

Proof of Evidence of Ben Pycroft BA(Hons), Dip TP, MRTPI re: Housing Land Supply
For Richborough | 24-637

Appeal for residential development – Land south of Warton Recreation Ground, Orton
Road, Warton

LPA ref: PAP/2025/0155, PINS ref: APP/R3705/W/25/3371526

Project: 24-637
Site Address: Land south of Warton Recreation Ground, Orton Road, Warton
Client: Richborough
Date: 03 November 2025
Author: Ben Pycroft

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1. Introduction and summary

- 1.1 This proof of evidence is submitted in support of an appeal made by Richborough (the Appellant) against the failure of North Warwickshire Borough Council to determine an outline planning application within the relevant timescales for:

“the construction of up to 110 dwellings, with access, landscaping, sustainable drainage features, and associated infrastructure. All matters are reserved except for primary vehicular access from Church Road.”

at land south of Warton Recreation Ground, Orton Road, Warton (LPA ref: PAP/2025/0155, PINS ref: APP/R3705/W/25/3371526).

- 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 Neil Cox, which addresses all other planning matters in relation to the appeal.
- 1.3 My proof of evidence addresses the Council’s 5YHLS at 1st April 2025 as set out in the Council’s Statement on Five-Year Housing Land Supply Calculations, which was provided to the Appellant on Thursday 16th October 2025, along with the Council’s housing trajectory.

Qualifications

- 1.4 I am Benjamin Michael Pycroft. I have a B.A. (Hons) and a postgraduate diploma in Town Planning from the University of Newcastle-upon-Tyne and am a member of the Royal Town Planning Institute. I am a 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 several Local Plan examinations and over 80 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.



1.7 I provide this proof of evidence, a summary proof of evidence and a set of appendices. I also refer to several core documents. I am working with the Council on a Statement of Common Ground (SoCG) in relation to housing land supply.

Background

1.8 Until recently, the Council's latest 5YHLS position had a base date of 1st April 2024. It was published within the Council's Annual Monitoring Report 2023/2024 (AMR)¹. The AMR states that the Council considered it had a deliverable supply at 1st April 2024 of 3,874 dwellings.

1.9 Table 17 of the AMR (page 27) explains that the Council measures both the shortfall and the 5YHLS against the "stepped" housing requirement. Unlike the Council's current position, a calculation against the annual average requirement is not shown.

1.10 Against the (stepped) requirement, the addition of 274 dwellings to account for the shortfall and a 5% buffer, the AMR concludes that the 5YHLS at 1st April 2024 equates to 5.07 years (a surplus against the 5YHLS requirement including a 5% buffer of 53 dwellings). The 1st April 2024 position statement did not provide any evidence to support the inclusion of sites in the supply, including the sites which are within category b) of the definition of "deliverable". For these sites, the onus is on the Council to provide "clear evidence" of deliverability.

1.11 On 16th October 2025, the Council provided the Appellant with the following documents:

- Statement on Five-Year Housing Land Supply Calculations²; and
- Appendix A Single Site Housing Information 2024/25 – this is the housing trajectory for the 5YHLS period³.

1.12 The Council has not provided any evidence to support the inclusion of sites in the supply, including the sites which are within category b) of the definition of "deliverable".

1.13 The Council's case is now that it has a deliverable supply at 1st April 2025 of 2,207 dwellings. This is 1,667 fewer dwellings (43%) than at 1st April 2024. The main reason for this is because the Council has removed

¹ Core document **10.1**

² Core document **10.6**

³ Core document **10.6.1**



1,514 dwellings from its claimed deliverable supply on allocated sites⁴. The Council's case is now that the 5YHLS should be measured against:

- The adopted housing requirement as an annual average plus the shortfall at 1st April 2025 and a 20% buffer. The Council's supply figure of 2,207 dwellings against this is 1.5 years; and
- The stepped adopted housing requirement, plus the shortfall at 1st April 2025 and a 20% buffer. The Council's supply figure of 2,207 dwellings against this equates to 2.2 years.

1.14 The Council's case is therefore that it has a deliverable supply of between 1.5 and 2.2 years at 1st April 2025.

Summary

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

- The base date is 1st April 2025 and the 5YHLS period is to 31st March 2030;
- The 5YHLS should be measured against the adopted housing requirement. I conclude that this should be against the stepped housing requirement, whereas as above, the Council measures the 5YHLS against both the annual average adopted requirement and the stepped housing requirement;
- The shortfall should be addressed in full in the 5YHLS period (i.e. the 'Sedgefield' method);
- A 20% buffer should be applied to the 5YHLS calculation; and
- A 5YHLS cannot be demonstrated.

1.16 The following matters in relation to 5YHLS are not agreed:

- Firstly, the extent of the past shortfall at 1st April 2025. The Council considers that this is either:
 - 3,620 dwellings against the adopted requirement as an annual average; or
 - 439 dwellings against the stepped requirement.

The Appellant considers that the shortfall at 1st April 2025 is 544 dwellings. This is because I conclude that the 5YHLS should be measured against the stepped housing requirement and because I do not agree with the adjustment the Council makes to its actual recorded completions in 2019/20 and 2020/21 due to the covid pandemic as set out in section 6 of my proof of evidence.

⁴ Please see table 2.1 of my proof of evidence



- Secondly, the deliverable supply is not agreed. As above, the Council considers that it has a deliverable supply at 1st April 2025 of 2,207 dwellings. This is 2,241 dwellings before the Council then removes 34 dwellings due to a lapse rate. I conclude that the deliverable supply at 1st April 2025 is 848 dwellings. The reason for the difference (of 1,393 dwellings with the 2,241 figure) is because I dispute the inclusion of:
 - 470 dwellings on 4 sites without planning permission or an application pending determination. For these sites, I conclude that the Council has not provided “clear evidence” of deliverability for their inclusion in the 5YHLS;
 - 183 dwellings on 3 sites without planning permission but a planning application pending determination. For these sites, I conclude that the Council has not provided “clear evidence” of deliverability for their inclusion in the 5YHLS;
 - 300 dwellings on 1 site with outline planning permission. For this site, I conclude that the Council has not provided “clear evidence” of deliverability for its inclusion in the 5YHLS;
 - 320 dwellings on 3 sites with planning permission. For these sites, I conclude that the Council has not provided “clear evidence” of deliverability for their inclusion in the 5YHLS; and
 - 120 dwellings as there is no justification for the inclusion of a windfall allowance in the 5YHLS in addition to known windfall sites which are already included in the 5YHLS.
 - 34 dwellings deducted to take account of a lapse rate.

1.17 I therefore conclude that the deliverable supply at 1st April 2025 equates to **0.82 years** as shown in the following table.



Table 1.1 – North Warwickshire Council's 5YHLS at 1st April 2025

		Council Annual Average requirement	Council Stepped requirement	Appellant Stepped requirement
A	Five year requirement	2,395	3,750	3,750
B	Shortfall at 1 st April 2025	3,620	439	544
C	Shortfall to be addressed in 5 year period	3,620	439	544
D	Total five year requirement (A + C)	6,015	4,189	4,294
E	Requirement plus 20% buffer	7,218	5,027	5,154
F	Annual housing requirement (E / 5 years)	1,444	1,005	1,031
	Supply			
G	Deliverable supply at 1 st April 2025	2,207	2,207	848
H	Supply in years (G / F)	1.53	2.20	0.82
I	Undersupply against the five year requirement including buffer (G – E)	-5,011	-2,820	-4,306

1.18 The policy implication of this is addressed by Neil Cox.



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 North Warwickshire Local Plan (adopted 29 September 2021).
- 2.3 Of relevance to my proof of evidence is that the adopted strategic policies in the Local Plan are less than five years old. Therefore, in accordance with paragraph 78 of the Framework, the 5YHLS should be measured against the adopted housing requirement.

