

Proof of Evidence of Ben Pycroft re: Five Year Housing Land Supply
For Hallam Land Management Limited | 26-108

Outline planning application for a mixed-use development including up to 600 dwellings
and 60 units of elderly accommodation – Land north of A507, west of A10, Buntingford
LPA ref: 3/24/0966/OUT, PINS ref: 6008238



Project: 26-108
Site Address: Land north of A507, west of A10, Buntingford
Client: Hallam Land Management Limited
Date: Sunday, August 9, 2026
Author: Ben Pycroft

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- EP4.** Evidence relating to Braintree's 5YHLS
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- EP6.** Evidence relating to West Oxfordshire's 5YHLS



1. Introduction and summary

- 1.1 This proof of evidence is submitted on behalf of Hallam Land Management Limited (i.e., the Appellant) in support of its appeal against the decision of East Hertfordshire District Council to refuse to grant planning permission for:

“Outline planning application for development of up to 600 dwellings (C3), up to 60 units of elderly accommodation (C3), Mixed Use Local Centre (including flexible use E, F and Sui Generis), First School, informal and formal open space, associated works and infrastructure including a new access from the A507 and pedestrian bridges over the A10, with all matters reserved save for access.”

at land north of A507, west of A10, Buntingford (LPA ref: 3/24/0966/OUT, PINS ref: 6008238).

- 1.2 This proof of evidence addresses the Council’s 5 Year Housing Land Supply (5YHLS). It should be read alongside the proofs of evidence of Jamie Roberts, which addresses affordable housing and Gary Stephens, 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 dated 9th July 2026.



Background

- 1.7 The Council's latest published 5YHLS position statement has a base date of 1st April 2023 (published March 2024 and amended April 2024). However, the Council's website states:

"The Council is currently reviewing its land supply trajectory to understand the deliverable supply of homes over the next five years and will publish an updated Five Year Housing Land Supply Position Statement in due course. An interim calculation, based on completions up to late February 2025 and a reassessment of the Council's District Plan allocated sites in the housing trajectory, suggests that the housing land supply calculation is currently between 3.4 and 3.7 years."

- 1.8 This position is referred to in the officer's report for the appeal application. Whilst a breakdown of the Council's position at the time the appeal application was not published, it has since been provided to the Appellant.
- 1.9 As explained in the SoCG re: 5YHLS, the Council's trajectory at 1st April 2025¹ shows a deliverable supply of 4,553 dwellings. However, for the reasons set out in paragraphs 2.7-2.12 of the SoCG re: 5YHLS, the Council's position is that it has a deliverable supply of 3,738 dwellings, which against the local housing need and a 5% buffer equates to **2.88 years (a shortfall in the 5YHLS of 2,756 dwellings)**.

Summary

- 1.10 As set out in the SoCG re: 5YHLS, the following matters in relation to 5YHLS are agreed:
- The base date for calculating the 5YHLS for this appeal is 1st April 2025 and the 5YHLS period is to 31st March 2030 (paragraph 2.2 of the SoCG re: 5YHLS). As set out in paragraph 2.3 of the SoCG re: 5YHLS, should the Council publish a new position statement (i.e. with a base date of 1st April 2026) before the determination of this appeal, then the Appellant will adduce evidence on it;
 - The 5YHLS should be measured against the local housing need calculated using the standard method set out in the PPG and this is 1,237 dwellings per annum (paragraphs 2.4 and 2.5 of the SoCG re: 5YHLS);
 - A 5% buffer should be applied (paragraph 2.6 of the SoCG re: 5YHLS);
 - The Council cannot demonstrate a 5YHLS (paragraph 2.13 of the SoCG re: 5YHLS). The Council considers that the deliverable supply is 3,738 dwellings, which equates to 2.88 years. The Appellant concludes that the deliverable supply is 2,871 dwellings, which equates to 2.21 years (table SOCG4 of the SoCG re: 5YHLS); and

¹ Core document **11.3**



- The parties agree that it is not necessary for the Inspector to determine where in the bracket of 2.21 – 2.88 years the supply falls as it is agreed that the benefits of providing housing, including affordable housing and self/custom build housing should attract substantial weight and the tilted balance to the presumption in favour of sustainable development is engaged due to the inability to demonstrate a 5YHLS (paragraph 2.15 of the SoCG re: 5YHLS).

1.11 As set out in section 3 of the SoCG re: 5YHLS the reason for the difference of 867 dwellings between the two supply figures, is because I dispute the inclusion of the following dwellings in the 5YHLS:

Table 1.1 – List of disputed sites at 1st April 2025

#	Reference	Site Address	Council's 5YHLS	Appellant's 5YHLS	Difference
1	3/23/1447/OUT	Land east of the A10, Buntingford	240	75	165
2	3/22/1030/OUT	Neale Drive And Phillips Way, Buntingford	58	0	58
3	3/13/0804	ASR's 104 (BISH3)	1,010	840	170
4	3/18/2465/OUT 3/23/2034/VAR	Land east of Marshgate Drive, Hertford	275	195	80
5	3/19/2124/OUT	Land Off Church Lane A414 (Village 7)	60	0	60
		Windfall allowance	400	66	334
		Total			867

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



Table 1.2 – East Hertfordshire’s 5YHLS at 1st April 2025

	Requirement	Council	Appellant
A	Annual local housing need figure	1,237	
B	Five year requirement	6,185	
C	5% buffer	309	
D	Total five year requirement including 5% buffer	6,494	
E	Annual housing requirement including 5% buffer	1,299	
	Supply		
F	Deliverable supply at 1 st April 2025	3,738	2,871
G	Supply in years (F / E)	2.88	2.21
H	Undersupply against the five year requirement (F – D)	-2,756	-3,623

