports a pre-base date judgement should not normally be ignored [IR 85, 130 & 131].” (emphasis added)

4.9 Paragraph 15 of the decision letter states:

“The Secretary of State has gone on to consider the issue of supply. In doing so he has had regard to his guidance on deliverability issued 22 July 2019. For the reasons given at IR341-344 the Secretary of State agrees with the Inspector’s conclusions on preliminary points.”

The figure the 5YHLS should be measured against

4.10 In accordance with paragraph 78 of the Framework and footnote 39 of the Framework, it is agreed that the 5YHLS should be measured against the local housing need calculated using the standard method set out in the PPG. This is 752 dwellings per annum.

The buffer

4.11 The 2023 HDT results confirm that the Council achieved a result of just 30%. Therefore, in accordance with paragraph 78 of the Framework, the 20% buffer applies.



5. Matters not agreed – the “deliverable” supply

5.1 With reference to the definition of deliverable in the Framework, the associated guidance set out in the PPG and the appeal decisions I have referred to in section 3 of my proof of evidence, I dispute the inclusion of the following sites:

Table 5.1 – Disputed sites

Site	Council's 5YHLS	Appellant's 5YHLS	Difference	Summary Reason
22/0601/OUT – Land at rear of 17-49 Church Lane, Sarratt	78	0	-78	The site only has outline planning permission. The Council has not provided clear evidence for the inclusion of this category b) site.
H22 – Depot, Stockers Farm Road, Rickmansworth	60	0	-60	The site does not have planning permission. The Council has not provided clear evidence for the inclusion of this category b) site.
21/1872/PDR – Regus Building, Park Road, Rickmansworth	39	0	-39	Prior approval has expired on this site.
24/1265/PDM – Trinity Court, Church Street, Rickmansworth	38	0	-38	Prior approval not implemented. Full application for Class E use is pending determination.
22/1875/OUT – Knoll Oak, Sandy Lane, Northwood	28	0	-28	The site only has outline planning permission. The Council has not provided clear evidence for the inclusion of this category b) site.
H17 – Police Station, Rectory Road, Rickmansworth	20	0	-20	The site does not have planning permission. The Council has not provided clear evidence for the

Site	Council's 5YHLS	Appellant's 5YHLS	Difference	Summary Reason
				inclusion of this category b) site.
22/1342/OUT – The Fairway Residential Home, Green Lane, Oxhey Hall	18	0	-18	The site only has outline planning permission. The Council has not provided clear evidence for the inclusion of this category b) site.
23/0017/PDM – Batchworth House, Batchworth Place, Church Street, Rickmansworth	12	7	-5	Prior approval has expired on this site. A full application for 7 dwellings was approved after the base date.
H32 – Rear of Lytham Avenue, South Oxhey	20	10	-10	The site does not have planning permission. The Council has not provided clear evidence for the inclusion of this category b) site.
H8 – Royal British Legion, Church Lane, Sarratt	10	0	-10	The site does not have planning permission. The Council has not provided clear evidence for the inclusion of this category b) site.
22/0602/OUT – Land adjacent to 97 Church Lane, Sarratt	9	0	-9	The site only has outline planning permission. The Council has not provided clear evidence for the inclusion of this category b) site.
24/0960/FUL – 42, The Fairway, Abbots Langley	2	-1	-3	The consented scheme results in a net loss of -1 C3 dwelling.
H15 – Garages rear of Drillyard, West Way, Rickmansworth	3	0	-3	The site does not have planning permission. The Council has not provided clear evidence for the

Site	Council's 5YHLS	Appellant's 5YHLS	Difference	Summary Reason
				inclusion of this category b) site.
Total	337	16	-321	

5.2 I set out my assessment of these sites below.

22/0601/OUT – Land at rear of 17-49 Church Lane, Sarratt

Capacity = 78 dwellings, Council's 5YHLS = 78 dwellings

5.3 At the base date, the site only had outline planning permission. The Council's trajectory states that the site will deliver as follows:

2025/26	2026/27	2027/28	2028/29	2029/30	Total 5YHLS
0	27	27	24	0	78

Current planning status?

- 5.4 An outline planning application for up to 83 dwellings and a new doctor's surgery was refused by the Council on 05 October 2022 and allowed at appeal on 3rd May 2024 (ref: 22/0601/OUT).
- 5.5 No reserved matters applications have been submitted to date.