Emerging development plan

- 2.4 The Council’s Local Development Scheme (February 2025) sets out the following timescales for the Local Plan Review:
- Spring 2025 – Regulation 18 – Issues and Options;
 - Late 2025 – Publication of the Submission Draft;
 - Spring 2026 – Submission and Examination; and
 - Late 2026 – Adoption.
- 2.5 The Regulation 18 consultation did not take place in spring 2025. emerging Local Plan is therefore at an early stage.



Other material considerations

North Warwickshire's Annual Monitoring Report 2023/2024

- 2.6 The Council's Annual Monitoring Report (AMR)⁵ states that at 1st April 2024, the deliverable supply in North Warwickshire was 3,874 dwellings, which against the stepped adopted housing requirement plus the shortfall and a 5% buffer equates to 5.07 years.

Statement on Five-Year Housing Land Supply Calculations (provided to the Appellant on Thursday 16th October 2025)

- 2.7 On 16th October 2025, the Council provided the Appellant with the following documents:
- Statement on Five-Year Housing Land Supply Calculations; and
 - Appendix A Single Site Housing Information 2024/25 – this is the housing trajectory for the 5YHLS period.
- 2.8 For the reasons set out above, the Council now considers that it has a deliverable supply at 1st April 2025 of between 1.5 and 2.2 years.
- 2.9 As I set out in the introduction to my proof of evidence, the 1st April 2025 position statement did not provide any evidence to support the inclusion of sites in the supply, including the sites which are within category b) of the definition of “deliverable”.
- 2.10 The Council's case is now that it has a deliverable supply at 1st April 2025 of 2,207 dwellings. This is 1,667 fewer dwellings (43%) than at 1st April 2024. The main reason for the difference is because the Council has reduced the number of dwellings it considers are deliverable from the following allocated sites compared to the position set out in the 2023/24 AMR:

⁵ Core document **10.1**



Table 2.1 – Council’s claimed deliverable supply from allocated sites at 1st April 2024 and 1st April 2025

Site	Settlement	Council 5YHLS at 1 st April 2024	Council 5YHLS at 1 st April 2025	Difference
H2 – Land to north west of Atherstone	Atherstone	690	250	-440
H3 – Allotments adjacent to Memorial Park	Coleshill	30	0	-30
H4 – Land to east of Polesworth & Dordon	Polesworth and Dordon	875	100	-775
H5 – Land west of Robey’s Lane	Adjacent to Tamworth	450	300	-150
H7 Land at Church Farm, Baddesley Ensor	Baddesley	47	47	0
H8 Land south of Grendon Community Hall	Grendon	7	0	-7
H9 Land between Church Road, & Nuneaton Road	Hartshill	200	100	-100
H10 Land south of Coleshill Road, Ansley Common	Ansley Common	150	150	0
H11 Former school redevelopment site, Attleborough Lane/Vicarage	Water Orton	48	48	0
H12 Land at Village Farm, Birmingham Road	Ansley	12	0	-12
Total		2,509	995	-1,514

National planning policy and guidance

2.11 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 a minor update on 7th February 2025).

2.12 The following sections of the Framework are relevant to my proof of evidence:



- 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.
 - Paragraph 233, which sets out the circumstances in which an authority can confirm its housing land supply through an Annual Position Statement.
- Annex 2: Glossary, including:
 - The definition of “deliverable” on page 72. I discuss the definition of deliverable in the section 3 of my proof of evidence below; and
 - The definition of “windfall sites” on page 80.

Planning Practice Guidance (PPG)

2.13 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.



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.” (my emphasis)

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.**” (my emphasis)

Current National Planning Policy and Guidance

3.8 The definition of “deliverable” is set out on page 72 of the Framework (December 2024). It has not materially changed since the Framework was updated in 2018. The definition 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 PPG was most recently updated on 5th February 2024. Paragraph 68-007 of the PPG⁶ 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.”

- 3.10 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition in the 2018 and subsequent versions of the Framework is clear that only sites with detailed consent for major development should be considered

⁶ Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”



deliverable and those with outline planning permission should only be considered deliverable where there is clear evidence that housing completions will begin in five years.

- 3.11 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.

North Warwickshire's approach to "clear evidence"

- 3.12 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.
- 3.13 The Council has not provided any evidence to support the inclusion of sites in the supply, including the sites which are within category b) of the definition of "deliverable".
- 3.14 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, Woolpit⁷. 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. The onus is on the LPA to provide that clear evidence for outline planning permissions and allocated sites." (my emphasis added)

- 3.15 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

⁷ PINS ref: 3194926 – 28th September 2018 – core document 6.3.5



the clear evidence that is needed for it to be able to rely upon those sites.” (my emphasis added)

3.16 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

3.17 There have been several appeal decisions which have considered the definition of “deliverable” as set out in the current 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 I discuss below.

The absence of any written evidence

3.18 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, Nantwich⁸, 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, Surrey⁹ an Inspector removed 563 dwellings on 24 sites from Waverley Council’s supply because the Council had not 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 Dorset¹⁰ 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, Chichester¹¹, an Inspector removed the second phase of a wider site that is under construction on the basis that an application for

⁸ PINS refs: 2197532 and 2197529 – core document **6.3.1**

⁹ PINS ref: 3227970 – core document **6.3.2**

¹⁰ PINS ref: 3284485 – core document **6.3.3**

¹¹ PINS ref: 3270721 – core document **6.3.4**



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).

3.19 In a decision relating to an appeal regarding land at Weddington Road, Weddington, Nuneaton¹², the Inspector concluded that Nuneaton and Bedworth could not demonstrate a 4 year housing land supply. The Inspector found that the deliverable supply was closer to my figure on behalf of the Appellant of 2.74 years. In doing so, the Inspector removed (amongst other sites):

- A site with outline planning permission at Discovery Academy where there was no clear evidence of firm progress being made towards the submission of a reserved matters. The Inspector stated: “The information from the Council does not explain what the application for reserved matters would look like, when it will be made or when applications to discharge the pre- commencement conditions set out in the outline planning permission are to be made. Further decisions on funding are also required in the Summer. To conclude that even with slippage all 58 units could be delivered by 2028 is not borne out in the evidence before me. It should not be considered deliverable at the base date and 58 dwellings should be removed from the supply” (paragraphs 164 and 165);
- A site with outline planning permission at Hospital Lane where there was no clear evidence of firm progress being made towards site assessment work or the submission of a reserved matters application (paragraphs 172 and 173);
- A site at West of Bulkington which had a resolution to grant full planning permission and the issuing of the planning permission had been “imminent” for some time but the S106 agreement has still not been issued (paragraphs 174 and 174); and
- A site at Phoenix Way / Wilsons Lane which had outline planning permission but “There is no firm progress with the site assessment work to support a reserved matters application, information as to who is going to submit the reserved matters application, what it will be for or when it is going to be determined. None of the timescales have been confirmed in a written agreement with the developer and it is still unknown who the developer will be. There is no clear evidence of deliverability and 73 should be removed from the supply”.

The most up to date evidence

3.20 In the appeal referred to above regarding land on the east side of Green Road, Woolpit¹³, 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:

¹² PINS ref: 3330615 – 26th July 2024 – core document **6.3.12**

¹³ PINS ref: 3194926 – core document **6.3.5**



“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.”

- 3.21 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)¹⁴, 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)”.

