

Proof of Evidence of Ben Pycroft re: 5 Year Housing Land Supply
For Boningale Developments Ltd | 26-047

Outline planning application for a mixed use development including up to 800 dwellings
and a care home of up to 80 units – Patshull Road, Albrighton, Shropshire
LPA refs: 24/02108/OUT & 20/03479/REF, PINS ref: 6007402

Project: 26-047
Site Address: Patshull Road, Albrighton, Shropshire
Client: Boningale Developments Ltd
Date: Friday, August 14, 2026
Author: Ben Pycroft

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1. Introduction and summary

- 1.1 This proof of evidence is submitted on behalf of Boningale Developments Ltd (i.e., the Appellant) in support of its appeal against the decision of Shropshire Council to refuse to grant planning permission for:

“Outline application to include access for a mixed-use development comprising up to 800 no dwellings, a care home of up to 80 units, a secondary school and local centre with associated access, infrastructure, landscaping and drainage.”

at Patshull Road, Albrighton, Shropshire, WV7 3BH (LPA refs: 24/02108/OUT & 20/03479/REF, PINS ref: 6007402).

- 1.2 This proof of evidence addresses the Council’s 5 Year Housing Land Supply (5YHLS). It should be read alongside the proof of evidence of Megan Wilson, which addresses all other planning matters in relation to this appeal.

Qualifications

- 1.3 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 Senior Director of Emery Planning, based in Macclesfield, Cheshire.
- 1.4 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 90 public inquiries across the country.
- 1.5 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.
- 1.6 I provide this proof of evidence, including a summary (below) and a set of appendices. I also refer to several core documents and the Statement of Common Ground (SoCG) in relation to housing land supply, which was submitted on 10th July 2026 and the addendum to the SoCG, which was submitted on 5th August 2026.



Background

- 1.7 The Council's claimed deliverable supply at 1st April 2024 was considered at a public inquiry into an appeal made by Boningale Developments Ltd against the failure of the Council to determine within the relevant timescales a full planning application for 70 dwellings at land to the east of Tilstock Road, Tilstock, Whitchurch, Shropshire (LPA ref: 24/04176/FUL, PINS ref: 3362414). The inquiry took place in October and November 2025 and the decision notice was issued on 9th December 2025¹. I prepared and presented the evidence in relation to 5YHLS at the inquiry on behalf of the Appellant in that case (Boningale). In allowing the appeal, the Inspector concluded that the deliverable supply at 1st April 2024 was 8,109 dwellings. This equated to 3.81 years and a shortfall in the 5YHLS of 2,522 dwellings². The Inspector in that case concluded that this represented a "significant shortfall when compared to the minimum five-year supply threshold endorsed by the Framework"³.
- 1.8 The Council determined the current appeal application in the context of the conclusions made by the Tilstock appeal Inspector.
- 1.9 On 31st March 2026, the Council published its latest "Five Year Housing Land Supply Statement"⁴. It claims that at 1st April 2025, the deliverable supply was 9,830 dwellings. Against a local housing need figure of 2,030 dwellings per annum and a 5% buffer, this equates to 4.61 years (a shortfall in the 5YHLS of 828 dwellings)⁵.
- 1.10 I have assessed the supply as set out in this document on behalf of the Appellant.

Summary

- 1.11 The following matters in relation to 5YHLS are agreed:

- **The Council cannot demonstrate a 5YHLS.**
- The base date for assessing the 5YHLS for the purposes of this appeal is 1st April 2025 and the 5YHLS period is to 31st March 2030;
- In accordance with paragraph 78 and footnote 39 of the Framework, the 5YHLS should be measured against the local housing need calculated using the standard method set out in the PPG. It is agreed this is 2,046 dwellings per annum; and

¹ PINS ref: 3362414 – Land east of Tilstock Road, Tilstock – 9th December 2025 – core document **CD16.1**

² Paragraph 80, page 16 of the Tilstock appeal decision

³ Paragraph 130, page 25 of the Tilstock appeal decision

⁴ Core document **CD2.24**

⁵ Table 10, page 48, PDF page 49 of the Council's 5YHLS statement



- A 5% buffer should be applied.

1.12 The deliverable supply is not agreed. Whilst the Council's 5YHLS statement states that at 1st April 2025 the deliverable supply is 9,830 dwellings, the Council's supply figure for this appeal is 9,616 dwellings. The Appellant concludes that it is 6,972 dwellings. The reason for the difference (of 2,644 dwellings) is because the Appellant concludes these dwellings are not "deliverable" at the base date of 1st April 2025 with reference to the definition set out in the annex on page 72 of the Framework.

1.13 The respective positions are set out in the following table:

Table 1.1 – Shropshire's 5YHLS position at 1st April 2025

	Requirement	Council	Appellant
A	Annual local housing need	2,046	
B	5YHLS requirement without buffer (A X 5)	10,230	
C	5% buffer (5% of B)	512	
D	5YHLS requirement including buffer (B + C)	10,742	
E	Annual 5YHLS requirement including buffer (D / 5)	2,148	
	Supply		
F	Deliverable supply at 1 st April 2025	9,616	6,972
G	Supply in years (F / E)	4.48	3.25
H	Undersupply against the 5YHLS requirement including buffer (F – D)	-1,126	-3,770

1.14 The policy implications of this are addressed by Megan Wilson.



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.

Development plan context

Existing development plan

- 2.2 The existing development plan comprises:

- Core Strategy DPD – adopted 24th February 2011; and
- Site Allocations and Management of Development Adopted Plan – adopted 17th December 2015.

- 2.3 It is relevant that the adopted strategic policies are more than five years old and have not been reviewed and found up to date. Therefore, in accordance with paragraph 78 and footnote 39 of the Framework, the 5YHLS should be measured against the local housing need calculated using the standard method set out in the PPG.

Emerging development plan

- 2.4 The Council submitted the Local Plan Review for examination in September 2021. The Council withdrew the draft plan from examination in July 2025.
- 2.5 The Council’s latest “Plan-Making Timetable” (Version 1, May 2026) states that the preparation of the Shropshire Local Plan will commence in September 2026, it will be submitted in September 2028 and adopted in March 2029.