Firm progress being made towards the submission of an application?

- 5.6 No clear evidence has been provided to demonstrate that firm progress is being made towards the submission of a reserved matters application. The Council's evidence for the inclusion of the site in the 5YHLS simply states:

"Site is available; planning permission granted so is suitable. Site considered achievable within 5 year period."

Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

- 5.7 No written agreement between the Council and developer has been provided.



Firm progress with site assessment work?

- 5.8 No clear evidence of any firm progress with site assessment work has been provided.

Clear relevant information about viability, ownership constraints or infrastructure provision?

- 5.9 No evidence has been provided.

Summary

- 5.10 The site only has outline planning permission. No reserved matters applications have been made to date, nor is there any clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application.
- 5.11 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. In the absence of clear evidence, the site fails to meet the definition of “deliverable” as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **78 dwellings** from the Council’s supply.

H22 – Depot, Stockers Farm Road, Rickmansworth

Capacity = 60 dwellings, Council’s 5YHLS = 60 dwellings

- 5.12 At the base date, the site did not have planning permission. The site is allocated in the Site Allocations Local Development Document for 60 dwellings. The Council’s trajectory states that the site will deliver as follows:

2025/26	2026/27	2027/28	2028/29	2029/30	Total 5YHLS
0	0	30	30	0	60

Current planning status?

- 5.13 The site does not have planning permission. No planning applications have been submitted to date.

Firm progress being made towards the submission of an application?

- 5.14 No evidence has been provided to suggest that progress is being made towards the submission of an application. The Council has not provided any evidence in relation to this site.



Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

- 5.15 No written agreement between the Council and developer has been provided.

Firm progress with site assessment work?

- 5.16 No clear evidence of any firm progress with site assessment work has been provided.

Clear relevant information about viability, ownership constraints or infrastructure provision?

- 5.17 No evidence has been provided.

Summary

- 5.18 The site does not have planning permission. No planning applications have been submitted to date, nor is there any evidence to suggest that progress is being made towards the submission of an application.
- 5.19 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. In the absence of clear evidence, the site fails to meet the definition of “deliverable” as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **60 dwellings** from the Council’s supply.

21/1872/PDR – Regus Building, Park Road, Rickmansworth

Capacity = 39 dwellings, Council’s 5YHLS = 39 dwellings

- 5.20 At the base date, the site had prior approval for the change of use from offices to 39 dwellings.

Current planning status?

- 5.21 A prior approval application for the change of use from offices to 39 dwellings was approved on 30 November 2022. The decision notice states that the development must be completed within 3 years, i.e., by 30 November 2025.
- 5.22 However, the site is still in active use as an office, with office space currently advertised to let on Knight Frank and Regus’ websites²⁴. The prior approval expired in November 2025.
- 5.23 No further planning applications have been submitted to date.

²⁴ <https://www.knightfrank.co.uk/office-space/space/rickmansworth-cardinal-point-park-road-val2400778/>,
<https://www.regus.com/en/gb/395>



Firm progress being made towards the submission of an application?

- 5.24 No evidence has been provided to suggest that progress is being made towards the submission of an application. The Council's evidence in relation to this site simply states:

“Site is available; planning permission granted so is suitable. Site considered achievable within 5 year period.”

- 5.25 However, as set out above, the permission has now expired.

Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

- 5.26 No written agreement between the Council and developer has been provided.

Firm progress with site assessment work?

- 5.27 No clear evidence of any firm progress with site assessment work has been provided.

Clear relevant information about viability, ownership constraints or infrastructure provision?

- 5.28 No evidence has been provided.

Summary

- 5.29 The site had prior approval for the change of use from offices; however, this expired after the base date. As such, the site does not have planning permission. No planning applications have been submitted to date, nor is there any evidence to suggest that progress is being made towards the submission of an application.
- 5.30 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. In the absence of clear evidence, the site fails to meet the definition of “deliverable” as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **39 dwellings** from the Council's supply.

24/1265/PDM – Trinity Court, Church Street, Rickmansworth

Capacity = 38 dwellings, Council's 5YHLS = 38 dwellings

- 5.31 At the base date, the site had prior approval for the change of use from offices to 38 dwellings.



Current planning status?