1.13 The policy implications of this are addressed by Gary Stephens.



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 East Herts District Plan, which was adopted in October 2018. Policy DSP1 of the District Plan: “Housing, Employment and Retail Growth” explains that in the period 2011 to 2033 the Council will provide for a minimum of 18,458 dwellings in the District up to 2033. This equates to 839 dwellings per annum (i.e. $18,458 \text{ dwellings} / 22 \text{ years} = 839 \text{ dwellings per annum}$).
- 2.3 The adopted strategic policies of the East Herts District Plan are more than 5 years old. Therefore, the 5YHLS should be calculated against the local housing need calculated using the standard method set out in the PPG. This is 1,237 dwellings per annum. The adopted housing requirement of 839 dwellings is significantly lower than the local housing need calculated using the standard method. It is 67% of the local housing need.
- 2.4 The East Herts District Local Plan was examined before the introduction of the first standard method for calculating local housing need in September 2018 following the publication of the updated National Planning Policy Framework in July 2018. It was also examined before the change to the definition of deliverable in the July 2018 Framework, which I discuss in section 3 of my proof of evidence below.

Emerging development plan

- 2.5 The Council is preparing its new Local Plan under the new plan-making system. On 10th June 2026, the Council gave notice of its intention of commencement. The timetable for the preparation of the plan is as follows:
- Scoping Consultation – June 2026;
 - Plan content and evidence consultation – February 2027;
 - Proposed Local Plan consultation – February 2028; and



- Plan adoption – April 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 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.

2.8 Between 16th December 2025 and 10th March 2026, the Government published a consultation on proposed reforms to the Framework. Annex D of the draft Framework: “Housing calculations and supply” explains that:

- the Council will need to demonstrate a 5YHLS against the adopted housing requirement in the development plan, or against the local housing need where the development plan requirement is more than five years old; and
- a 5% buffer should apply unless there has been significant under delivery of housing over the previous three years determined by the Housing Delivery Test, when a 20% buffer will apply.

2.9 Apart from the proposed inclusion of “other pitches and plots”, the definition of “deliverable” in the draft Framework remains unchanged from that in the current Framework.



Planning Practice Guidance (PPG)

2.10 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.

East Hertfordshire's Five Year Housing Land Position

2.11 The Council's latest position (at 1st April 2025) is set out in the housing trajectory (core document 11.3) and the SoCG re: 5YHLS (core document 15.2). As above, the Council considers that it can demonstrate a deliverable supply of 3,738 dwellings, which equates to 2.88 years and a shortfall in the 5YHLS of 2,756 dwellings.

2.12 It is this position which I have assessed in my proof of evidence.



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 PPG² provides some examples of the types of evidence, which could be provided to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission. It states:

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

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

Such evidence, to demonstrate deliverability, may include:

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

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

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



Assessment

- 3.11 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition in the current Framework is clear that only sites with detailed consent for major development should be considered 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.
- 3.12 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**.

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.

East Hertfordshire's approach to "clear evidence"

- 3.19 The Council has provided the evidence it relies on for the inclusion of sites which fall within category b) of the definition of deliverable. I discuss this further in my proof of evidence below.



4. Housing Delivery

Housing Delivery Test

- 4.1 The latest (2023) HDT results were published on 12th December 2024. The result for East Hertfordshire 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	
East Hertfordshire	559	840	840	2238	824	879	883	2585	115%

- 4.2 As above, the Council achieved a HDT result of 115% and therefore the policy consequences set out in paragraph 79 of the Framework do not currently apply.
- 4.3 The 2024 and 2025 HDT results are expected to be published later this year. They are expected to use the local housing need calculated under the previous standard method where this applies. This was around 1,041 dwellings per annum. In East Hertfordshire, this would be used as the requirement for half of the year in 2023/24 as the District Plan became five years old in October 2023. It will be used as the requirement for 2024/25. Using the known completions of 1,388 dwellings in 2023/24 and 778 dwellings in 2024/25, the predicted 2024 and 2025 HDT result is set out in the following table:

Table 4.2 – Predicted 2024 and 2025 Housing Delivery Test Result

	Housing requirement				Housing delivery				HDT%
	2022-23	2023-24	2024-25	Total	2022-23	2023-24	2024-25	Total	
East Hertfordshire	840	941	1,041	2,822	883	1,388	778	3,049	108%

- 4.4 Therefore, if the Council does achieve a result of 108% when the 2024 and 2025 HDT results are published, then again the policy consequences set out in paragraph 79 of the Framework will not apply. However, moving forward, the HDT will be measured using the local housing need calculated using the standard



method set out in the PPG. Against this figure, the Council's trajectory is only predicting completions of 738 dwellings in 2025/26 and 984 dwellings in 2026/27. Therefore, it is likely that the Council will fail the 2026 and 2027 HDT as shown in the following tables:

Table 4.3 – Predicted 2026 Housing Delivery Test Result

	Housing requirement				Housing delivery				HDT%
	2023-24	2024-25	2025-26	Total	2023-24	2024-25	2025-26	Total	
East Hertfordshire	941	1,041	1,263	3,245	1,388	778	738	2,904	89%

Table 4.4 – Predicted 2027 Housing Delivery Test Result

	Housing requirement				Housing delivery				HDT%
	2024-25	2025-26	2026-27	Total	2024-25	2025-26	2026-27	Total	
East Hertfordshire	1,041	1,263	1,237	3,541	778	738	984	2,500	71%

- 4.5 On this basis, the Council will need to prepare an action plan when 2026 HDT result is published and in addition to this will need to apply a 20% buffer to its 5YHLS calculation and also apply the presumption in favour of sustainable development as a result of the HDT result (irrespective of the 5YHLS position) when the 2027 HDT result is published.
- 4.6 The appeal must be determined with regards to the latest HDT result. However, the above is relevant when considering how long the shortfall in the 5YHLS is expected to last.