Other material considerations

National Planning Policy Framework

- 2.6 The Framework was published in March 2012. It was revised in July 2018, February 2019, July 2021, September 2023, December 2023 and most recently on 12th December 2024 (with minor updates on 7th February 2025).
- 2.7 The relevant sections of the December 2024 Framework in relation to my proof of evidence are:
- Footnote 8 which explains that the tilted balance to the presumption in favour of sustainable development applies where a) a local planning authority cannot demonstrate a 5YHLS or b) where the Housing Delivery Test result is less than 75%;
 - Section 5: Delivering a sufficient supply of homes, including:
 - Paragraph 61, which refers to the Government’s objective of significantly boosting the supply of homes;
 - Paragraph 62, which explains that to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment calculated using the standard method set out in the PPG. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for;
 - Paragraph 75, in relation to an allowance for windfall sites;
 - Paragraph 78, which states:

“Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies³⁸ or against their local housing need where the strategic policies are more than five years old³⁹. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

 - a) 5% to ensure choice and competition in the market for land; or
 - b) 20% where there has been significant under delivery⁴⁰ of housing over the previous three years, to improve the prospect of achieving the planned supply; or
 - c) From 1 July 2026, for the purposes of decision-making only, 20% where a local planning authority has a housing requirement adopted in the last



five years examined against a previous version of this Framework⁴¹, and whose annual average housing requirement⁴² is 80% or less of the most up to date local housing need figure calculated using the standard method set out in national planning practice guidance.

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

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

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

Planning Practice Guidance (PPG)

2.8 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.

2.9 The Government recently consulted on a revised draft Framework. The draft version maintains the position that in this case a 5YHLS should be demonstrated against the local housing need calculated using the standard method and a 5% buffer.



Shropshire Council – Five Year Housing Land Supply Statement

- 2.10 The Council's latest 5YHLS position was published on 31st March 2026 but has a base date a year earlier of 1st April 2025. As set out in the introduction to my proof of evidence, the position statement considers that at 1st April 2025, the deliverable supply was 9,830 dwellings⁶, which it states equates to 4.61 years.
- 2.11 The Council's 9,830 dwellings comprises the following:
- A. 5,965 dwellings on sites with planning permission at 1st April 2025;
 - B. 108 dwellings on sites with prior approval at 1st April 2025;
 - C. 60 dwellings on sites with a resolution to grant planning permission at 1st April 2025;
 - D. 97 dwellings on sites that did not have planning permission at the base date of 1st April 2025 but where planning permission was granted at appeal after the base date;
 - E. 612 dwellings on sites that are allocated in the adopted development plan;
 - F. 2,026 dwellings on sites that were draft allocations in the withdrawn Local Plan that did not have planning permission at 1st April 2025;
 - G. 38 dwellings on sites identified in the Strategic Land Availability Assessment (SLAA);
 - H. 326 dwellings on emerging affordable housing sites; and
 - I. 598 dwellings on a windfall allowance.
- 2.12 Paragraph 1.17 (page 5, PDF page 6) of the Council's 5YHLS statement explains that a 10% reduction has been applied to each of the categories listed above except for the windfall allowance.
- 2.13 For the reasons I set out in section 4 of my proof of evidence, the Council has erroneously included sites in the 5YHLS that were not deliverable by definition at the base date of 1st April 2025. The Council has included these sites on the basis that either planning permission has been granted, a resolution to grant permission has been made or a planning application has been submitted after the base date but before the 5YHLS statement was published in March 2026. However, at the base date itself these sites were not deliverable. At that time (i.e. on 1st April 2025) in some cases the Council had refused permission and appeals were pending determination or in other cases it was not known whether planning permission would be granted because residential development on those sites is contrary to the policies in the existing development plan (i.e. the sites were not "suitable" at the base date). These sites should not be included in the 5YHLS as at 1st April 2025. I discuss this issue further in section 5 of my proof of evidence.
- 2.14 Table 4 on page 13 (PDF page 14) of the Council's 5YHLS statement provides the net housing completions in Shropshire over the period 2006/07 to 2024/25. The completions are shown against the housing

⁶ Including a 10% lapse rate reduction.



requirement set out in the Core Strategy. Whilst the requirement is out of date and significantly lower than the local housing need, there is a cumulative shortfall against the adopted requirement of 661 dwellings.

- 2.15 The table also shows that only 1,169 dwellings were delivered in Shropshire in 2024/25. This is the lowest number of completions since 2014/15 when 1,155 dwellings were delivered. The completions are also shown in figure 1 of the Council's 5YHLS statement as set out page 14 (PDF page 15).



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 added)

3.7 The government’s response was as follows:

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

Current National Planning Policy and Guidance

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

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

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

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



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

- 3.9 The definition of deliverable was not amended in the revised Framework published in December 2024.
- 3.10 The relevant paragraph of the PPG was last updated in July 2019. Paragraph 68-007 of the PPG⁷ 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.”

⁷ Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”



Assessment

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

Relevant appeal decisions

- 3.13 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 summarise below and in appendix **EP1** attached to this proof of evidence.

The absence of any written evidence

- 3.14 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. Examples are provided in appendix **EP1**.

The most up to date evidence

- 3.15 Inspectors and the Secretary of State have found that the most up to date evidence in relation to the sites that were considered deliverable can be considered. This includes where sites have not progressed as the trajectory in the published position statement anticipated they would. It is, however, not appropriate to include additional sites, which were not considered deliverable at the base date. Examples are provided in appendix **EP1**.



The form and value of the evidence

- 3.16 The evidential value of any 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. Examples are provided in appendix EP1.

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

- 3.17 Even where a planning application or reserved matters application has been made, Inspectors have found this does not in itself provide clear evidence of deliverability; for example where those applications are subject to outstanding objections or there is no written agreement from the developer. Examples are provided in appendix EP1.
- 3.18 In summary, the appeal decisions I refer to 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.