5.32 A prior notification application for the change of use from Class E to 38 dwellings was approved on 28 October 2024 (ref: 24/1265/PDM).

5.33 However, the site is currently advertised as an office to rent as of July 2026 on David Charles' website²⁵. As such, the prior approval has not been implemented to date.

5.34 Further, a full planning application for alterations to the elevations of the raised ground floor level to the adjacent building to remove 22 car parking spaces and utilise additional floorspace for Class E use was submitted on 27th January 2026 and approved on 28th May 2026 (LPA ref: 26/0122/FUL). The planning statement submitted with the application states:

"The site specifically relates to Trinity Court, currently used as a three-storey office building.

The proposal will incorporate additional commercial space under Class E. The site is currently Class E and therefore a change of use is not necessary."

5.35 The application was considered at planning committee on 27th May 2026. Paragraph 5.5 of the committee report states:

"Officers acknowledge that a **separate permission 24/1265/PDM was permitted on the basis that the car park, subject of this application, was retained in this use**. Officers note that **this permission has not been implemented**. The acceptability of this current application is assessed on its own merit. If any further permission is granted, the applicant will be reminded that **multiple permissions cannot be implemented, particularly if the reasons that they were found acceptable conflict with one another**." [my emphasis]

5.36 As such, the prior approval for 38 dwellings was granted on the basis that the existing car park would be retained. However, the car park is now proposed for commercial use. As set out above, multiple permissions cannot be implemented, particularly if the reasons that they were found acceptable conflict with one another.

5.37 Therefore, **38 dwellings** should be removed from the Council's supply.

²⁵ <https://davidcharles.co.uk/property/336234-trinity-court-church-street-rickmansworth-wd3-1rt/>



22/1875/OUT – Knoll Oak, Sandy Lane, Northwood

Capacity = 28 dwellings, Council's 5YHLS = 28 dwellings

5.38 At the base date, the site only had outline planning permission.

Current planning status?

5.39 An outline planning application for the demolition of existing buildings and the erection of 29 flats was approved on 17th July 2024 (ref: 22/1875/OUT).

5.40 No reserved matters applications have been submitted to date.

Firm progress being made towards the submission of an application?

5.41 No clear evidence has been provided to demonstrate that firm progress is being made towards the submission of a reserved matters application. The Council's evidence for the inclusion of the site in the 5YHLS simply states:

“Site is available; planning permission granted so is suitable. Site considered achievable within 5 year period.”

Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

5.42 No written agreement between the Council and developer has been provided. The outline application was not made by a developer.

Firm progress with site assessment work?

5.43 No clear evidence of any firm progress with site assessment work has been provided.

Clear relevant information about viability, ownership constraints or infrastructure provision?

5.44 No evidence has been provided.

Summary

5.45 The site only has outline planning permission. No reserved matters applications have been made to date, nor is there any evidence to suggest that progress is being made towards the submission of a reserved matters application.

5.46 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. In the absence of clear evidence, the site fails to meet the definition of “deliverable” as set out on



page 72 of the Framework and should be removed from the supply. This results in a reduction of **28 dwellings** from the Council's supply.

H17 – Police Station, Rectory Road, Rickmansworth

Capacity = 20 dwellings, Council's 5YHLS = 20 dwellings

- 5.47 At the base date, the site did not have planning permission, nor has consent been granted to date. The site is allocated in the Site Allocations Local Development Document for 20 dwellings.

Current planning status?

- 5.48 The site does not have planning permission. No planning applications have been submitted to date.

Firm progress being made towards the submission of an application?

- 5.49 No clear evidence has been provided to demonstrate that firm progress is being made towards the submission of a planning application.

Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

- 5.50 No written agreement between the Council and developer has been provided. The Council has not provided any evidence in relation to this site.

Firm progress with site assessment work?

- 5.51 No clear evidence of any firm progress with site assessment work has been provided.

Clear relevant information about viability, ownership constraints or infrastructure provision?

- 5.52 No evidence has been provided.

Summary

- 5.53 The site does not have planning permission. No planning applications have been submitted to date, nor is there any evidence to suggest that progress is being made towards the submission of an application.
- 5.54 The Council has not provided "clear evidence that housing completions will begin on the site within five years". In the absence of clear evidence, the site fails to meet the definition of "deliverable" as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **20 dwellings** from the Council's supply.