- 3.22 Similarly, in a decision regarding land off Darnhall School Lane, Winsford¹⁵, 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 supply¹⁶.

- 3.23 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 appeal¹⁷, 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)

- 3.24 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 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.

¹⁴ PINS ref: 3169314 – core document **6.3.6**

¹⁵ PINS ref: 2212671 – core document **6.3.7**

¹⁶ Paragraph 344 of the Inspector’s Report and paragraph 15 of the Decision Letter.

¹⁷ PINS refs: 2197532 and 2197529 – core document **6.3.1**



The form and value of the evidence

- 3.25 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.
- 3.26 For example, in allowing an appeal for 120 dwellings at land east of Gleneagles Way, Hatfield Peverel¹⁸, the Secretary of State found Braintree Council could not demonstrate a five year housing land supply.
- 3.27 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”
- 3.28 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 rates¹⁹. 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. The Secretary of State found the evidence provided by Braintree was not clear evidence.
- 3.29 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, Sturry²⁰, Canterbury City Council claimed that it could demonstrate a 6.72 year supply. For there to be a shortfall in the supply, Canterbury Council

¹⁸ PINS ref: 3180729 – core document **6.3.8**

¹⁹ Appendix **EP1**

²⁰ PINS ref: 3216104 – core document **6.3.9**



claimed that some 1,654 dwellings (out of 6,455 dwellings) would have to be removed from the “deliverable” supply.

- 3.30 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)

- 3.31 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.”

- 3.32 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, Rudgwick²¹, 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.
- 3.33 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. I 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 considered that the details contained within it were “scant”. There was no explanation as to how the

²¹ PINS ref: 3227970 – core document **6.3.2**



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.

- 3.34 I now refer to two appeal decisions in Oxfordshire and one in Central Bedfordshire where the definition of “deliverable” and “clear evidence” were considered. For these cases I also append the evidence the Councils in those cases relied on.

Little Sparrows, Sonning Common (South Oxfordshire) Appeal Decision

- 3.35 At the time the South Oxfordshire Local Plan was examined, the Council’s 5YHLS position at 1st April 2020 was that it could demonstrate a 5.35 year supply. These claims were tested soon after the Local Plan was examined at an inquiry in relation to an appeal regarding Little Sparrows, Sonning Common²². In that case, the Inspector concluded that the Council could only demonstrate a 4.21 year supply.
- 3.36 Paragraph 18 of the appeal decision explains that at the inquiry, the Council’s case had fallen to 5.08 years. The Council’s case at that time was that it could demonstrate a deliverable 5YHLS of 5,785 dwellings and the Appellant’s case was that it could demonstrate a deliverable 5YHLS of 4,789 dwellings. The difference between the two positions was 996 dwellings on 15 sites as set out in table 3 of the SoCG for that case as referred to in paragraph 19 of the appeal decision.
- 3.37 Paragraphs 20 and 21 of the appeal decision then state:

“20. I have also had regard to the PPG advice published on 22 July 2019 on ‘Housing supply and delivery’ including the section that provides guidance on ‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:

“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.”

This advice indicates to me the expectation that ‘clear evidence’ must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

21. Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and

²² PINS ref: 3265861 – 25th June 2021 – core document 6.3.10



commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute 'clear evidence'. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward. (emphasis added)

3.38 This is relevant because in that case the Council had submitted emails from those promoting sites²³. However, the Inspector in that case found that such emails were not clear evidence as set out in the paragraphs above.

3.39 Paragraph 22 of the appeal decision then stated:

"It is not necessary for me to go through all of the disputed sites in Table 3 of SoCG 5. **In my view, the Council was not able to provide clear evidence of delivery on most of the disputed sites which significantly undermines its position.** For example, the Council suggests that 100 dwellings would be delivered at Site 1561: Land to the south of Newham Manor, Crowmarsh Gifford whereas the Appellant says 100 dwellings should be deducted. The comments set out by the Appellant for this site in Table 3 are compelling. Similarly, at Site 1009: Land to the north east of Didcot, the Council suggests 152 dwellings would be delivered whereas the Appellant says 152 dwellings should be deducted. The Appellant provides cogent evidence to support its case. Furthermore, at Site 1418: Land at Wheatley Campus, the Council agrees a deduction but only of 62 dwellings whereas the Appellant says the deduction should be 230. **There is no clear evidence before me that would suggest that these sites or indeed most of the disputed sites would deliver the completions suggested by the Council in the next five years**" (emphasis added)

3.40 Paragraph 23 of the appeal decision states:

"Overall, I consider that the Appellant's assessment of supply set out in Table 2 of SoCG 5 is more realistic taking into account the test of deliverability set out in Appendix 2 to the NPPF and the PPG advice published on 22 July 2019. I am satisfied that the Appellant's approach is consistent with national policy, case law, appeal decisions and informed by current housebuilder sales rates, assessment of the technical complexities of delivering development sites and experience of the housebuilding industry including lead-in times"

3.41 Finally, paragraph 25 of the appeal decision states:

"I consider that the Council's supply figure should be reduced to reflect the Appellant's position set out in Table 2 of SoCG 5. The Council's supply figure of 5,785 dwellings in Table 2 should be reduced to give a more robust total supply figure of 4,789 dwellings for the five year period. Although the Council maintains there is a 5.08 year supply, the

²³ Appendix EP2



evidence that is before me indicates a housing land supply equivalent to 4.21 years. The implications of not having a five-year housing land supply are significant. Not only is there a shortfall, but it also means most important policies for determining the application are automatically out-of-date. The Council accepts that means all the policies in the SOLP and the SCNP are out-of-date. It also means if the paragraph 172 tests in the NPPF are satisfied then the tilted balance applies.”

Land west of Wroslyn Road, Freeland (West Oxfordshire) appeal decision²⁴

- 3.42 In this case, West Oxfordshire accepted that it could not demonstrate a deliverable 5YHLS. However, the extent of the shortfall was not agreed. My evidence on behalf of the Appellant in that case was that 1,691 dwellings should be removed from West Oxfordshire’s 5YHLS. The Inspector found that the figure the 5YHLS was closer to my position of 2.5 years rather than the Council’s figure of 4.1 years (paragraph 59).
- 3.43 Paragraphs 50 to 57 of the appeal decision set out the Inspector’s findings on the disputed sites in that case. For the disputed sites, West Oxfordshire had provided emails and proformas to support the inclusion of the sites²⁵. However, the Inspector concluded that this was not “clear evidence” and removed the sites from the deliverable supply.

Land to the east of Langford Road, Biggleswade and north of Queens Way, and Denny Crescent, Langford, Central Bedfordshire²⁶

- 3.44 In this decision, the Inspector removed 416 dwellings from Central Bedfordshire’s 5YHLS from a site at land north of Houghton Regis which had outline planning permission and phases under construction but no known housebuilder for phases 3b and 4 or timescales for the submission of outstanding reserved matters. For this site, Central Bedfordshire had provided a delivery programme from the promoter of the site²⁷.
- 3.45 Paragraph 16 of the appeal decision states:

“Land north of Houghton Regis (Site 1) (Ref: HT057) forms part of a large strategic development plan site allocation with outline planning permission. It comprises several phases. A master plan has been approved and a design code has been submitted for Phase 4. Phases 3b and 4 are being marketed as there is no known housebuilder. The timing for the submission of the outstanding reserved matters is unknown. In

²⁴ PINS ref: 3301202 – 18th January 2023 – core document **6.3.13**

²⁵ Appendix **EP3**

²⁶ PINS ref: 3341832 – 11th November 2024 – core document **6.3.14**

²⁷ Appendix **EP4**



combination, the evidence provided is not clear that the 416 homes relating to Phase 3b and 4 are deliverable within the relevant 5 year period.”