Shropshire's approach to "clear evidence"

- 3.19 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 and sites that do not fall within either category a) or b) (i.e. sites which were proposed to be allocated in the now withdrawn Local Plan).
- 3.20 The Council's 5YHLS statement includes comments on each of the sites. However, it does not include any written information from those promoting the sites it considers are deliverable. My comments on the disputed sites are set out in the addendum SoCG on 5YHLS, which was submitted on 5th August 2026.



4. Matters not agreed: sites that were not “deliverable” at 1st April 2025

4.1 Sites that were not “deliverable” at the base date of 1st April 2025 should not be included in the 5YHLS. The Council has erroneously included sites that were not deliverable at 1st April 2025, including (as set out in the position statement):

- 97 dwellings on 5 sites which were the subject of outstanding appeals at 1st April 2025 but have since been allowed. The Council includes these sites on the basis that planning permission was granted after the base date;
- 1,871 dwellings on 29 sites which were proposed allocations in the withdrawn Local Plan and did not have planning permission at the base date. On some of these sites planning applications had been made before the base date but it was not known whether they would be approved because they were for residential development on greenfield sites beyond the settlement boundaries and contrary to the existing development plan. On other sites, planning applications have only been made after the base date but before the Council published its 5YHLS statement in March 2026; and
- 326 dwellings on 11 affordable housing sites. Again, some of these sites had planning applications pending determination at the base date and on other sites planning applications have been made after the base date. At the base date, it was not known whether residential development on these sites was acceptable or not.

4.2 None of these sites were deliverable at the base date. The Council includes them due to information received and events that have occurred after the base date but before it published its position statement in March 2026. The Council could have published a new, comprehensive housing land supply assessment with a new base date to reflect permissions granted after the base date, but has chosen not to do so.

4.3 To include sites that were not deliverable at 1st April 2025 on the basis that planning applications have since been made, or planning permission has been granted or a resolution to grant permission has been made since the base date skews the data by overinflating the supply without also taking into account completions and other factors which might reduce the deliverable supply since the base date.

4.4 There have been several appeal decisions which have considered attempts made by local planning authorities to include sites that were not deliverable at the base date in the 5YHLS. Seven examples are provided below.



Example 1 – Land north of Maldon Road, Tiptree

- 4.5 On 8th May 2026, a decision was issued in relation to an appeal made by Bloor Homes against the decision of Colchester City Council to refuse to grant outline planning permission for up to 165 dwellings at land north of Maldon Road, Tiptree, Colchester⁸. I gave the evidence on 5YHLS on behalf of the Appellant in that case. Inspector Owen Woodward agreed with my evidence that sites that were not deliverable at the base date but where planning permission had been granted permission after the base date should not be included in the 5YHLS. Paragraph 43 of the appeal decision states:

“The planning permission for Site 2 was granted at appeal after the base date and did not, therefore, have permission as of the base date. I accept that evidence regarding sites should be accepted up to the Inquiry. However, the principle of whether or not to include a site in the supply in the first place must be made with regard to the base date. Otherwise, inconsistencies will arise with the overall calculations of supply and need. This approach is consistent with two provided appeal decisions. I therefore remove the 203 homes from the supply.” (my emphasis added).

- 4.6 The base date of Colchester’s 5YHLS was 1st April 2025. At the base date, the site referred to as site 2 (Defence Support Group, Flagstaff Road) did not have planning permission. A full planning application for 203 dwellings was submitted on 26th May 2023. Colchester Council refused to grant planning permission on 24th December 2024. By the base date (i.e., 1st April 2025) an appeal had been lodged. The appeal was allowed on 19th September 2025 (ref: 231297). At the base date however, the site did not have planning permission, and the Council was resisting the appeal. Consequently, the Inspector agreed that this site should be removed from the 5YHLS. It was not deliverable at the base date.
- 4.7 The two appeal decisions referred to in paragraph 43 of the Tiptree appeal decisions are the Caversfield and Woolpit decisions, which I discuss below.

Example 2 – Land west of Fringford Road, Caversfield

- 4.8 On 16th December 2025, a decision was issued in relation to an appeal made by Richborough against the decision of Cherwell Council to refuse to grant outline planning permission for up to 99 dwellings at land west of Fringford Road, Caversfield⁹. I gave the evidence on 5YHLS on behalf of the Appellant in that case.
- 4.9 The base date of Cherwell’s 5YHLS for that appeal was 1st April 2024. Cherwell Council had erroneously included 3 sites in its 5YHLS which did not have planning permission at 1st April 2024 and were the subject

⁸ PINS ref: 3376495 – Land north of Maldon Road, Tiptree - 8th May 2026 – core document **CD16.14**

⁹ PINS ref: 3355576 – Land west of Fringford Road, Caversfield – 16th December 2025 – core document **CD16.15**



of appeals. It also included another site (Canalside Caravan Site, Banbury) where at the base date planning permission had expired and a new outline planning permission was only granted after the base date.

- 4.10 In allowing the appeal, Inspector Zoë Hill agreed with my evidence on behalf of the Appellant in that case that only sites that were deliverable at the base date should be included in the 5YHLS. Sites that had been granted permission after the base date should not be included in the 5YHLS. Paragraphs 14 to 17 of the appeal decision state:

“14. A key point made by the appellant relates to the defined period for calculations. Essentially, that a base date is set and the figures should be based on that point in time. I agree with that view as new sites coming forward after that base date should not be counted unless a total recalculation is undertaken thereby creating a new base date.

This is because adding new deliverable sites is only one side of the equation as other sites may be being lost from being deliverable, for instance because the land is used for other purposes or development stalls because of unanticipated problems. In this respect I concur with the views of my Inspector colleague in the ‘Woolpit’ decision.

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

16. As a consequence, sites B (Land adjacent to Salt Way and west of Bloxham Road, Banbury) (60 dwellings), F (Land south of Green Lane, Chesterton) (110 dwellings) and G (Land east of Ploughley Road, Ambrosden) (100 dwellings) should not be included in the 5 year HLS until such a time as the whole supply picture is recalculated.