22/1342/OUT – The Fairway Residential Home, Green Lane, Oxhey Hall

Capacity = 18 dwellings, Council's 5YHLS = 18 dwellings

5.55 At the base date, the site only had outline planning permission.

Current planning status?

5.56 An outline planning application for the demolition of the former care home and erection of up to 24 dwellings was approved on 30 June 2023 (ref: 22/1342/OUT).

5.57 No reserved matters applications were made and the outline permission expired on 30th June 2026.

Firm progress being made towards the submission of an application?

5.58 No evidence has been provided to suggest that progress is being made towards the submission of a new application. The Council's evidence for the inclusion of the site in the 5YHLS simply states:

"Site is available; planning permission granted so is suitable. Site considered achievable within 5 year period."

Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

5.59 No written agreement between the Council and developer has been provided. The outline application was not made by a developer (it was made by Hertfordshire County Council).

Firm progress with site assessment work?

5.60 No clear evidence of any firm progress with site assessment work has been provided.

Clear relevant information about viability, ownership constraints or infrastructure provision?

5.61 No evidence has been provided.

Summary

5.62 The site does not have planning permission. The outline permission expired in June 2026.

5.63 The Council has not provided "clear evidence that housing completions will begin on the site within five years". In the absence of clear evidence, the site fails to meet the definition of "deliverable" as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **18 dwellings** from the Council's supply.



23/0017/PDM – Batchworth House, Batchworth Place, Church Street, Rickmansworth

Capacity = 12 dwellings, Council's 5YHLS = 12 dwellings

- 5.64 At the base date, the site had prior approval for the change of use from offices to 12 flats.

Current planning status?

- 5.65 A prior notification application for the change of use from offices to 12 flats was approved on 12 April 2023 (ref: 23/0017/PDM). However, the development was not implemented and the prior approval expired in April 2026.
- 5.66 A full planning application for the construction of additional storeys to the existing commercial building to create 7 flats was approved on 27 May 2025 (ref: 24/1361/FUL). The officer's report confirms that the prior approval was not implemented and that the site was last used as an office.
- 5.67 As such, the site has full planning permission for 7 dwellings. Therefore, **5 dwellings** should be removed from the Council's supply.

H32 – Rear of Lytham Avenue, South Oxhey

Capacity = 20 dwellings, Council's 5YHLS = 10 dwellings

- 5.68 At the base date, the site did not have planning permission for residential development. The site is allocated in the Site Allocations Local Development Document for 20 dwellings.

Current planning status?

- 5.69 A full planning application for an adult day service facility was approved on part of the site by Hertfordshire County Council on 15 July 2024 (ref: 24/1128/HCR3). No planning applications have been submitted on the remainder of the site.

Firm progress being made towards the submission of an application?

- 5.70 No evidence has been provided to suggest that progress is being made towards the submission of a planning application.



Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

- 5.71 No written agreement between the Council and developer has been provided. The Council has not provided any evidence in relation to this site.

Firm progress with site assessment work?

- 5.72 No clear evidence of any firm progress with site assessment work has been provided.

Clear relevant information about viability, ownership constraints or infrastructure provision?

- 5.73 No evidence has been provided.

Summary

- 5.74 The majority of the site has full planning permission for non-residential use. The remainder of the site does not have planning permission. No planning applications have been submitted to date, nor is there any evidence to suggest that progress is being made towards the submission of an application.
- 5.75 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. In the absence of clear evidence, the site fails to meet the definition of “deliverable” as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **10 dwellings** from the Council’s supply.

H8 – Royal British Legion, Church Lane, Sarratt

Capacity = 10 dwellings, Council’s 5YHLS = 10 dwellings

- 5.76 At the base date, the site did not have planning permission, nor has consent been granted to date. The site is allocated in the Site Allocations Local Development Document for 10 dwellings.

Current planning status?

- 5.77 An outline planning application for 18 dwellings on the wider site including the allocated parcel was submitted on 19 November 2024 and is still pending determination (ref: 24/1833/OUT). No documentation has been uploaded to the Council’s application portal since November 2025.

Firm progress being made towards the submission of an application?

- 5.78 No evidence has been provided to suggest that progress is being made towards the submission of a reserved matters application. This is not surprising given the outline application is still pending determination.



Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

- 5.79 No written agreement between the Council and developer has been provided. The Council has not provided any evidence in relation to this site.