The fact an application has been submitted may not mean there is clear evidence of deliverability

3.46 In a 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, Exeter²⁸, 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 applications 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).

3.47 In the Freeland appeal decision referred to above²⁹, the Inspector removed sites from the Council’s supply despite the fact that planning applications had been made. Paragraph 56 states:

“Applications were submitted in January 2021 for sites EW4 and EW5. The same email referred to above refers to consent being granted at the October planning committee, which, when HLS discussions were had at the Inquiry at the end of November, had not happened. I understand that officer illness has caused delays in progressing the applications to committee. However, without an officer report, a recommendation, or even a confirmed committee date, there is currently no clear evidence to indicate that the dwellings at sites EW4 and EW5 included in the Council’s PS should be considered deliverable in 5 years. The 156 and 120 dwellings should not, as yet, be included in HLS figures”

3.48 Finally, in a decision dated 10th April 2024 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 46 Lymington Bottom, Four Marks³⁰, the Inspector removed a site from the deliverable supply because whilst a reserved matters application had been made, clear evidence had not been demonstrated. Paragraph 54 of the appeal decision states:

²⁸ PINS ref: 3292721 – core document **6.3.11**

²⁹ PINS ref: 3301202 – core document **6.3.13**

³⁰ PINS ref: 3329928 – core document **6.3.15**



“Land east of Horndean has only outline planning permission. The Appellant advised that the Council’s Environmental Health Officers are concerned about ventilation, their Policy team have concerns about the design of the scheme and the Highway Authority have objected as well as the Parish Council. A reserved matters scheme has been submitted but is undetermined. Therefore, the submitted evidence does not clearly show this is deliverable in the time period and 200 dwellings should be deleted from the supply.”

- 3.49 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.
- 3.50 I respectfully invite the Inspector to compare the evidence North Warwickshire has provided to support the inclusion of the category b) sites with the evidence provided by Braintree, South Oxfordshire, West Oxfordshire and Central Bedfordshire which was found not to be clear evidence by the Secretary of State and Inspectors in those cases.



4. Housing Delivery in North Warwickshire

Housing Delivery Test

- 4.1 The 2023 HDT results were published on 12 December 2024. The result for North Warwickshire is summarised in the table below:

Table 4.1 – Published 2023 Housing Delivery Test Result

	Housing requirement				Housing delivery				HDT%
	2020-21	2021-22	2022-23	Total	2020-21	2021-22	2022-23	Total	
North Warwickshire	158	235	242	635	154	200	162	516	81%

- 4.2 As the latest published HDT result was less than 85%, the 20% buffer applies. This is agreed with the Council.

Housing delivery against the Local Plan

- 4.3 The base date of the North Warwickshire Local Plan is 1st April 2011. The Council's Statement on Five-Year Housing Land Supply Calculations sets out that between 1st April 2011 and 31st March 2025, 3,086 dwellings were completed in North Warwickshire. In the years 2019/20 and 2020/21, the Council has increased its actual figures due to the pandemic. This is not a position I agree with as I explain in section 6 below.
- 4.4 I have received the completions data from the Council. This sets out that 2,981 dwellings were completed between 2011 and 2025 against a requirement of 3,525 dwellings. It results in a shortfall of 544 dwellings as shown in the following table.



Table 4.2 – Housing delivery in North Warwickshire since 2011

Year	Requirement (dwellings p.a.)	Completions (net)	Over / under provision	Cumulative
2011/12	203	75	-128	-128
2012/13	203	38	-165	-293
2013/14	203	110	-93	-386
2014/15	203	223	20	-366
2015/16	203	251	48	-318
2016/17	265	363	98	-220
2017/18	265	195	-70	-290
2018/19	265	300	35	-255
2019/20	265	223	-42	-297
2020/21	265	151	-114	-411
2021/22	265	375	110	-301
2022/23	265	168	-97	-398
2023/24	265	278	13	-385
2024/25	390	231	-159	-544
Total	3,525	2,981	-544	
Average	252	213		



5. Matters agreed re: 5YHLS

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

The base date and the 5YHLS period

- 5.2 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.
- 5.3 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.
- 5.4 An 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 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.”

- 5.5 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 Sands³¹. In that appeal, the Secretary of State agreed with Inspector Gilbert-

³¹ PINS ref: 3169314 – core document **6.3.6**



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 date³².

5.6 Reference is also made to the Woolpit appeal decision³³. 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.”

5.7 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, Winsford³⁴. In that case, the Secretary of State agreed with Inspector Middleton and my 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 position³⁵. Paragraph 344 of the Inspector’s Report states:

“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)

5.8 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

5.9 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 adopted housing requirement.

5.10 Policy LP5 of the North Warwickshire Local Plan sets out that between 2011 – 2033, a minimum of 9,598 new dwellings will be provided.

³² Please see DL paragraph 12 and IR paragraph 12.12

³³ PINS ref: 3194926 – core document **6.3.5**

³⁴ PINS ref: 2212671 – core document **6.3.7**

³⁵ Please see DL paragraph 15 and IR paragraph 344



5.11 Paragraph 7.31 (page 33) of the Local Plan explains that the 9,598 dwellings includes 913 dwellings to meet needs from neighbouring areas and “this will be delivered through a stepped trajectory shown in Appendix B”.

5.12 Paragraph 7.32 of the Local Plan explains the stepped trajectory is as follows:

- 2011 – 2016: 203 dwellings per annum;
- 2016 – 2024: 265 dwellings per annum;
- 2024/25: 390 dwellings per annum;
- 2025/26: 700 dwellings per annum;
- 2026/27: 725 dwellings per annum; and
- 2027 – 2033: 775 dwellings per annum

5.13 In the monitoring section of the Local Plan (page 105), it states that policy LP5 will be monitored as follows:

“Minimum of 9,598 dwellings delivered to 2033 in line with the housing trajectory in Local Plan appendix B”.

5.14 Appendix B (page 118) of the Local Plan then shows the housing requirement as a stepped trajectory. This follows the numbers included in paragraph 7.32 of the Local Plan as described above.

5.15 The stepped trajectory was added by the Local Plan Inspector as a main modification in order to make the Local Plan sound. Paragraphs 269 to 272 of the Local Plan Inspector’s Report³⁶ states:

“269. The PPG sets out how a ‘stepped’ housing trajectory may be appropriate where there is to be a significant change in the level of housing proposed relative to an existing plan, or where phased delivery is necessary. Core Strategy policy NW4 set a requirement for at least 3,650 dwellings between 2011 and 2029 (some 203dpa annually). An overall minimum housing requirement of 9,598 expressed as a simple annual average over the 22 year plan period is around 436dpa. By any metric that is a significant change. Phased delivery is also necessary by virtue of securing timely enabling infrastructure, and accordingly a stepped housing trajectory is appropriate.

270. In my view a stepped trajectory needs to be rational, realistic and to balance meeting needs with enabling plan-led development. As set out above, the base date for the plan is 2011. Amongst other things that precedes the adoption of the Core Strategy in 2014, an appeal at Ansley in 2016, and the adoption of the BDP in 2017. Each of those circumstances represented successive iterations of evidence regarding housing needs. Those circumstances should be recognised in the formulation of a

³⁶ Core document 4.9



rational stepped trajectory, rather than suggesting that current evidence be retrospectively applied to different policy and evidential contexts. A stepped trajectory should also be realistic in recognising the ability of the market to deliver, and to absorb, significant levels of housing growth. For clarity the stepped trajectory will form the basis for establishing a five year housing land supply requirement ('5YHLSR').