Delivery against the adopted housing requirement

- 4.7 The base date of the East Herts District Local Plan is 1st April 2011. Between 1st April 2011 and 31st March 2025, 10,299 dwellings were completed in East Hertfordshire against a housing requirement over the same period of 11,746 dwellings. This is shown in the table below.



Table 4.5 – Completions against adopted housing requirement

Year	Annual requirement	Completions	Under / over delivery	Cumulative under / over delivery
2011/12	839	383	-456	-456
2012/13	839	699	-140	-596
2013/14	839	366	-473	-1069
2014/15	839	503	-336	-1405
2015/16	839	674	-165	-1570
2016/17	839	620	-219	-1789
2017/18	839	464	-375	-2164
2018/19	839	908	69	-2095
2019/20	839	952	113	-1982
2020/21	839	805	-34	-2016
2021/22	839	872	33	-1983
2022/23	839	887	48	-1935
2023/24	839	1,388	549	-1386
2024/25	839	778	-61	-1447
Totals	11,746	10,299	-1,447	
Average	839	736		

- 4.8 As shown in the table above, the shortfall against the adopted housing requirement at 1st April 2025 is 1,447 dwellings. Whilst the 5YHLS is to be calculated against the local housing need using the standard method set out in the PPG and this factors in past under delivery, it is relevant that there is a significant shortfall against the adopted housing requirement which is significantly lower than local housing need.



5. East Hertfordshire's 5YHLS

Previous positions

- 5.1 On 24th January 2023, a decision was issued in relation to appeals at 1 Whempstead Road, Benington³. At the hearing for those appeals, which took place in December 2022, the Council claimed it could demonstrate a 5.8 year supply. However, the Inspector removed 1,800 dwellings from the Council's supply figure on the basis that these sites were not deliverable and concluded that the Council could not demonstrate a 5YHLS⁴.
- 5.2 The Council's latest published 5YHLS position remains that with a base date of 1st April 2023 (published March 2024). It claims a deliverable supply of 5,560 dwellings. It measures this against the local housing need calculated using the previous standard method of around 1,112 dwellings per annum and no buffer (as a 5% buffer did not apply in the December 2023 version of the Framework). Once the latest affordability ratio was applied, the local housing need was 1,041 dwellings per annum. Against this, the Council claimed a **5.95 year** supply.
- 5.3 In July 2024, the Council's deliverable supply at 1st April 2023 was considered at a public inquiry into an appeal made by Countryside Partnerships Ltd and Wattsdown Developments Ltd against the decision of the Council to refuse to grant outline planning permission for a mixed-use scheme including up to 350 dwellings at land east of A10, Buntingford. The appeal was allowed on 22nd August 2024⁵. Inspector Ford concluded that the deliverable supply at 1st April 2023 was 4,671 dwellings. This equated to **4.2 or 4.69 years** depending on whether the latest affordability ratio was used.
- 5.4 Against the local housing need calculated using the current standard method of 1,237 dwellings and a 5% buffer, the supply of 4,671 dwellings equates to **3.40 years** (a shortfall in the 5YHLS of 1,823 dwellings).

Current position

- 5.5 The Council's current position at 1st April 2025 is that it can demonstrate a deliverable supply of 3,738 dwellings.
- 5.6 I assess the Council's position below.

³ Core document **7.17**

⁴ Paragraphs 52-61

⁵ PINS ref: 3340497 – core document **7.1**



6. Matters agreed re: 5YHLS

6.1 As set out in the SoCG re: 5YHLS, and the introduction to my proof of evidence, the following matters are agreed in relation to 5YHLS:

- The base date for calculating the 5YHLS for this appeal is 1st April 2025 and the 5YHLS period is to 31st March 2030 (paragraph 2.2 of the SoCG re: 5YHLS). As set out in paragraph 2.3 of the SoCG re: 5YHLS, should the Council publish a new position statement (i.e. with a base date of 1st April 2026) before the determination of this appeal, then the Appellant will adduce evidence on it;
- The 5YHLS should be measured against the local housing need calculated using the standard method set out in the PPG and this is 1,237 dwellings per annum (paragraphs 2.4 and 2.5 of the SoCG re: 5YHLS);
- A 5% buffer should be applied (paragraph 2.6 of the SoCG re: 5YHLS);
- The Council cannot demonstrate a 5YHLS (paragraph 2.13 of the SoCG re: 5YHLS). The Council considers that the deliverable supply is 3,738 dwellings, which equates to 2.88 years. The Appellant concludes that the deliverable supply is 2,871 dwellings, which equates to 2.21 years (table SOCG4 of the SoCG re: 5YHLS); and
- The parties agree that it is not necessary for the Inspector to determine where in the bracket of 2.21 – 2.88 years the supply falls as it is agreed that the benefits of providing housing, including affordable housing and self/custom build housing should attract substantial weight and the tilted balance to the presumption in favour of sustainable development is engaged due to the inability to demonstrate a 5YHLS (paragraph 2.15 of the SoCG re: 5YHLS).



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

7.1 The inclusion of dwellings on the following sites is disputed.

Site 1 - Land east of the A10, Buntingford (Council's 5YHLS = 240 dwellings)

7.2 This site has outline planning permission for major development. It is a category b) site in relation to the definition of “deliverable” as set out in the Framework. The onus is on the Council to provide clear evidence that the site is deliverable.

7.3 The Council's trajectory for this site is as follows:

Year 1 2025/26	Year 2 2026/27	Year 3 2027/28	Year 4 2028/29	Year 5 2029/30	5YHLS
0	0	40	100	100	240

Current Planning Status

7.4 On 22nd August 2024, outline planning permission was granted at appeal for a mixed use development including up to 350 dwellings (LPA ref: 3/23/1447/OUT, PINS ref: 3340497). On 29th January 2025, a non-material amendment to the wording of the conditions was approved to allow the submission of the reserved matters in advance of the approval of conditions 4 (master planning) and 5 (design framework) (LPA ref: 3/25/0049/NMA).