17. For the same reason, that is that matters changed after the base date, site A (Canalside Caravan Site, Banbury) (63 dwellings) should also be omitted.”

- 4.11 Again, reference is made to the Woolpit appeal decision, which I discuss below.

Example 3 - Land on east side of Green Road, Woolpit

- 4.12 On 28th September 2018, a decision was issued in relation to an appeal made by Landex Ltd against the decision of Mid Suffolk Council to refuse to grant permission for 49 dwellings at land on the east side of Green Road, Woolpit¹⁰. The base date for calculating the 5YHLS in that appeal was 1st April 2018.

¹⁰ PINS ref: 3194926 – Woolpit – 28th September 2018 – core document **CD16.23**



- 4.13 In allowing the appeal, Inspector Harold Stephens concluded that sites that were not deliverable at the base date should not be included in the 5YHLS. Paragraphs 66 and 67 of the appeal decision explain that that only sites that were deliverable at the base date should be included in the 5YHLS. These paragraphs state:

“66. The Council relies upon the same sites in its supply as were contained in its Annual Monitoring Report (AMR) dated 11 July 2018. The only new site referred to at the Inquiry was that known as Land on the West of Barton Road, Thurston which was missed out of the AMR in error and for which planning permission was granted on 5 July 2018. The Council has carried out a sense check of the supply against the terms of the NPPF 2018 and referred to events that have occurred after the base date of the AMR.

67. In my view the definition of ‘deliverable’ in the Glossary to the NPPF 2018 does not relate to or include sites that were not the subject of an allocation but had a resolution to grant within the period assessed within the AMR. The relevant period is 1 April 2017 to 31 March 2018. There is therefore a clear cut-off date within the AMR, which is 31 March 2018. The Council’s supply of deliverable sites should only include sites that fall within the definition of deliverable at the end of the period of assessment i.e. 31 March 2018. Sites that have received planning permission after the cut-off date but prior to the publication of the AMR have therefore been erroneously included within the Council’s supply. The inclusion of sites beyond the cut-off date skews the data by overinflating the supply without a corresponding adjustment of need. Indeed that is why there is a clear cut-off date set out in the AMR. Moreover, the site West of Barton Road, Thurston, should be removed from the supply as its permission postdates the cut-off for the relevant period of assessment.” (my emphasis added)

Example 4 – Land at North End, Creech St Michael

- 4.14 On 14th February 2024, a decision was issued in relation to an appeal made by Gladman against the decision of Somerset Council to refuse to grant outline planning permission for up to 100 dwellings at land at North End, Creech St Michael¹¹. I gave the evidence on 5YHLS on behalf of the Appellant in that case.
- 4.15 The base date for calculating the 5YHLS in that case was 1st April 2023. Somerset Council attempted to include 5 sites that were not deliverable at the base date. It claimed that phosphate mitigation strategies which had been approved after 1st April 2023 meant these sites were now deliverable at 1st April 2023.
- 4.16 In allowing the appeal and concluding the Council could not demonstrate a 5YHLS, Inspector David Rose removed sites from the 5YHLS that were not deliverable at the base date. Paragraphs 51 to 54 of the appeal decision state:

¹¹ PINS ref: 3329488 – Creech St. Michael – 14th February 2024 – core document **CD16.16**



“51. The purpose of the SHELAA is to provide a definitive and transparent assessment of deliverable housing sites for the ensuing five-year period. At the same time, it is important that planning decisions are taken using the ‘latest available evidence’. In this regard, the Council has been open and fair in reducing the anticipated delivery of some sites where the initial assumptions have been overtaken by events. At the same time, it is legitimate to consider subsequent information which supports enhanced delivery on sites within the SHELAA.

52. Whilst the Council confirms that it has not ‘shifted the base date in its assessment’, and acknowledging that it ‘..... would typically agree with the proposition that sites that have only become deliverable after the base date should not be included’, it is claimed that the phosphates issue gives rise to a novel situation which amends this position.

53. It is said that there is nothing in guidance or otherwise that suggests that a site not included in the SHELAA cannot subsequently be included. In my opinion, whilst it would have been open to the Council to publish a new, comprehensive housing land supply assessment with a new base date that also takes account of completions, losses and sites where planning permission has expired, ad hoc adjustment in the manner advocated by the Council would otherwise distort the supply.

54. On this basis, Ford Farm; South of Pyrland Farm; land north of Taunton Road, Longforth Park; Beech Acre and Steps Water; and Golden Hill Brewery should be deleted from the claimed supply resulting in a combined loss of 471 dwellings. I will, however, assess the specific case for each site as a matter of prudence.” (my emphasis added)

Example 5 – Land west of Winterfield Lane, East Malling

4.17 On 22nd March 2021, a decision was issued in relation to an appeal made by Wates Developments Ltd against the failure of Tonbridge and Malling Council to determine an outline planning application for up to 250 new homes within the relevant timescales¹². In that case, Tonbridge & Malling Council sought to rely on the inclusion of sites that had become “deliverable” since the base date.

4.18 Paragraphs 7 and 8 of the appeal decision state:

“7. The Council put forward the case that they have 4.3 years Housing Land Supply (HLS). The appellant considers that only 2.08 years can be demonstrated. The parties agree on the housing requirement of 888 dwellings per annum (dpa) derived from 846dpa with 5% buffer. Disagreement comes from the sites included in the supply. At the base date of 1st April 2019, the Council contended a 2.6 year supply of housing land with 2,297 dwellings within the supply. The Council’s figure of 4.3 years is derived

¹² PINS ref: 3256877 – 22nd March 2021 – Land west of Winterfield Lane, East Malling – Core document CD16.17



from including sites they consider have become deliverable since the base date. These include sites in the emerging Local Plan that do not fall within green belt, along with sites that had been granted consent since the base date.