271. In that context NWBC advanced various potential stepped trajectories in the course of the examination, which were the subject of discussion during the third set of hearings. However taking account of the above factors an appropriate stepped trajectory would be as follows. That trajectory steps up successively in line with the circumstances referred to in the preceding paragraph. It also rationally aligns with anticipated infrastructure provision and site delivery trajectories as detailed subsequently:

- 2011-16, 203dpa
- 2016-24, 265dpa
- 2024-25, 390dpa
- 2025-26, 700dpa
- 2026-27, 725dpa
- 2027-33, 775dpa

272. For effectiveness, that trajectory should be incorporated into the Plan via MM34. That trajectory generates an aggregate figure of 9,600 dwellings over the Plan period (consistent with the overarching housing requirement). I acknowledge that the stepped trajectory rises significantly between April 2025 and March 2033. Nevertheless paragraph 1.8 of the Local Plan includes a commitment to early review, and local development documents must in any event be reviewed every five years."

5.16 Whilst the Council considers that the 5YHLS should be measured against the annual average housing requirement and the stepped housing requirement, I conclude that it should be calculated against the stepped housing requirement in accordance with the Local Plan. This was the conclusion of the Local Plan Inspector in the last sentence of paragraph 270 of the Local Plan Inspector's Report. It also accords with paragraph 017 68-026 of the PPG, which states:

"How is 5 year housing land supply measured where authorities have stepped rather than annual average requirements?

Five year land supply is measured across the plan period against the specific stepped requirements for the particular 5 year period.

Paragraph: 017 Reference ID: 68-026-20190722

Revision date: 22 07 2019"



5.17 Therefore, the “base” 5YHLS requirement for the five year period is 3,750 dwellings (i.e. $700 + 725 + 3 \times 775 = 3,750$)

The past shortfall

5.18 Whilst the extent of the past shortfall is not agreed (as I set out in section 6 of my proof of evidence below), it is agreed that the past shortfall should be addressed in full in the five year period (i.e. the “Sedgefield” method).

The 20% buffer applies

5.19 In accordance with paragraph 78a) of the Framework, the 20% buffer applies.

The Council cannot demonstrate a 5YHLS

5.20 It is agreed that the Council cannot demonstrate a deliverable 5YHLS. The deliverable supply is not agreed as I discuss below.



6. Matters not agreed re: 5YHLS – the past shortfall

- 6.1 The Council's Statement on Five-Year Housing Land Supply Calculations, provided to the Appellant on Thursday 16th October 2025, states that the Council has adjusted its completion figures in years 2019/20 and 2020/21 to account for the Covid-19 pandemic. The Council's Statement explains that due to the pandemic, the Government has included a 4-month adjustment for the 2020/21 year and 1-month adjustment for the 2019/20 year in the HDT to the respective housing requirement figures.
- 6.2 Table 1 of the Council's Statement states that the Council has therefore adjusted its 2019/20 completions from 223 dwellings to 243 dwellings; and the 2020/21 completions from 151 dwellings to 226 dwellings. Consequently, the Council states that it has delivered 3,086 dwellings between 1st April 2011 and 31st March 2025, resulting in a shortfall of 439 dwellings.
- 6.3 However, this adjustment was intended only for the housing requirement for the purposes of the Housing Delivery Test measurement. The HDT measurement technical note states:
- “...in order for the 2022 Housing Delivery Test to reflect the disruption caused to housing delivery by the pandemic, the period for measuring the homes required in 2020/21 has been reduced by 4 months. The period for measuring the homes required in 2019/20 was reduced by 1 month for a similar reason.”
- 6.4 There is no justification for an adjustment to be made to the actual housing completions achieved in those years, as this would result in an artificial inflation of housing delivery above the actual completions recorded.
- 6.5 The shortfall is 544 dwellings as I set out in table 4.2 above.



7. Matters not agreed re: 5YHLS – the deliverable supply

Introduction

- 7.1 The Council considers that it has a deliverable supply at 1st April 2025 of 2,207 dwellings. I conclude that the deliverable supply at 1st April 2025 is 848 dwellings. The reason for the difference is because I dispute the inclusion of sites which fall within category b) of the definition of “deliverable”.
- 7.2 In section 3 of my proof of evidence, I set out the definition of “deliverable” and the associated guidance in the PPG. I also refer to several appeal decisions where Inspectors and the Secretary of State have concluded that “clear evidence” of deliverability has not been provided. With reference to this, I dispute the inclusion of the following.



Disputed sites without planning permission or an application pending determination

7.3 I dispute the inclusion of the following 4 sites:

Table 7.1 – Disputed sites without planning permission or a planning application pending determination

My ref	Planning application ref:	Site	Council's 5YHLS	Appellants' 5YHLS	Difference	Status (October 2025)
A1	H2	Land to north west of Atherstone off Whittington Lane	250	0	250	No planning permission. No planning application pending determination.
A2	H4	Land to east of Polesworth & Dordon	100	0	100	No planning permission. No planning application pending determination.
A3	H9	Land between Church Road & Nuneaton Road	100	0	100	No planning permission. No planning application pending determination.
A4	PAP/2019/0599	Michael Drayton Middle School Church Road, Hartshill	20	0	20	No planning permission. No planning application pending determination.
		Total	470	0	470	

7.4 I discuss these sites as follows.



A1 – H2 – Land to north west of Atherstone, off Whittington Lane

Capacity = 1,282 dwellings, Council's 5YHLS = 250 dwellings

- 7.5 At the base date, the site did not have planning permission, nor has consent been granted to date.

Current planning status?

- 7.6 The site is allocated in the North Warwickshire Local Plan for 1,282 dwellings. No planning applications have been submitted to date.

Firm progress being made towards the submission of an application?

- 7.7 There is no clear evidence of firm progress being made towards the submission of a planning application.
- 7.8 Through the SoCG, the Council provided the following comments:

“Discussions on the master plan are well underway. The landowner has carried out a number of studies in preparation for submitting planning applications”

- 7.9 This is not clear evidence of deliverability.

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

- 7.10 No written agreement between the Council and developer has been provided. The Council's trajectory states that the site will deliver as follows in the five year period:

2025/26	2026/27	2027/28	2028/29	2029/30	5YS
0	0	0	100	150	250

- 7.11 No evidence has been provided to justify the proposed build rates. The Council considers that the site will deliver its first completions in 2028/29. I note that according to Lichfields' Start to Finish report (2024), a site of this size (1,000-1,499 dwellings) would take 6.2 years from the validation of the first application to the completion of the first dwelling.

Firm progress with site assessment work?

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



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

- 7.13 The Council's 2023/24 AMR states that highway improvements are scheduled for 2025 following a partial consent on the adjacent site under the same ownership. No further information has been provided with the Council's latest 5YHLS position.

Summary

- 7.14 The site does not have planning permission, nor has an application been made to date. There is no clear evidence to demonstrate that firm progress is being made towards the submission of a planning application.
- 7.15 The Council has not provided "clear evidence that housing completions will begin on the site within five years." Consequently, the site does not meet the definition of "deliverable" as set out on page 72 of the Framework and should be removed from the 5YHLS. This results in a reduction of **250 dwellings** from the Council's supply.

A2 – H4 – Land to east of Polesworth & Dordon

Capacity = 1,675 dwellings, Council's 5YHLS = 100 dwellings

- 7.16 At the base date, the site did not have planning permission, nor has consent been granted to date.

Current planning status?