7.5 On 21st February 2025, an application was made to discharge conditions 4 (Master Plan) and 5 (Design Principles) (LPA ref: X/25/0120/CND). It is pending determination at the time of writing. The Council's public access system states that the determination deadline was 18th April 2025 and the expiry date was 15th June 2026. The last documents to be uploaded to the Council's public access system was a consultee response from the sustainability officer requesting additional information on 24th March 2026.

7.6 On 26th February 2025, an application for reserved matters was made by Countryside Partnerships Ltd (i.e. Vistry) and Wattsdown Developments Ltd (i.e. a land promoter) for 337 dwellings. It is pending determination (LPA ref: 3/25/0327/REM). The Council's planning public access system states that the determination deadline was 13th June 2025 and the agreed expiry date was 31st January 2026. The last document that has been uploaded to the Council's public access system was on 1st October 2025.



- 7.7 On 12th June 2025, condition 13 (programme of archaeological work) was partially discharged (LPA ref: X/25/0255/CND).
- 7.8 On 2nd September 2025, the Council discharged condition 36 relating to a technical note on odour (LPA ref: X/25/0282/CND).
- 7.9 On 16th December 2025, the Council **refused** to discharge conditions 6 (Watercourse alteration design), 8 (Highways plans), 9 (Surface water drainage scheme) and 22 (Biodiversity Net Gain Plan) on the basis that insufficient information had been submitted to discharge these conditions (LPA ref: X/25/0149/CND). The details required to discharge these conditions were to be submitted prior to or in conjunction with the reserved matters submission.
- 7.10 On 16th December 2025, the Council **refused** to discharge condition 20 (Ecological Impact Assessment) on the basis that insufficient information had been submitted (LPA ref: X/25/0041/CND). A revised application to discharge this condition was made on 23rd January 2026 and is pending determination at the time of writing (LPA ref: X/26/0035/CND).
- 7.11 Applications to discharge other pre-commencement conditions have not been made at the time of writing.

The Council's evidence

- 7.12 The evidence which the Council relies on for the inclusion of 240 dwellings in the 5YHLS period is:

- An extract from the proof of evidence for the Appellant for Vistry / Countryside and a housing delivery statement; and
- Paragraph 68 of the appeal decision for that site, which states:

“The development is expected to deliver 200 - 240 dwellings within the 5 year housing land supply period and as such would make an important contribution in reducing the Council's housing shortfall. Delivery would extend beyond the 5 year assessment and weight should be given to the longer term delivery. This is particularly so given the Council is some years off adopting a new development plan. For these reasons, I attach significant weight to the proposed housing delivery”

- 7.13 The Council also states:

“As an update, the applicant has submitted a Masterplan and Design Principles Document alongside a Reserved Matters submission for 337 dwellings which is currently pending. Both applications are subject to a Planning Performance Agreement which is currently being updated to reflect the new timeframes due to the slippage in time. The Masterplan is being revised and will be resubmitted to EH shortly. It is understood there are no further impediments to delivering the site and the site is



evidently more deliverable now, than it was back in 2024 when the Inspector resolved 240 units were deliverable.”

7.14 In relation to the extract from the proof of evidence and delivery statement from the developer, these documents were submitted for the appeal in relation to that site in June 2024, which was over 2 years ago. The projection was as follows:

- “a) Year 1 - Submission and approval of reserved matters.
- b) Year 2 - Discharge of pre-commencement conditions and enabling works
- c) Year 2 - 50 dwellings
- d) Year 3 - 100 dwellings
- e) Year 4 - 100 dwellings
- f) Year 5 - 100 dwellings”

7.15 However, more recently, Vistry’s website⁶ provides the following programme:

- Public consultation on masterplan / design principles document;
- Public consultation on reserved matters;
- Review comments received from the public consultation and make changes to the application;
- Statutory consultation on the re-submitted documents;
- Decision issued by the Local Planning Authority (Q4 2025);
- Due diligence on site (Q1 2027);
- Construction of roundabout (Q1 2027); and
- 1st occupation (Q1 2028).

7.16 As above, the applications to discharge the conditions relating to the masterplan and design principles and for the reserved matters have not been determined. Indeed, the Council’s latest evidence is that the masterplan is being revised and will be submitted “shortly”. This has not happened at the time of writing. The Council refers to a Planning Performance Agreement (PPA), which has not been provided and has not been uploaded to the Council’s public access system. Nevertheless, the Council’s evidence is that the timescales within it are going to be updated due to “the slippage in time”.

7.17 Based on Vistry’s timescales above, it is anticipated that there will be 2.25 years from the approval of the reserved matters until the first completions. In that time, due diligence and the construction of the roundabout will be undertaken. Therefore, even if the reserved matters application were approved now,

⁶ Appendix EP2



the first homes would only be delivered in 2.25 years from now i.e. from October 2028 (half way through year 4). However, this does not allow time for the submission, consideration of and approval of the revised masterplan.

- 7.18 In addition, the Council's evidence states that at the time of the appeal, it was anticipated that Countryside Partnerships and Vistry Homes would build the site and there would be a minimum of two sales outlets. Vistry Group acquired Countryside Partnerships in November 2022. Countryside (along with Linden and Bovis) is one of the three retail brands of Vistry. This is explained on Vistry's website for the Buntingford site as follows:

"Vistry is the UK's leading homebuilder, delivering more homes than anyone else through our trusted brands: Bovis Homes, Linden Homes, and Countryside Homes. We don't just build houses - we create vibrant, sustainable communities with everything from play parks and orchards to schools and allotments. Supported by regional business units across the country, we're committed to building high-quality homes and places people are proud to call home.