8. The 2019 revision to the National Planning Policy Framework (the Framework) definition of deliverable retains reference to “a realistic prospect that housing will be delivered on the site within five years”. The Court of Appeal judgment in *St Modwen* found that realistic prospect did not mean a site’s deliverability must necessarily be certain or probable. The Council cite support for the inclusion of new sites from a recent decision for *Woburn Sands* where the Inspector considered that information that became available after the base date could be taken into account to determining whether or not a site was deliverable.”

4.19 The Inspector disagreed with the Council’s approach. 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.**”
(my emphasis added)

4.20 Reference is made to the *Woolpit* decision referred to above and also an appeal decision in *Woburn Sands*, which I discuss below.

Example 6 – Land to the east of Newport Road, Woburn Sands

4.21 On 25th June 2020, the Secretary of State issued a 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 Sands*¹³.

4.22 Paragraphs 12.8 to 12.12 of Inspector Gilbert-Wooldridge’s Report state:

“12.8 The Council uses a base date of 1 April 2019 for the purposes of calculating its 5 year HLS position. It published its assessment in June 2019 with the housing trajectory

¹³ PINS ref: 3169314 – *Woburn Sands* – 25th June 2020 – core document **CD16.24**



in Appendix 1 containing notes on deliverability. Proformas were sent out by email on 20 May 2019 asking for a reply by 7 June 2019. Where no response was received, this was followed up. It was accepted by the Council that the amount of evidence predating 1 April 2019 that informed the assessment was limited. [7.26]

12.9. However, there is nothing in the NPPF or PPG that stipulates that all of the documentary evidence for a 5 year HLS has to be available at the base date itself. Instead, the PPG advocates the use of the latest available evidence. A local planning authority can prepare and consult on an APS after the 1 April base date before submission to the Planning Inspectorate by 31 July. While not directly applicable here, this indicates that evidence can be produced and tested after the base date. The HLS position statements in Babergh and Mid Suffolk for the 2019-2024 period were published in September 2019 and included data to justify supply that was only known about after 1 April. [7.25, 8.16, 8.17, 8.19, 8.20]

12.10. **The Council has avoided adding new sites after the base date to prevent the skewing of supply in line with the Woolpit decision.** While the Woolpit Inspector criticised the retrospective justification of sites after the publication of the Annual Monitoring Report, **the Inspector at Darnhall School Lane permitted additional evidence to support sites identified as deliverable at the base date which was a position accepted by the SoS in that case.** The Longdene and Colchester Road Inspectors took a similar approach. In terms of Milton Keynes appeals, the Castlethorpe Road and the Globe Inspectors took into account the proformas used by the Council to inform its June assessment of 5 year HLS. [7.23, 7.24, 8.18, 8.21]

12.11 **Therefore, I consider it 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.**

12.12. The appellant argues for a 1 October 2019 base date in order to take into account the Council's June assessment and quarterly monitoring data. This would result in a necessary adjustment of the 5 year supply period to 30 September 2024. There is little in national policy or guidance that advocates such an approach and it would appear to go against efforts to create greater certainty in the planning process. I concur with the Council that such an approach would mean having to argue HLS at every appeal, rather than having a fixed base date. Moreover, the quarterly monitoring data is not intended to be an updated assessment of supply. Thus, I do not consider it necessary to apply a 1 October base date. Nevertheless, if the SoS disagrees on this point, my assessment of specific sites below includes an assessment of the 5 year HLS supply position using a 1 October base date. [7.27, 8.22]" (my emphasis added)

4.23 The Secretary of State agreed. The first part of paragraph 12 of the Secretary of State's Decision Letter states:

"The Secretary of State has considered the Inspector's analysis at IR12.4-12.64. 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).** Like the Inspector,



the Secretary of State does not consider it necessary to apply a 1 October 2019 base date (IR12.12).” (my emphasis added)

4.24 Reference is made in this decision to the Darnhall School Lane appeal decision, which is discussed below.

Example 7 – Darnhall School Lane, Winsford

4.25 On 4th November 2019, the Secretary of State issued a decision in relation 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, Winsford¹⁴. In that case, the Secretary of State agreed with Inspector Middleton and my evidence on behalf of the Appellant in that case 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 position. 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].” (my emphasis added)

4.26 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.”

4.27 In summary, whilst the Secretary of State and Inspectors have concluded that it is appropriate to take into account post base date information and evidence relating to sites that are identified as deliverable at the base date, the sites needed to be deliverable at the base date to be included in the 5YHLS. In this case, the sites needed to be deliverable at 1st April 2025 for them to be included. However, as I discuss in the next 2 sections of my proof of evidence, the Council erroneously includes sites that were not deliverable at 1st April 2025. This includes large windfall sites where residential development is contrary to the existing development plan but the sites were proposed allocations in the now withdrawn Local Plan.

¹⁴ PINS ref: 2212671 – Darnhall – 4th November 2019 – core document **CD16.25**



5. Sites with an appeal pending determination at 1st April 2025

- 5.1 The Council's position statement includes 97 dwellings on 5 sites that had an appeal pending determination at the base date and planning permission has subsequently been granted after the base date. These sites were not "deliverable" at the base date and therefore should not be included in the 5YHLS for the reasons set out in section 4 of my proof of evidence above.
- 5.2 The Tiptree and Caversfield appeal decisions discussed above concluded that sites with a pending appeal at the base date should not be considered deliverable.
- 5.3 These sites should not be included in the 5YHLS because they were not "deliverable" at the agreed base date of 1st April 2025. At the base date, the Council had refused planning permission (or in the Tilstock case failed to determine an application), appeals had been lodged but the outcome of the appeals was not known. Consequently, **97 dwellings** should be removed from the Council's deliverable supply figure as set out in its position statement.
- 5.4 The disputed sites are listed in the addendum SoCG on 5YHLS as sites 7 to 10 (pages 4 and 5).