- 7.17 The site is allocated in the North Warwickshire Local Plan for 1,675 dwellings.
- 7.18 An outline planning application for 31 dwellings on a small part of the site was approved on 13 September 2017 (ref: PAP/2016/0679) and a reserved matters application for 31 dwellings was subsequently approved on 06 September 2019 (ref: PAP/2018/0734). These dwellings were completed prior to the base date.
- 7.19 No further planning applications have been submitted to date.

Firm progress being made towards the submission of an application?

- 7.20 There is no clear evidence of firm progress being made towards the submission of a planning application.
- 7.21 Through the SoCG, the Council provided the following comments:

"Discussions on the master plan are well underway. The leading developer (Bloors and I M Land) and landowners have prepared a number of studies in preparation for submitting planning applications."



7.22 This is not clear evidence of deliverability.

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

7.23 No written agreement between the Council and developer has been provided. The Council's trajectory states that the site will deliver as follows in the five year period:

2025/26	2026/27	2027/28	2028/29	2029/30	5YS
0	0	0	50	50	100

7.24 No evidence has been provided to justify the proposed build rates. The Council considers that the site will deliver its first completions in 2028/29. However, I note that Lichfields' Start to Finish report (2024) found that a site of this size (1,500-1,999 dwellings) would take on average 6.6 years from the validation of the first application to the completion of the first dwelling.

7.25 The Council's 2023/24 AMR states that a housebuilder is now involved in part of the site; however, this is in reference to the small parcel of 31 dwellings which were completed prior to the base date. No housebuilder has been identified for the wider site.

Firm progress with site assessment work?

7.26 No clear evidence of firm progress has been provided.

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

7.27 The Council's 2023/24 AMR states that Trunk Road highway improvements design is underway and scheduled for 2026/27.

Summary

7.28 The site does not have planning permission, nor has an application been made to date. There is no evidence to demonstrate that firm progress is being made towards the submission of a planning application.

7.29 The Council has not provided "clear evidence that housing completions will begin on site within five years." Therefore the site does not 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 **100 dwellings** from the Council's supply.



A3 – H9 – Land between Church Road & Nuneaton Road

Capacity = 400 dwellings, Council's 5YHLS = 100 dwellings

7.30 At the base date, the site did not have planning permission, nor has consent been granted to date.

Current planning status?

7.31 The site is allocated in the North Warwickshire Local Plan for 400 dwellings.

7.32 An outline planning application for a mixed-use development including up to 400 dwellings was submitted on 2nd March 2018 and refused on 9th June 2023 (ref: PAP/2018/0140) for the following reasons:

- It has not been demonstrated that the development will not have a detrimental impact on the safety, operation or capacity of the local highway network and therefore the application is not considered to accord with the guidance set out within Paragraphs 110, 111 and 112 of the NPPF (2021), the requirements of Policies DS3 and HS2 of the Borough Plan 2019 and policies LUT3, LUT4 and LUT5 of Warwickshire Local Transport Plan 3 (2011-2026).
- The application fails to establish the presence or otherwise of protected species, and the extent that they may be affected by the proposed development. The application is therefore considered to be unacceptable when having regard to the protection of protected species, specifically bats, and fails to accord with the requirements of Policy NE3 of the Borough Plan 2019 and paragraph 99 of the ODPM Circular 06/2005.

7.33 The Council's 2023/24 AMR states that the above application is currently pending outcome at appeal on highway grounds due to the adjoining Borough refusing the access junction. However, details of the appeal has not been provided.

Firm progress being made towards the submission of an application?

7.34 There is no clear evidence to demonstrate that firm progress is being made towards the submission of any further applications.

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

7.35 No written agreement between the Council and developer has been provided. The Council's 2023/24 AMR states that an early start on site is expected once the appeal outcome is released. However, it is unknown whether the appeal will be allowed; and, even if allowed, the site would only have outline permission.

7.36 The Council's trajectory states that the site will deliver as follows in the five year period:



2025/26	2026/27	2027/28	2028/29	2029/30	5YS
0	0	0	50	50	100

- 7.37 No evidence has been provided to justify the proposed build rates. The Council considers that the site will deliver its first completions in 2028/29. However, I note that Lichfields' Start to Finish report (2024) found that a site of this size (100-499 dwellings) would take 6.0 years from the validation of the first application to the completion of the first dwelling.

Firm progress with site assessment work?

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

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

- 7.39 No evidence has been provided.

Summary

- 7.40 The site does not have planning permission. An outline planning application for 400 dwellings was refused by the Council in June 2023. No other applications have been made.
- 7.41 The Council has not provided "clear evidence that housing completions will begin on site within five years." Therefore, 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 **100 dwellings** from the Council's supply.

A4 – PAP/2019/0599 – Michael Drayton Middle School Church Road, Hartshill

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

- 7.42 The site previously had outline planning permission for up to 20 dwellings; however, this expired prior to the base date.

Current planning status?

- 7.43 A hybrid planning application seeking full planning permission for a medical centre and outline planning permission for up to 20 dwellings was submitted on 28 October 2019 and approved on 05 March 2020 (ref: PAP/2019/0599).
- 7.44 No reserved matters applications were submitted and the outline consent expired in March 2023. No further applications have been made.



Firm progress being made towards the submission of an application?

7.45 There is no clear evidence to demonstrate that firm progress is being made towards the submission of any further applications.

7.46 Through the SoCG, the Council stated:

“The Health Centre has been completed and is now occupied on site. There has been pre-application discussion on the remainder of the site earlier this year.”

7.47 This is not clear evidence of deliverability.

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

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

Firm progress with site assessment work?

7.49 No evidence has been provided.

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

7.50 No evidence has been provided.

Summary

7.51 The site does not have planning permission. Whilst the site previously had outline planning permission for up to 20 dwellings, this expired prior to the base date. No further applications have been submitted, nor is there any clear evidence to demonstrate that firm progress is being made towards the submission of an application.

7.52 The Council has not provided “clear evidence that housing completions will begin on site within five years.” Therefore, 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.

Disputed sites without planning permission but a planning application pending determination

7.53 I dispute the inclusion of the following 3 sites:



Table 7.2 – Disputed sites without planning permission but a planning application pending determination

My Ref	Planning application ref:	Site	Council's 5YHLS	Appellants' 5YHLS	Difference	Status (October 2025)
B1	H10	Land south of Coleshill Road, Ansley Common	150	62	88	No planning permission. Pending full planning application for 62 dwellings.
B2	H11	Former school redevelopment site, Attleborough Lane/Vicarage	48	0	48	No planning permission. Pending full planning application for 56 dwellings.
B3	H7	Land at Church Farm, Baddesley Ensor	47	0	47	No planning permission. Pending outline planning application for 46 dwellings.
		Total	245	0	183	

7.54 I comment on these sites as follows:

B1 – H10 – Land south of Coleshill Road, Ansley Common

Capacity = 450 dwellings, Council's 5YHLS = 150 dwellings

7.55 At the base date, the site did not have planning permission, nor has consent been granted to date.

Current planning status?

7.56 The site is allocated in the North Warwickshire Local Plan for 450 dwellings.



- 7.57 A full planning application for 62 dwellings was submitted on part of the site on 24 November 2024 by Cartwright Homes and is pending determination (ref: PAP/2024/0528).
- 7.58 No further planning applications have been made on the site.

Firm progress being made towards the submission of an application?

- 7.59 There is no clear evidence to demonstrate that firm progress is being made towards the submission of any further applications. The Council's 2023/24 AMR states that:

“Surveys are being carried out. Planning application and start expected between 2026 and 2028.”

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

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

Firm progress with site assessment work?