All of our homes have been carefully designed to complement each other; some of our developments have one brand on them, in other places we have dual branded developments or tri-branded developments. At Vistry we offer a wide range of homes across all of our brands and are proud to have been awarded 5 star status from the House Builders Federation for six consecutive years."

- 7.19 There is no evidence that more than one housebuilder "brand" is involved at the Buntingford West site. The applicant for the reserved matters application and application to discharge the conditions relating to the masterplan and design review is Countryside Partnerships Ltd (and Wattsdown Developments who as above are a land promoter). The draft masterplan and principles document has also been prepared on behalf of Countryside Partnerships Ltd.
- 7.20 Consequently, I extend the lead-in time to half way through 2028/29 (which is optimistic given the above) and I reduce the build out rate to 50 dwellings per annum on the basis that there is one known housebuilder at this stage. This means 75 dwellings are included in the 5YHLS and **165 dwellings** should be removed from the Council's 5YHLS.

Site 2 - Neale Drive (Council's 5YHLS = 58 dwellings)

- 7.21 This site has outline planning permission for major development. It is a category b) site in relation to the definition of "deliverable" as set out in the Framework. The onus is on the Council to provide clear evidence that the site is deliverable.
- 7.22 The Council's trajectory for this site is as follows:



Year 1 2025/26	Year 2 2026/27	Year 3 2027/28	Year 4 2028/29	Year 5 2029/30	5YHLS
10	20	28	0	0	58

Current Planning Status

7.23 An outline planning application for up to 58 dwellings was submitted on 16th May 2022 and approved on 19th March 2024 (ref: 3/22/1030/OUT). A reserved matters application for 58 dwellings was submitted on 11th December 2025 by Denbury Homes and is pending determination (ref: 3/25/1921/REM). The application is subject to several objections from statutory consultees, as follows:

- County Council Highways (3rd June 2026) recommends that permission be refused on account of 1) the layout does not put the needs of pedestrians and cyclists first; and 2) in the absence of necessary information, there is doubt over possible implications for the free, safe and sustainable flow of public highway users.
- LLFA (18th June 2026) objection in the absence of an acceptable layout that leaves sufficient space for surface water drainage infrastructure.
- Sustainability (25th March 2026) requests further information / amendments and states that if these are not delivered, the application should be withdrawn.

7.24 The Council has not provided clear evidence to demonstrate how these objections are to be addressed.

The Council's evidence

7.25 The evidence which the Council relies on for the inclusion of 58 dwellings in the 5YHLS period is:

- A delivery proforma update dated 6th February 2024 which states that the site owner at the time (Pigeon) had a number of interested parties in the site and anticipated a reserved matters application being submitted by the end of 2024.
- Paragraph 38 of appeal decision 3340497, dated 22nd August 2024, which states:

“An outline planning application was granted permission in March 2024 and reserved matters are expected by the end of the year. Whilst no housebuilder has been confirmed the promoter is engaged with multiple housebuilders, which demonstrates interest in the site. The promoter expects the developer to be onsite in 2025, although there is little before me to substantiate that. Nevertheless, the site is subject to a masterplan and outline planning permission. Even if there are delays in bringing the site forward 58 dwellings could be delivered within the 5 years given that following the discharge of planning conditions development could commence immediately.”



- 7.26 The delivery proforma relied on is almost 2.5 years old and was provided by the previous site owner. No delivery timescale has been put forward by the developer, Denbury Homes.
- 7.27 I note that the site was sold in 2025 and a reserved matters application was not made until the end of 2025 (i.e., 1 year later than anticipated as per the Council's evidence).
- 7.28 As above, whilst a reserved matters application has been submitted, this is currently subject to a recommendation for refusal from the Highways authority, as well as an objection from the LLFA. The appeal decisions I refer to in appendix **EP1** have concluded that sites are not deliverable where there are outstanding objections from statutory consultees.
- 7.29 Within this context, **58 dwellings** should be removed from the Council's 5YHLS.

Site 3 – Land at Bishop's Stortford North - BISH3 (Council's 5YHLS = 1,010 dwellings)

- 7.30 The site has detailed planning permission for 1,957 dwellings, 1,176 of which were completed prior to the base date.
- 7.31 The Council's trajectory for this site is as follows:

Year 1 2025/26	Year 2 2026/27	Year 3 2027/28	Year 4 2028/29	Year 5 2029/30	5YHLS
202	202	202	202	202	1,010

Current Planning Status

- 7.32 An outline planning application for up to 2,200 dwellings, including detailed permission for Phase 1 comprising 836 dwellings, was approved on 2nd April 2015 (ref: 3/13/0804/OP). A number of reserved matters applications have been approved, as follows:
- 3/20/0129/REM – RM for 67 dwellings approved 4th August 2023;
 - 3/21/1256/REM – RM for 105 dwellings approved 10th February 2023;
 - 3/21/1599/REM – RM for 78 dwellings approved 17th March 2023;
 - 3/22/0458/REM – RM for 124 dwellings approved 20th December 2023;
 - 3/22/2594/REM – RM for 34 dwellings approved 4th August 2023;
 - 3/23/0613/REM – RM for 76 dwellings approved 15th February 2024;



- 3/23/2317/REM – RM for 114 dwellings approved 20th December 2024;
- 3/24/0735/REM – RM for 160 dwellings approved 22nd October 2024;
- 3/24/1142/REM – RM for 161 dwellings approved 20th December 2024; and
- 3/25/0485/REM – RM for 202 dwellings approved 9th January 2026.