6. Sites proposed for allocation in the withdrawn Local Plan

Background

- 6.1 The Council's 5YHLS statement states that 2,026 dwellings are included on sites that were proposed for allocation in the withdrawn Local Plan that did not have planning permission at the base date. The 2,026 dwelling is based on 2,251 dwellings on 31 sites minus the 10% reduction the Council applies to some sites as explained in paragraph 1.17 (page 5, PDF page 6 of the Council's 5YHLS statement). The sites are listed in appendix G of the Council's 5YHLS statement (which begins on PDF page 157 of the document). The total for these sites adds up to 2,242 dwellings rather than 2,251 dwellings.
- 6.2 The draft Shropshire Local Plan (2016 to 2038) was submitted for examination on 3rd September 2021. On 6th March 2025 (i.e. just before the base date), the Local Plan Inspectors wrote to the Council and recommended that the draft Local Plan be withdrawn¹⁵. Paragraphs 15 and 16 of the Local Plan Inspectors' letter concluded by stating:
- “15. Taking all of the above into account we recommend that the Plan should be withdrawn. Should the Council not wish to withdraw the Plan the next stage would be for us to write a report of the examination within which we would recommend that the Plan is unsound and that it is not adopted. That would bring the examination to a close.
16. However, having regard to matters of the best use of public money, along with our obligations under The Civil Service Code, we consider it appropriate to suggest again that the Council considers withdrawing the Plan before such a recommendation is made. This would save the expense associated with us writing and issuing a report of the examination.”
- 6.3 On 14th March 2025, the Council wrote to the Local Plan Inspectors to explain that its intention was to withdraw the draft Local Plan from examination. Therefore, by the base date on 1st April 2025, the Council's intention was to withdraw the Local Plan from examination. Following a meeting of the Council on 17th July 2025, the Council formally withdrew the draft Local Plan on 25th July 2025.
- 6.4 Therefore, whilst the 2,026 dwellings on sites listed in appendix G of the Council's 5YHLS statement were proposed to be allocated in the now withdrawn draft Local Plan, they are not specifically identified in a development plan. They are windfall sites as set out in the definition in the annex on page 80 of the Framework. This was the case at the base date (1st April 2025) and remains the case now.

¹⁵ Core document **CD2.23**



“Suitability” at 1st April 2025

- 6.5 Most of these sites are large greenfield sites, where residential development does not accord with the policies in the adopted development plan. Therefore, if these sites did not have planning permission or a resolution to grant permission at the base date, they were not “deliverable”. This is because it was not known at 1st April 2025 whether planning permission would be granted for development that is contrary to the existing development plan.
- 6.6 Indeed, to illustrate this point further, the Council’s position statement includes 55 dwellings in the 5YHLS at land adjoining But Lane, Ford (ref: FRD011). At the base date, this site did not have planning permission or a planning application pending determination. A planning application for 93 affordable dwellings was submitted after the base date on 14th November 2025. When the Council’s position statement was published in March 2026, the application was pending determination. The application was presented at a meeting of the planning committee on 26th May 2026 where it was recommended for approval. Paragraph 6.2.1 of the committee report¹⁶ states:

“The site was previously identified as an emerging site allocation (FRD011) within the now-withdrawn Draft Local Plan. However, with the withdrawal of that Plan from examination, the emerging policies and allocations carry no weight in the determination of planning application. The evidence base that supported the draft allocation holds limited weight as a material consideration.” (my emphasis)

- 6.7 Policy 6.2.3 of the committee report states:

“Although the draft allocation carries no weight in decision-making, the Site Layout Plans show the development delivering a comprehensive scheme that largely aligns with the principles, parameters and evidence base underpinning the former allocation.”

- 6.8 Despite the officer’s recommendation, the Southern Planning Committee members voted to refuse to grant planning permission for the following 8 reasons¹⁷, which include in relation to the principle of development:

- “1. The application site lies in an area of open countryside for planning policy purposes and is contrary to the adopted spatial strategy which would result in an incursion into the undeveloped countryside in conflict with CS1, CS5, MD1 and MD7a.
2. The proposal for 100% affordable housing would disproportionately alter the mix of housing within the settlement and adversely alters its character, contrary to CS11.

¹⁶ Appendix EP5A

¹⁷ Appendix EP5B



3. The proposal for 93 dwellings would add a disproportionate number of dwellings to the rural settlement and is contrary to achieving sustainable development as set out in the NPPF and CS1.

4. The proposed access point off But Lane would result in highway safety concerns with the opposing Primary School access point and school drop off and pick up, whereby the removal of existing traffic calming measures worsens highway safety for all users, contrary to CS6 and Paragraph 116 of the NPPF.

5. The proposed development would see the total loss of historic ridge and furrow and irreversibly remove high quality natural habitats resulting in the loss of local biodiversity, whereby the proposed mitigation is unable to adequately address this loss resulting in an adverse impact on the historical and natural environments, contrary to CS17, MD12 and MD13 and Section 15 of the NPPF.

6. The proposal has failed to adequately demonstrate a local need for the proposed 93 affordable dwellings, furthermore is unable to demonstrate a specific need for the proposed number of dwellings within the settlement of Ford, contrary to CS5, CS11 and the Type and Affordability of Housing SPD.

7. The proposal site is insufficiently served by services, facilities and infrastructure to accommodate the proposed number of dwellings without making any suitable contributions to any improvements, contrary to CS8, CS9 and MD8.

8. The proposal has failed to adequately demonstrate that it would not result in flood risk on-site, off-site or elsewhere, contrary to CS18 and Paragraph 170 of the NPPF.”

6.9 As set out in the addendum SoCG on 5YHLS (page 35), the Council now accepts that this site should not be included in the 5YHLS based on the latest position. However, the Council’s comments maintain that the But Lane site was deliverable at the base date.

6.10 The sites that were proposed allocations in the now withdrawn development plan are windfall sites. The withdrawn development plan carries no weight. Applications for residential development on these sites is contrary to the existing development plan policies and therefore at 1st April 2025, the sites were not “suitable” and therefore not “deliverable”.

6.11 Indeed, paragraph 4.11 of the Council’s Strategic Land Availability Assessment (SLAA, November 2018) explains the consideration made when assessing suitability. It states:

“If following the very strategic assessment of the suitability of a site it is concluded that it has no known constraints or restrictions that would prevent development for a particular use or mix of uses, or these constraints could potentially be suitably overcome through mitigation*, then it was viewed as being currently suitable – subject to further detailed assessment for the particular use or mix of uses.