- 7.61 No evidence has been provided.

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

- 7.62 No evidence has been provided.

Summary

- 7.63 The site does not have planning permission. A full planning application for 62 dwellings is pending determination. I have included these 62 dwellings in the 5YHLS. However, no planning applications have been made regarding the remainder of the site, nor is there any clear evidence to demonstrate that firm progress is being made towards the submission of any further applications.
- 7.64 The Council has not provided “clear evidence that housing completions will begin on the remainder of the site within five years.” Therefore, the remainder of 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 **88 dwellings** from the Council's supply.

B2 – H11 – Former school redevelopment site, Attleborough Lane/Vicarage

Capacity = 48 dwellings, Council's 5YHLS = 48 dwellings

- 7.65 At the base date, the site did not have planning permission, nor has consent been granted to date.



Current planning status?

- 7.66 The site is allocated in the North Warwickshire Local Plan for up to 48 dwellings.
- 7.67 A full planning application for 59 dwellings was submitted on 16 June 2023 and is still pending determination, over 2 years later (ref: PAP/2023/0266). Several objections from statutory consultees are outstanding, as follows:
- LLFA objection dated 10th July 2023: The details relating to the surface water drainage are insufficient. The submitted information does not therefore allow a suitable assessment of the proposed development, considering flood risk and surface water drainage matters. On 1st October 2025, the LLFA issued an update maintaining its objection.
 - Ecology holding objection dated 18th July 2023: Further information is required prior to determination to determine the impact of the development on protected species and biodiversity. On 9th October 2025, Ecology issued an update, again, stating that further information is required.
 - Highways objection dated 26th July 2023 – a number of issues identified including swept path access, parking and layout.
 - Water Orton Parish Council objection dated 17th July 2023 – a number of issues identified, including that the proposal for 56 dwellings is excess of the allocation leading to a cramped, dense layout & overdevelopment of site.

- 7.68 Revised plans were submitted in September 2025 and this has led to the updated comments from the LLFA and Ecology mentioned above.

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

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

Firm progress with site assessment work?

- 7.70 No evidence has been provided.

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

- 7.71 No evidence has been provided.

Summary

- 7.72 The site does not have planning permission. A full planning application for 59 dwellings has been pending for over 2 years. The application proposes a greater quantum of development than that which the site is allocated for. It is unknown whether this will be acceptable. A number of outstanding objections remain



from statutory consultees regarding highways, ecology and drainage. It is unknown whether these issues will be resolved.

- 7.73 The Council has not provided “clear evidence that housing completions will begin on site within five years.” Therefore, 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 **48 dwellings** from the Council’s supply.

B3 – H7 – Land at Church Farm, Baddesley Ensor

Capacity = 47 dwellings, Council’s 5YHLS = 47 dwellings

- 7.74 At the base date, the site did not have planning permission, nor has consent been granted to date.

Current planning status?

- 7.75 The site is allocated in the North Warwickshire Local Plan for 47 dwellings.
- 7.76 An outline planning application for the demolition of 6 farm buildings, conversion of barn to 2 dwellings and the erection of 44 dwellings was submitted on 13th June 2023 (ref: PAP/2023/0259). The application was recommended for approval at planning committee on 6th January 2025 subject to the signing of a Section 106 agreement to secure the following:
- Education contribution: £97,015;
 - Recreation and leisure contribution: £271,426;
 - Footpaths and travel contributions: £46,771;
 - NHS contribution: £49,238; and
 - Off-site biodiversity enhancements.
- 7.77 The S106 agreement has not been signed to date.

Firm progress being made towards the submission of an application?

- 7.78 There is no clear evidence of meaningful progress being made towards the submission of any applications for reserved matters. This is not surprising given that the outline consent has still not been issued.

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

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



Firm progress with site assessment work?

7.80 No evidence has been provided.

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

7.81 No evidence has been provided.

Summary

7.82 The site does not have planning permission. An outline planning application was submitted over 2 years ago and was recommended for approval subject to the signing of a Section 106 agreement in January 2025. The S106 has not been signed to date.

7.83 Even if consent is granted, the site will remain as a category b) site and the onus will remain on the Council to provide clear evidence for its inclusion in the 5YHLS.

7.84 The Council has not provided “clear evidence that housing completions will begin on site within five years.” Therefore, 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 **47 dwellings** from the Council’s supply.

Disputed site with outline planning permission

7.85 I dispute the inclusion of the following site:

Table 7.3 – Disputed site with outline planning permission

My Ref	Planning application ref:	Site	Council’s 5YHLS	Appellants’ 5YHLS	Difference	Status (October 2025)
C1	H5	Land west of Robey's Lane	300	0	300	Outline planning permission. A RM application for residential development has not been submitted.
		Total	300	0	300	

7.86 I comment on this site as follows:



C1 – H5 – Land west of Robey's Lane

Capacity = 1,270 dwellings, Council's 5YHLS = 300 dwellings

7.87 At the base date, the site did not have planning permission.

Current planning status?

7.88 The site is allocated in the North Warwickshire Local Plan for 1,270 dwellings.

7.89 An outline planning application for the demolition of the existing buildings and the erection of 1,370 dwellings (including 100 beds of extra-care housing) was submitted on 21 December 2018 by Hallam Land Management (ref: PAP/2018/0755) and was finally approved on 19th June 2025, 6.5 years later.

7.90 No reserved matters applications have been submitted to date. The first application for reserved matters must be made within 3 years of the outline planning permission being granted and the remaining reserved matters applications within 15 years.

Firm progress being made towards the submission of an application?

7.91 There is no clear evidence of firm progress being made towards the submission of any applications for reserved matters.

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

7.92 No written agreement between the Council and developer has been provided. The Council's trajectory states that the site will deliver as follows in the five year period:

2025/26	2026/27	2027/28	2028/29	2029/30	5YS
0	50	50	100	100	300

7.93 No evidence has been provided to justify the proposed build rates. The Council considers that the site is expected to deliver its first completions in less than 6 months' time. However, a reserved matters application has not been made.

Firm progress with site assessment work?

7.94 No clear evidence of site assessment work has been provided. The outline planning permission was granted subject to 36 conditions, including pre-commencement conditions 17-27. No clear evidence of work in relation to these conditions has been provided.



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

7.95 No evidence has been provided.

Summary

7.96 The site did not have planning permission at the base date. An outline planning application for up to 1,370 dwellings was approved in June 2025, 6.5 years after its submission. No reserved matters applications have been submitted to date, nor is there any clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application.

7.97 Therefore, the Council has not provided “clear evidence that housing completions will begin on site within five years.” 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 **300 dwellings** from the Council’s supply.

Disputed sites with detailed planning permission

7.98 I dispute the inclusion of the following 3 sites:

Table 7.4 – Disputed site with detailed planning permission

My ref	Planning application ref:	Site	Council’s 5YHLS	Appellants’ 5YHLS	Difference	Status (October 2025)
D1	H1	Land at Old Holly Lane, Atherstone	499	250	249	The site has RM approval for 250 dwellings. The Council includes 499 dwellings in its HLS and the residual of 249 dwellings is disputed.
D2	PAP/2022/0586	Britannia Works, Coleshill Road, Atherstone	70	0	70	The site has full planning permission for 70 apartments. Due to significant delays, 70



My ref	Planning application ref:	Site	Council's 5YHLS	Appellants' 5YHLS	Difference	Status (October 2025)
						dwelling is disputed.
D3	PAP/2022/0282	Land opposite 84-104 Orton Road, Warton	21	20	1	The site has RM approval for 71 dwellings. The Council states that 51 dwellings have been completed and 20 dwellings remain. 1 dwelling is disputed.
		Total	590	270	320	

7.99 I comment on these sites as follows:

D1 – H1 – Land at Old Holly Lane, Atherstone

Capacity = 620 dwellings, Council's 5YHLS = 499 dwellings

7.100 At the base date, the site had detailed consent for 250 dwellings.

Current planning status?