7.33 As such, the site has detailed consent for 1,957 dwellings. 1,176 dwellings were completed prior to the base date, as follows:

- 2018/19: 84 completions;
- 2019/20: 286 completions;
- 2020/21: 267 completions;
- 2021/22: 151 completions;
- 2022/23: 105 completions;
- 2023/24: 31 completions; and
- 2024/25: 252 completions.

7.34 Therefore, 781 dwellings remain to be delivered with detailed consent. No further reserved matters applications have been submitted to date.

7.35 As set out above, the Council expects the site to deliver at a rate of 202 dwellings per annum. However, the average build out rate achieved on site since 2018 is 168 dwellings per annum. The Council has not provided clear evidence to demonstrate how an average build rate of 202 dpa will be achieved. In the absence of any evidence to justify otherwise, the average build rate achieved on site should be applied. This means that 840 dwellings can be expected to be delivered in the five year period (i.e., 168 x 5 years).

7.36 Whilst I include 840 dwellings in the 5YHLS, I note that as set out above, the site only has reserved matters consent for 781 dwellings. No further reserved matters applications have been submitted to date and the Council has not provided clear evidence to demonstrate that firm progress is being made in this regard.

7.37 Despite no clear evidence being provided to demonstrate the deliverability of the remainder of this category b) site, I include 840 dwellings in the 5YHLS in line with the average build rates achieved on site to date. Therefore, I remove 170 dwellings from the Council's 5YHLS.



Site 4 – Marshgate House (Council’s 5YHLS = 275 dwellings)

7.38 The site has full planning permission for 446 dwellings. The Council’s trajectory for this site is as follows:

Year 1 2025/26	Year 2 2026/27	Year 3 2027/28	Year 4 2028/29	Year 5 2029/30	5YHLS
0	45	100	50	80	275

Current Planning Status

7.39 A hybrid planning application seeking full permission for 375 dwellings was allowed at appeal on 19th March 2020 (ref: 3/18/2465/OUT). The application was subsequently varied on 15th December 2025 to increase the quantum of development to 446 dwellings (ref: 3/24/2147/VAR).

The Council’s evidence

7.40 The evidence which the Council relies on for the inclusion of 275 dwellings in the 5YHLS period is:

- Site subject to approved masterplan in 2018;
- Site granted full permission at appeal in 2020;
- Decontamination works completed in 2022 followed by commencement;
- Revised scheme approved in 2025;
- Updated supply information provided by applicant in February 2026 (St Joseph Homes) which states that anticipated completions are as follows:
 - 2027: 62 dwellings
 - 2028: 101 dwellings
 - 2029: 62 dwellings
 - 2030: 31 dwellings
- Berkeley Homes / St Joseph’s track record of delivering high quality development on brownfield sites.

7.41 However, Berkeley Group’s website sets out that the first available dwellings are estimated for completion in Q1 of 2028⁷. Therefore, the Council’s trajectory should be pushed back by 1 year. This means that **80 dwellings** should be removed from the Council’s 5YHLS.

⁷ Appendix EP3



Site 5 – Land off Church Lane (Village 7) (Council’s 5YHLS = 60 dwellings)

7.42 The site has outline planning permission for up to 1,500 dwellings. It is a category b) site in relation to the definition of “deliverable” as set out in the Framework. The onus is on the Council to provide clear evidence that the site is deliverable.

7.43 The Council’s trajectory for this site is as follows:

Year 1 2025/26	Year 2 2026/27	Year 3 2027/28	Year 4 2028/29	Year 5 2029/30	5YHLS
0	0	0	0	60	60

Current Planning Status

7.44 An outline planning application for up to 1,500 dwellings was submitted on 18th October 2019 and approved on 9th January 2025 (ref: 3/19/2124/OUT), over 5 years later. 68 planning conditions are attached to the consent, including 18 pre-commencement conditions.

7.45 The following applications to discharge pre-commencement conditions have been submitted:

- X/25/0348/CND – Discharge of condition 28 (preliminary works construction environmental management plan) submitted 9th June 2025, pending determination;
- X/25/0336/CND – Discharge of condition 42 (noise bund impact) submitted 4th June 2025, pending determination;
- X/25/0335/CND – Discharge of condition 12 (buffers to existing waterways) submitted 4th June 2025, pending determination;
- X/25/0292/CND – Discharge of conditions 34 (contamination investigation and remediation) and 36 (contamination monitoring and maintenance plan) approved 3rd June 2026;
- X/25/0293/CND – Discharge of condition 25 (archaeological written scheme of investigation) approved 3rd June 2026;
- X/25/0256/CND – Discharge of condition 8 (phasing plan) submitted 17th April 2025, pending determination;
- X/25/0208/CND – Discharge of condition 41 (water framework directive) submitted 27th March 2025, pending determination;
- X/25/0538/CND – Discharge of condition 66 (on site waste storage) submitted 26th September 2025, pending determination;



- X/26/0226/CND – Discharge of condition 29 (landscape and ecological management plan) submitted 21st May 2026, pending determination;
- X/26/0111/CND – Discharge of condition 62 (A414/Church Lane road safety audit) approved 22nd June 2026;
- X/25/0641/CND – Discharge of condition 68 (refuse collection) submitted 4th December 2025, pending determination;
- X/25/0567/CND – Discharge of condition 61 (A414/Church Lane speed limit review) approved 22nd June 2026;
- X/25/0566/CND – Discharge of condition 38 (phase waste management plan) submitted 16th October 2025, pending determination; and
- X/25/0225/CND – Discharge of condition 10 (strategic landscape masterplan) approved 23rd February 2026.

7.46 As above, 10 applications to discharge pre-commencement conditions applications are still outstanding.

7.47 A reserved matters application for 276 dwellings was submitted after the base date on 20th May 2025 and is still pending determination, over 1 year later (ref: 3/25/0876/REM). No documentation has been uploaded to the Council's application portal since January 2026, i.e., 6 months ago. The timescales for determining the application are not known.