• **If following the very strategic assessment of the suitability of a site it is concluded that a site does not currently comply with the Local Plan***, but is located within or in



proximity of a settlement potentially considered an appropriate location for sustainable development and is not known to have other constraints or restrictions that would prevent development for a particular use or mix of uses, or any known constraints could potentially be suitably overcome through mitigation**, **then it was viewed as being not currently suitable but future potential – subject to further detailed assessment.**

- If following the very strategic assessment of the suitability of a site it is concluded that a site is subject to known constraints and it is considered that such constraints cannot be suitably overcome through mitigation, then it was viewed as being not suitable.

- If following the very strategic assessment of the suitability of a site it is concluded that a site does not currently comply with the Local Plan, but is not located within or in proximity of a settlement potentially considered an appropriate location for sustainable development, then it was viewed as being not suitable

*As this is a very strategic assessment, where sites are currently contrary to Local Plan policy but are located within or in proximity of a settlement potentially considered an appropriate location for sustainable development, no judgement is made about whether such a change to policy would be appropriate, this is the role of the Local Plan Review.

**As this is a very strategic assessment, where sites are subject to known constraints and it is considered that the constraints present could potentially be suitably overcome through mitigation, further detailed assessment will be required to confirm if such mitigation is effective and the impact of this mitigation on the developable area.” (my emphasis added)

6.12 As can be seen in appendix G of the Council’s 5YHLS position statement, under suitability the Council states for site allocations in the withdrawn Local Plan:

“Site identified through proportionate and robust site assessment process undertaken to inform the withdrawn Local Plan”

6.13 However, there is no assessment of why the residential development on these large greenfield windfall sites is “suitable” when there is a conflict with the existing development plan policies.

6.14 At the base date it was not known whether if planning applications were made on the sites they would be approved.

6.15 For the avoidance of doubt, two of the proposed allocation sites in the withdrawn Local Plan without planning permission at 1st April 2025 can be considered deliverable. Whilst residential development on these sites is contrary to the existing development plan, at the base date a resolution to grant planning permission had been made. These sites are set out in the following table:



Table 6.1 – Allocations in the withdrawn Local Plan that had a resolution to grant permission at 1st April 2025

Site	Status at base date 1 st April 2025	5YHLS (before 10% deduction)	Comments
ALB017 & ALB021 – Land north of Kingswood Road and Beamish Lane, Albrighton	A resolution to grant outline planning permission was made on 25/03/2025	123	The proposed development at this site does not accord with the policies of the adopted development plan. However, a resolution to grant outline planning permission had been made on this site <i>before</i> the base date. Therefore, in principle, this site could be considered deliverable at the base date.
BUR002 – Land adjoining Lineage Farm on A456, Burford	A resolution to grant outline planning permission was made on 12/12/2023	40	The proposed development at this site does not accord with the policies of the adopted development plan. However, a resolution to grant outline planning permission had been made on this site <i>before</i> the base date. Therefore, in principle, this site could be considered deliverable at the base date.
Total		163	
Total after 10% allowance		147	

Clear evidence of deliverability at the base date?

6.16 The disputed sites in this category are listed as sites 12 to 39 (pages 6-29) of the addendum SoCG. In the comments on behalf of the Appellant, I explain the status of each site at the base date and respond to the Council's comments in respect of whether there was "clear evidence" at the base date to include the sites. My comments address the sites where the Council relies on pre-application discussions. I provide the date the pre-application advice was provided, which in some cases was after the base date.



7. Matters not agreed: other disputed sites

7.1 I dispute the inclusion of the following sites for the reasons set out in the addendum SoCG re 5YHLS:

- 11 affordable housing sites. For the same reasons as set out above and discussed in section 4 of my proof of evidence, the “affordable housing sites” should not be included in the 5YHLS. My comments on these sites are provided in the addendum SoCG re: 5YHLS (sites 41-51 on pages 30-34);
- 7 sites which had planning permission at 1st April 2025 (sites 1-7, pages 1-4);
- 1 allocated site (site 11, page 6); and
- 1 SLAA site (site 40, pages 29-30).



8. Conclusions

- 8.1 In summary, I conclude that 2,858 dwellings should be removed from these sites in the Council's supply at 1st April 2025 from the following sources:

Table 8.1 – Summary of deductions

Source of supply	Dwellings
Sites with appeals pending determination at 1 st April 2025	97
Sites proposed for allocation for development within the withdrawn Local Plan	1,879
Affordable housing sites	326
Sites with planning permission	404
Allocated sites in the current Local Plan	80
Site with a 'resolution to grant' planning permission	45
Site identified in the SLAA	27
Total	2,858

- 8.2 I therefore conclude that the deliverable supply at 1st April 2025 is 6,972 dwellings (i.e., 9,830 – 2,858 = 6,972 dwellings). This equates to 3.25 years and a shortfall in the 5YHLS of 3,770 dwellings as shown in the following table.



Table 8.2 – Summary of the Appellant’s 5YHLS position at 1st April 2025

	Requirement	Council	Appellant
A	Annual local housing need	2,046	
B	5YHLS requirement without buffer (A X 5)	10,230	
C	5% buffer (5% of B)	512	
D	5YHLS requirement including buffer (B + C)	10,742	
E	Annual 5YHLS requirement including buffer (D / 5)	2,148	
	Supply		
F	Deliverable supply at 1 st April 2025	9,616	6,972
G	Supply in years (F / E)	4.48	3.25
H	Undersupply against the 5YHLS requirement including buffer (F – D)	-1,126	-3,770

8.3 The policy implications of this are addressed by Megan Wilson.



9. Appendix EP1 – relevant appeal decisions

9.1 In this appendix, I list relevant appeal decisions where the definition of “deliverable” has been considered.

The absence of any written evidence

9.2 In the following appeal decisions, the Inspectors and the Secretary of State removed sites where the local planning authorities had not provided any written evidence to support their inclusion:

- In an appeal decision regarding land off Audlem Road, Stapeley, Nantwich and land off Peter De Stapeleigh Way, Nantwich¹⁸, 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, Surrey¹⁹ 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 Dorset²⁰ 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);
- In an appeal decision regarding land within the Westhampnett / North East Strategic Development Location, North of Madgwick Lane, Chichester²¹, an Inspector removed the second phase of a wider site that is under construction on the basis that an application for reserved matters had not been made for phase 2 and the fact that a major housebuilder was progressing phase 1 was not in itself clear evidence (paragraph 82); and
- In a decision relating to an appeal regarding land at Weddington Road, Weddington, Nuneaton²², 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 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) and a site at Phoenix Way / Wilsons

¹⁸ PINS refs: 2197532 and 2197529 – 15th July 2020 – core document **CD16.18**

¹⁹ PINS ref: 3227970 – 16th September 2019 – core document **CD16.19**

²⁰ PINS ref: 3284485 – 20th June 2022 – core document **CD16.20**

²¹ PINS ref: 3270721 – 27th May 2022 – core document **CD16.21**

²² PINS ref: 3330615 – 26th July 2024 – core document **CD16.22**



Lane which had outline planning permission but no written agreement with a developer to confirm the timescales put forward by the Council.

The most up to date evidence

- 9.3 In an appeal regarding land on the east side of Green Road, Woolpit²³, 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).
- 9.4 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)²⁴, the Secretary of State agreed with Inspector Gilbert-Woolridge that the latest available evidence should be used when considering deliverability (DL paragraph 12).
- 9.5 Similarly, in a decision regarding land off Darnhall School Lane, Winsford²⁵, 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 supply²⁶.
- 9.6 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 appeal²⁷, 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)

- 9.7 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.

²³ PINS ref: 3194926 – 28th September 2018 – core document **CD16.23**

²⁴ PINS ref: 3169314 – 25th June 2020 – core document **CD16.24**

²⁵ PINS ref: 2212671 – 4th November 2019 – core document **CD16.25**

²⁶ Paragraph 344 of the Inspector's Report and paragraph 15 of the Decision Letter.

²⁷ PINS refs: 2197532 and 2197529 – 15th July 2020 – core document **CD16.18**



The form and value of the evidence

- 9.8 The evidential value of any written evidence provided 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.
- 9.9 For example, in allowing an appeal for 120 dwellings at land east of Gleneagles Way, Hatfield Peverel²⁸, the Secretary of State found Braintree Council could not demonstrate a five year housing land supply.
- 9.10 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”

- 9.11 The ten removed sites are listed in a table provided at Annex D on page 24 of the Secretary of State’s decision letter. Of the ten sites removed from Braintree’s supply, 9 had outline planning permission and the remaining site was an allocated site with a hybrid planning application pending determination. For these sites, Braintree Council had submitted completed forms and emails from landowners, developers and their agents providing the timescales for the submission of reserved matters applications and anticipated build rates (appendix EP2). 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.
- 9.12 Other examples are as follows:
- In an appeal for up to 140 no. dwellings at land off Popes Lane, Sturry²⁹, the Inspector removed 28% of Canterbury City Council’s claimed supply on the basis that insufficient evidence had been provided. Canterbury Council had provided statements of common ground, however the Inspector considered that these recorded the landowner’s intentions and did not explain how infrastructure was to be put in place or other obstacles would be overcome (paragraph 23);

²⁸ PINS ref: 3180729 – 8th July 2019 – core document **CD16.26**

²⁹ PINS ref: 3216104 – 3rd September 2019 – core document **CD16.27**



- In a decision relating to an appeal at for up to 53 dwellings at land to the south of Cox Green Road, Rudgwick³⁰, the Inspector removed 928 dwellings from the 5YHLS on the basis that insufficient evidence had been provided. The 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. However, the Inspector considered that the details contained within it were "scant". There was no explanation as to how the timings of delivery could be achieved including the intended timescales for submitting and approving reserved matters, applications of discharge of conditions, site preparation and installing infrastructure. The Inspector therefore did not include the site.
- In an appeal decision regarding Little Sparrows, Sonning Common³¹, the Inspector concluded that the Council could only demonstrate a 4.21 year supply. The Inspector considered paragraph 68-007 of the PPG and then stated at paragraph 21 of the decision:

"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 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."

The Inspector then considered the submitted emails from those promoting sites (appendix EP3). However, the Inspector in that case found that such emails were not clear evidence.

- In an appeal decision regarding Land west of Wroslyn Road, Freeland (West Oxfordshire)³², the Council had provided emails and proformas to support the inclusion of sites. (appendix EP4) However, the Inspector concluded that this was not "clear evidence" and removed the sites from the deliverable supply.

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

9.13 Even where a planning application or reserved matters application has been made, Inspectors have found this does not in itself provide clear evidence of deliverability for example where those applications are subject to outstanding objections or there is no written agreement from the developer. Examples are set out below:

³⁰ PINS ref: 3227970 – 16th September 2019 – core document **CD16.19**

³¹ PINS ref: 3265861 – 25th June 2021 – core document **CD16.28**

³² PINS ref: 3301202 – 18th January 2023 – core document **CD16.30**



- 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, Exeter³³, the Inspector found 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);
- In the Freeland appeal decision referred to above³⁴, the Inspector removed sites from the Council's supply despite the fact that planning applications had been made on the basis that there was no officer report, recommendation or even a confirmed committee date, there was no clear evidence to include sites where the planning applications had been pending for some time (paragraph 56); and
- 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 Marks³⁵, the Inspector removed a site from the deliverable supply because whilst a reserved matters application had been made but there were objections from Environmental Health and design offices and the Highways Authority (paragraph 54).

³³ PINS ref: 3292721 – 25th August 2022– core document **CD16.29**

³⁴ PINS ref: 3301202 – 18th January 2023 – core document **CD16.30**

³⁵ PINS ref: 3329928 – 10th April 2024 – core document **CD16.31**