Firm progress with site assessment work?

- 5.80 No clear evidence of any firm progress with site assessment work has been provided.

Clear relevant information about viability, ownership constraints or infrastructure provision?

- 5.81 No evidence has been provided.

Summary

- 5.82 The site does not have planning permission. An outline application has been pending determination for over 1.5 years. It is unknown whether this will be approved. Even if the application is approved, the site would only have outline permission.
- 5.83 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. In the absence of clear evidence, the site fails to meet the definition of “deliverable” as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **10 dwellings** from the Council’s supply.

22/0602/OUT – Land adjacent to 97 Church Lane, Sarratt

Capacity = 9 dwellings, Council’s 5YHLS = 9 dwellings

- 5.84 At the base date, the site only had outline planning permission. The site area is 0.7 ha and therefore the proposals are for major development in accordance with the definition in the Framework. This is therefore a category b) site with the onus on the Council to provide clear evidence for its inclusion in the 5YHLS.

Current planning status?

- 5.85 An outline planning application for the erection of 9 dwellings was refused by the Council on 30 September 2022 and allowed at appeal on 03 May 2024 (ref: 22/0602/OUT).
- 5.86 No reserved matters applications have been made to date.



Firm progress being made towards the submission of an application?

- 5.87 No evidence has been provided to suggest that progress is being made towards the submission of a reserved matters application. The Council's evidence for the inclusion of the site in the 5YHLS simply states:

“Site is available; planning permission granted so is suitable. Site considered achievable within 5 year period.”

Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

- 5.88 No written agreement between the Council and developer has been provided.

Firm progress with site assessment work?

- 5.89 No clear evidence of any firm progress with site assessment work has been provided.

Clear relevant information about viability, ownership constraints or infrastructure provision?

- 5.90 No evidence has been provided.

Summary

- 5.91 The site only has outline planning permission. No reserved matters applications have been made to date, nor is there any evidence to suggest that progress is being made towards the submission of a reserved matters application.
- 5.92 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. In the absence of clear evidence, the site fails to meet the definition of “deliverable” as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **9 dwellings** from the Council's supply.

24/0960/FUL – 42, The Fairway, Abbots Langley

Capacity = 2 dwellings, Council's 5YHLS = 2 dwellings

- 5.93 At the base date, the site had full planning permission for the change of use of existing dwelling to a 4-bed residential home for children.

Current planning status?

- 5.94 A full planning application for the change of use from an existing C3 dwelling to a children's residential home for 4 children between the ages of 8 – 18 years was approved on 1st November 2024 (LPA ref: 24/0960/FUL). As such, the proposal results in the loss of 1 C3 dwelling.



- 5.95 The 4-bed children's home will not contribute towards the housing supply as it will accommodate children moving from an existing family home. As such, no market housing will be freed up as a result of the proposal.
- 5.96 Therefore, **3 dwellings** should be removed from the Council's supply.

H15 – Garages rear of Drillyard, West Way, Rickmansworth

Capacity = 3 dwellings, Council's 5YHLS = 3 dwellings

- 5.97 At the base date, the site did not have planning permission. The site is allocated in the Site Allocations Local Development Document for 3 dwellings.

Current planning status?

- 5.98 The site does not have planning permission. No planning applications have been submitted to date.

Firm progress being made towards the submission of an application?

- 5.99 No evidence has been provided to suggest that progress is being made towards the submission of an application. The Council has not provided any evidence in relation to this site.

Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

- 5.100 No written agreement between the Council and developer has been provided.

Firm progress with site assessment work?

- 5.101 No clear evidence of any firm progress with site assessment work has been provided.

Clear relevant information about viability, ownership constraints or infrastructure provision?

- 5.102 No evidence has been provided.

Summary

- 5.103 The site does not have planning permission. No planning applications have been submitted to date, nor is there any evidence to suggest that progress is being made towards the submission of an application.
- 5.104 The Council has not provided "clear evidence that housing completions will begin on the site within five years". In the absence of clear evidence, the site fails to meet the definition of "deliverable" as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **3 dwellings** from the Council's supply.



6. Matters not agreed – the windfall allowance

Is there “compelling evidence” to justify the inclusion of a windfall allowance?