7.48 Condition 3 of the outline consent explains that the development shall be begun before the expiration of 10 years from the date of the outline permission, i.e., by January 2035 or two years from the date of the approval of the last reserved matters. This is not surprising; it is a very large site. Even if the reserved matters application is approved for the first phase, then a start on site is not required until 2035 or within 2 years of the last reserved matters approval.

7.49 The Council has not provided any clear evidence to demonstrate the deliverability of the site in the five year period. Therefore, I remove **60 dwellings** from the Council's 5YHLS.

Windfall allowance

7.50 The Council includes a windfall allowance of 400 dwellings in the five year period. The Council expects that windfall sites will deliver as follows:

2025/26	2026/27	2027/28	2028/29	2029/30	5YS
0	100	100	100	100	400



7.51 The windfall allowance assumes that currently unknown sites will become available, receive planning permission and deliver housing in the five year period.

National Planning Policy and Guidance

7.52 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.”

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

“Sites not specifically identified in the development plan”.

7.54 Paragraph 3-023 of the PPG⁸ states:

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

7.55 The Council’s evidence for the Local Plan states that small windfall sites (i.e. sites under 10 units) would deliver at a rate of 75 dwellings per annum. This was accepted by the Local Plan Inspector.

7.56 The Council now includes a windfall allowance of 100 dwellings per annum in years 2 – 5. This is based on previous delivery of 81 dwellings per annum on small windfall sites of 1 – 4 dwellings from 2018 – 2025, and the delivery of 200 dwellings per annum on large windfall sites above 5 units from 2018 – 2025, as per the Council’s ‘Note on Windfall Allowance’⁹.

7.57 However, the average delivery on large windfall sites from 2018 to 2025 includes sites that were known windfall sites at the time the Local Plan was examined i.e. large windfall sites that delivered homes in the early years of the plan period were already known and included as commitments in the Local Plan.

7.58 In addition, the Framework is clear that sites for major development (i.e., 10 units and above) should only be considered deliverable where there is clear evidence that housing completions will begin on site within

⁸ Reference ID: 3-023-20190722: “How should a windfall allowance be determined in relation to housing?”

⁹ Core document **11.4**



five years. Any large windfall sites expected to deliver in the five year period should therefore be identified sites in the Council's trajectory with accompanying clear evidence.

- 7.59 In terms of the small sites windfall allowance, I apply an allowance of 75 dwellings per annum as is consistent with the Council's evidence for the Local Plan examination. This means that 375 dwellings can be expected to come forward on windfall sites in the five year period (i.e., 75 x 5 years). However, the Council already includes 309 dwellings on known small windfall sites (i.e., sites between 1 – 4 dwellings as defined in the Note on Windfall Allowance) in the supply. Therefore, only an additional 66 dwellings can be expected to come forward on small windfall sites in the five year period (i.e., 375 – 309). To include both the known windfall sites and the full additional windfall allowance would be double counting. I therefore remove **334 dwellings** from the Council's supply.
- 7.60 I note that based on the definition of small windfall sites in the Local Plan (i.e., sites under 10 dwellings), the Council already includes 420 dwellings on known small windfall sites in the supply. This is already more than the 400 dwelling windfall allowance the Council claims should be added – before accounting for large windfall sites already included in the supply.
- 7.61 Nevertheless, I include a windfall allowance of 66 dwellings in the Council's supply as set out above. The approach I have applied is consistent with the windfall allowance applied in the Local Plan.



8. Conclusions

8.1 I conclude that the deliverable supply at 1st April 2025 is 2,871 dwellings, which equates to 2.21 years:

Table 8.1 – East Hertfordshire’s 5YHLS at 1st April 2025

	Requirement	Council	Appellant
A	Annual local housing need figure	1,237	
B	Five year requirement	6,185	
C	5% buffer	309	
D	Total five year requirement including 5% buffer	6,494	
E	Annual housing requirement including 5% buffer	1,299	
	Supply		
F	Deliverable supply at 1 st April 2025	3,738	2,871
G	Supply in years (F / E)	2.88	2.21
H	Undersupply against the five year requirement (F – D)	-2,756	-3,623

8.2 The policy implications of this are addressed by Gary Stephens.



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, Nantwich¹⁰, 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, Surrey¹¹ 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 Dorset¹² 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, Chichester¹³, 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, Nuneaton¹⁴, 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

¹⁰ PINS refs: 2197532 and 2197529 – 15th July 2020 – core document **7.3**

¹¹ PINS ref: 3227970 – 16th September 2019 – core document **7.9**

¹² PINS ref: 3284485 – 20th June 2022 – core document **7.12**

¹³ PINS ref: 3270721 – 27th May 2022 – core document **7.11**

¹⁴ PINS ref: 3330615 – 26th July 2024 – core document **7.16**



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, Woolpit¹⁵, 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)¹⁶, 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, Winsford¹⁷, 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 supply¹⁸.
- 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 appeal¹⁹, 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.

¹⁵ PINS ref: 3194926 – 28th September 2018 – core document **7.7**

¹⁶ PINS ref: 3169314 – 25th June 2020 – core document **7.5**

¹⁷ PINS ref: 2212671 – 4th November 2019 – core document **7.4**

¹⁸ Paragraph 344 of the Inspector's Report and paragraph 15 of the Decision Letter.

¹⁹ PINS refs: 2197532 and 2197529 – 15th July 2020 – core document **7.3**



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 Peverel²⁰, 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 **EP4**). 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, Sturry²¹, 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);

²⁰ PINS ref: 3180729 – 8th July 2019 – core document **7.6**

²¹ PINS ref: 3216104 – 3rd September 2019 – core document **7.8**



- In a decision relating to an appeal at for up to 53 dwellings at land to the south of Cox Green Road, Rudgwick²², 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 Common²³, 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:

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 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)

The Inspector then considered the submitted emails from those promoting sites (appendix EP5). 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)²⁴, the Council had provided emails and proformas to support the inclusion of sites. (appendix EP6) However, the Inspector concluded that this was not "clear evidence" and removed the sites from the deliverable supply. The evidence provided by West Oxfordshire can be compared with that provided by East Hertfordshire.