7.101 An outline planning application for up to 620 dwellings was submitted on 13 October 2014 by Bloor Homes and approved on 03 August 2022, almost 8 years later (ref: PAP/2014/0542).

7.102 A reserved matters application for 250 dwellings, pursuant to PAP/2014/0542, was subsequently approved on 18 September 2025 (ref: PAP/2024/0349). Bloor Homes is the developer.

7.103 The Council's evidence states that a detailed planning application for 123 dwellings has been approved; however, this is included in the supply separately.

Firm progress being made towards the submission of an application?

7.104 There is no clear evidence of firm progress being made towards the submission of any further applications for reserved matters.



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

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

Firm progress with site assessment work?

7.106 No clear evidence has been provided in relation to firm progress with site assessment work for any further applications for reserved matters.

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

7.107 No evidence has been provided.

Summary

7.108 The site has outline approval for up to 620 dwellings. The site has detailed consent for 250 dwellings. No reserved matters applications have been submitted to date for the remainder of the outline approval, nor is there any clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application for the remainder.

7.109 Only 250 dwellings should be included in the Council's 5YHLS. The remainder of 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 **249 dwellings** from the Council's supply ($499 - 250 = 249$).

D2 – PAP/2022/0586 – Britannia Works, Coleshill Road

Capacity = 70 dwellings, Council's 5YHLS = 70 dwellings

7.110 At the base date, the site had extant consent for 70 dwellings.

Current planning status?

7.111 A full planning application for the demolition of the existing building and the erection of 70 dwellings was submitted on 26th March 2019 and approved on 7th November 2019 (ref: PAP/2019/0183).

7.112 A certificate of lawfulness application was submitted on 9th November 2022 to confirm that the implemented site clearance and surveying works were deemed to be material operations constituting commencement (ref: PAP/2022/0586). This was approved on 5th December 2022.



7.113 However, no further progress has been made since this time, with the site having lain derelict for years³⁷.

7.114 An article was published in the Coventry Telegraph³⁸ on 9th December 2024 after a storm caused the building to partially collapse. The article states:

“The former Britannia Works building holds an important place in the town's proud heritage as a "hatting" town but, since its closure, it has been targeted by trespassers and vandals. Its owner does have planning permission to flatten the building and redevelop the area.

But the once imposing building has stood as an empty shell, with no work taking place. Now, following the devastating collapse, the council says it is going to undertake legal tests to see if it can take the case to court and force the owner to take action.” [my emphasis]

7.115 The site has been stalled for some time.

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

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

Firm progress with site assessment work?

7.117 No evidence has been provided.

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

7.118 No evidence has been provided.

Summary

7.119 The site has extant consent for 70 dwellings, which was approved approximately 5.5 years ago. No works have taken place on site since the site clearance and surveying works were undertaken in November 2022. The site has remained derelict since this time and the development has stalled. The existing building still remains on site, although it has partially collapsed.

7.120 There is no evidence to suggest that progress is being made with the development. The position in December 2024 was that the Council was considering legal action to determine whether the site owner could be forced to act regarding the demolition of the partially collapsed building. It is unknown whether the Council is pursuing this further.

³⁷ <https://rachel-taylor.co.uk/2025/02/21/rachel-pushes-for-action-on-the-britannia-mill-works-in-atherstone/>

³⁸ <https://www.coventrytelegraph.net/news/local-news/council-statement-after-historic-atherstone-30542295>



7.121 The Council has not provided “clear evidence that housing completions will begin on site within five years.” 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 **70 dwellings** from the Council’s supply.

D3 – PAP/2022/0282 – Land opposite 84-104 Orton Road, Warton

Capacity = 72 dwellings, Council’s 5YHLS = 21 dwellings

7.122 At the base date, the site had detailed consent for 71 dwellings, 51 of which had been completed.

7.123 An outline planning application for 72 dwellings was approved on 28 June 2019 (ref: PAP/2016/0280). A reserved matters application for 71 dwellings was subsequently approved on 27 January 2023 (ref: PAP/2022/0282). No further applications have been made.

7.124 51 dwellings were completed prior to the base date. As such, 20 dwellings are remaining to be delivered with detailed consent. Therefore, **1 dwelling** should be removed from the Council’s supply.



Windfall allowance

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

7.125 The Council includes a windfall allowance of 60 dwellings per annum in years 4 and 5 (i.e., a total of 120 dwellings).

7.126 The windfall allowance assumes that currently unknown sites will become available, secure planning permission and deliver housing in the five year period. This is in addition to windfall sites which are already known at the base date.

National Planning Policy and Guidance

7.127 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.”

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

“Sites not specifically identified in the development plan”.

7.129 Paragraph 3-023 of the PPG³⁹ states:

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

7.130 Whilst it relates to Annual Position Statements, paragraph 68-014 of the PPG⁴⁰ is relevant in terms of the information annual position statements are expected to include in relation to windfall sites. It states (amongst other things) the following needs to be provided:

“Permissions granted for windfall development by year and how this compares with the windfall allowance”

³⁹ Reference ID: 3-023-20190722: “How should a windfall allowance be determined in relation to housing?”

⁴⁰ Reference ID: 68-017-20190722: “What information will annual position statements need to include?”



Compelling evidence

7.131 The Council's 2023/24 AMR states that a windfall allowance of 60 dwellings per annum was agreed at the Local Plan Examination. However, the AMR provides evidence of past windfall delivery on small sites (5 units or less) as follows:

- 2019/20: 44 completions
- 2020/21: 30 completions
- 2021/22: 23 completions
- 2022/23: 22 completions
- 2023/24: 24 completions

7.132 This equates to an average of 29 dwellings per annum on small windfall sites. Therefore, based on past trends of windfall delivery, a maximum of 145 dwellings can be expected to come forward on windfall sites in the five year period (i.e., 29 x 5 years).

7.133 However, the Council already includes 168 dwellings on known small windfall sites in the five year supply. This results in a total windfall allowance (including known windfall sites with planning permission) of 288 dwellings (i.e., 120 + 168). This would be in excess of past trends.

7.134 Therefore, based on past trends, I do not consider that there is compelling evidence to justify an additional windfall allowance. Consequently, **120 dwellings** should be removed from the Council's supply.



8. Conclusions

8.1 I conclude that the deliverable supply at 1st April 2025 is 848 dwellings. This equates to 0.82 years as shown in the following table.

Table 8.1 – North Warwickshire Council's 5YHLS at 1st April 2025

		Council Annual Average requirement	Council Stepped requirement	Appellant Stepped requirement
A	Five year requirement	2,395	3,750	3,750
B	Shortfall at 1 st April 2025	3,620	439	544
C	Shortfall to be addressed in 5 year period	3,620	439	544
D	Total five year requirement (A + C)	6,015	4,189	4,294
E	Requirement plus 20% buffer	7,218	5,027	5,154
F	Annual housing requirement (E / 5 years)	1,444	1,005	1,031
	Supply			
G	Deliverable supply at 1 st April 2025	2,207	2,207	848
H	Supply in years (G / F)	1.53	2.20	0.82
I	Undersupply against the five year requirement including buffer (G – E)	-5,011	-2,820	-4,306

8.2 The policy implication of this is addressed by Neil Cox.