6.1 The Council includes a windfall allowance of 330 dwellings in the five year period as follows:

2025/26	2026/27	2027/28	2028/29	2029/30	5YS
66	66	66	66	66	330

6.2 The windfall allowance assumes that currently unknown sites will become available, receive planning permission and deliver housing in the five year period in line with the trajectory above. The windfall allowance is based on the past trends of both major (i.e. 10 dwellings or more) and non-major development.

National Planning Policy and Guidance

6.3 Paragraph 75 of the Framework states:

“Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.”

6.4 The definition of “windfall sites” is provided on page 80 of the Framework as follows:

“Sites not specifically identified in the development plan”.

6.5 Paragraph 3-023 of the PPG²⁶ states:

“A windfall allowance may be justified in the anticipated supply if a local planning authority has compelling evidence as set out in paragraph 70 of the National Planning Policy Framework.”

²⁶ Reference ID: 3-023-20190722: “How should a windfall allowance be determined in relation to housing?”

Compelling evidence

6.6 The Council's 5YHLS statement sets out that:

"Previous delivery has shown that 66 dwellings per annum are completed on windfall sites (including both major and non-major applications). The council considers inclusion of a windfall allowance serves to portray a more accurate reflection of development trends within the district."

6.7 Therefore, based on past trends, 330 dwellings can be expected to come forward on both large and small windfall sites in the five year period (i.e., 66×5 years).

6.8 However, the Council already includes 409 dwellings on known windfall sites in the five year supply. This results in a total windfall allowance (including known windfall sites with planning permission) of 739 dwellings (i.e., $330 + 409$). This would exceed past trends.

6.9 Therefore, based on past trends, we consider that there is no compelling evidence to justify the inclusion of an additional windfall allowance. This results in a deduction of **330 dwellings** from the Council's supply.

6.10 Within this context, I refer to a decision relating to an appeal made by Gladman Developments Ltd against the decision of East Hampshire Council to refuse to grant outline planning permission for up to 60 dwellings at Mount Royal, 46 Lymington Bottom, Four Marks²⁷. Emery Planning prepared and presented the evidence in relation to East Hampshire's 5YHLS on behalf of the Appellant in that case and presented a similar case in relation to the small sites windfall allowance.

6.11 East Hampshire's historic windfall delivery rate was on average 58 dwellings per annum, which would mean over a 5 year period, 290 dwellings could be included in the 5YHLS. However, that Council sought to include a windfall allowance of 112 dwellings in addition to the 231 dwellings it included on known small windfall sites (i.e. 343 dwellings in total). Based on past trends, our case was that 53 dwellings should be removed from the 5YHLS (i.e. $343 - 290 = 53$).

6.12 In allowing the appeal, the Inspector agreed with my colleague's case on behalf of the Appellant and reduced the windfall allowance by 53 dwellings. Paragraph 62 of the decision states:

"The PPG also states a windfall allowance may be justified. Paragraph 72 of the Framework confirms the need for compelling evidence and any allowance should be realistic having regard to strategic land availability assessment, historic windfall and expected future trends. The Council include 112 dwellings as a foreseen windfall allowance. However, this is in addition to small sites with planning permission. In the two years 2026/27 and 2027/28 this would indicate 102 dwellings which far surpasses

²⁷ PINS ref: 3329928 – core document **5.12**



the windfall completions to date which the Appellant quantifies at 58 dwellings per year. I therefore find that there is not compelling evidence to assume greater than historic delivery and therefore 53 dwellings should be deleted from the supply”.



7. Conclusions

7.1 I conclude that the deliverable supply in Three Rivers at 1st April 2025 is 533 dwellings. This equates to 0.59 years and is a shortfall of almost 4,000 dwellings against the 5YHLS requirement, as shown in the table below.

Table 7.1 – Three Rivers’ 5YHLS at 1st April 2025

	Requirement	Council	Appellant
A	Annual local housing need figure	752	752
B	Five year requirement	3,760	3,760
C	20% buffer	752	752
D	Total five year requirement including 20% buffer	4,512	4,512
E	Annual housing requirement including 20% buffer	902	902
	Supply		
F	Deliverable supply at 1 st April 2025	1,184	533
G	Supply in years (F / E)	1.31	0.59
H	Under/oversupply against the five year requirement (F – D)	-3,328	-3,979

7.2 The policy implications of this are addressed by Cameron Austin-Fell.