²² PINS ref: 3227970 – 16th September 2019 – core document 7.9

²³ PINS ref: 3265861 – 25th June 2021 – core document 7.10

²⁴ PINS ref: 3301202 – 18th January 2023 – core document 7.14



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:

- 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, Exeter²⁵, 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 above²⁶, 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

9.14 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 Marks²⁷, 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).

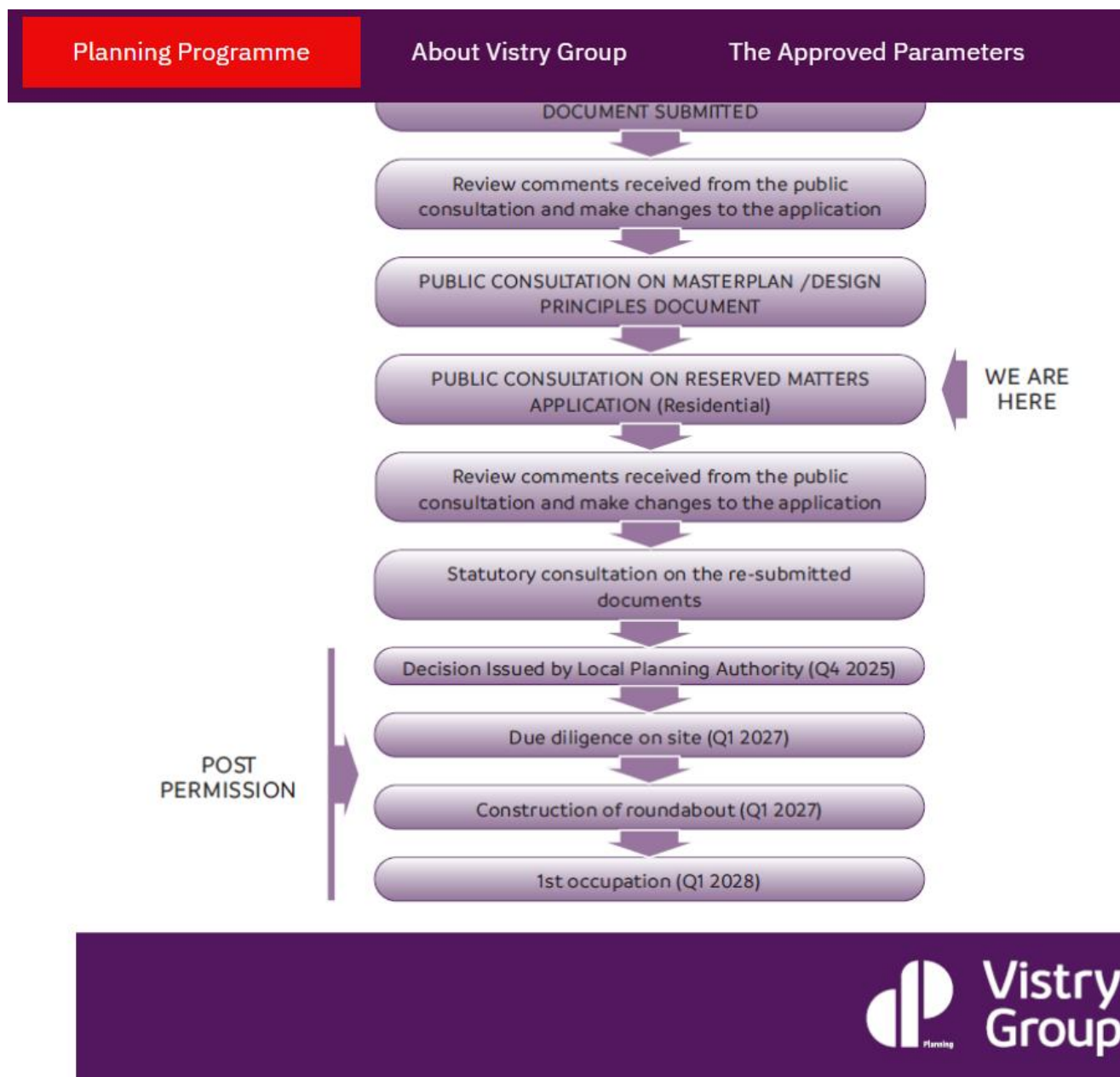
²⁵ PINS ref: 3292721 – 25th August 2022 – core document **7.13**

²⁶ PINS ref: 3301202 – 18th January 2023 – core document **7.14**

²⁷ PINS ref: 3329928 – 10th April 2024 – **7.15**



10. Appendix EP2 – Buntingford West



11. Appendix EP3 - Hertford Locks



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Number	Status	Price	Bedrooms	Square Footage	Floor	Type	Phase	Est. Completion
F.1.06	Available	£296,000	1	569	1	Apartment		Q1 2028
F.3.01	Available	£302,000	1	508	3	Apartment		Q1 2028
F.1.03	Available	£304,000	1	505	1	Apartment		Q1 2028
F.2.03	Available	£306,000	1	505	2	Apartment		Q1 2028
F.5.03	Under Negotiation	£325,000	1	597	5	Apartment		Q1 2028
F.3.02	Under Negotiation	£388,000	2	751	3	Apartment		Q1 2028
E.2.07	Available	£404,000	2	778	2	Apartment		Q1 2028
F.2.04	Available	£404,000	2	725	2	Apartment		Q1 2028



