



**Hinckley & Bosworth
Borough Council**

FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

SCRUTINY COMMISSION 12 March 2020

WARDS AFFECTED: ALL WARDS

HOUSING LAND SUPPLY

Report of Director (Environment & Planning)

1. PURPOSE OF REPORT

1.1 To brief Members on the current housing land supply position.

2. RECOMMENDATION

2.1 To note the contents of the report.

3. BACKGROUND TO THE REPORT

3.1 At Scrutiny briefing the Chair asked for a future paper to come to this Committee on “Five Year Housing Land Supply” (5YHLS). The 5YHLS relates to the Government’s desire to encourage local authorities to promote a sufficient supply of land for housing and for local authorities to support the delivery of new housing to meet the Government’s objectives of delivering 300,000 new homes annually across the country. This manifests itself in requirements for local authorities set out in national planning policy and various Acts.

3.2 The National Planning Policy Framework (NPPF) requires Local Planning Authorities (LPA) to identify a sufficient supply and mix of sites in its planning policies (Para 67). The policy states that local plan policies should identify a supply of specific deliverable sites for years 1 to 5 of the plan and specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan.

3.3 The NPPF also requires LPAs to maintain a supply of sites. Paragraph 73 states:

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 policies, or against their local housing need where the strategic policies are more than five years old. 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) 10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or*
- c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.*

Furthermore paragraph 75 states:

To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority's housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of under-delivery and identify actions to increase delivery in future years

- 3.4 To calculate the 5YHLS, the LPA methodology needs to consider the target figure from either their plan or against local housing need using the Governments standard methodology, if any buffer needs to be added, against the number of dwellings expected to be constructed in the five year period. In this regards the NPPF has set out what it means by "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.

- 3.5 The Government has put measures in place to ensure that if a 5YHLS is not maintained there are consequences. Paragraph 11 of the NPPF sets out that there is a presumption in favour of sustainable development:

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

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

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

It goes on to define “out-of-date”:

This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

- 3.6 Therefore, where a LPA does not have a 5YHLS, or where the Housing Delivery Test shows that delivery is less than 75% of the housing requirement for the last three years, the Councils Plan Policies in regards to housing should be considered out of date and that the presumption in favour of sustainable development applies as above. i.e. planning applications for housing should be approved without delay, unless there are significant and demonstrable reasons for doing so. This is referred to as the tilted balance.
- 3.7 The Government has also introduced the Housing Delivery Test (HDT). The HDT is published in November of each year and provides a measure based on the preceding 3 financial years of actual delivery against target.

Current HBBC position : 5YHLS

- 3.8 The Council published its 5YHLS position in the “Residential Land Availability Paper” in late Spring 2019. It confirmed that the Council has a supply of 4.15years. The report details how this was calculated. In summary, the Borough’s housing requirement is calculated as 2,400 homes over 5 years. This takes the Local Housing Need figure of 457 homes per year, which is calculated using the Government’s standard methodology and data, multiplies it by 5, and adds a buffer of 5%. A buffer of 5% is added because the HDT

results are at the time of the calculation 141%. The supply of deliverable sites is calculated as 1,994.

Current HBBC position: HDT

- 3.9 The latest HDT result was published by the Government in March 2019, and for HBBC it was calculated as 141%. The delivery of homes in HBBC between 1st April 2015 and 31st March 2018 was 1,585 dwellings against a target of 1,122. The target was calculated using the Local Housing Need number from the previous three years. The most recent results have not yet been published but officers estimate that the figure will be approximately 121%. It is estimated that the 20/21 figure, based on the current housing needs, published in late 21/22 will be 82%. If that is the case the presumption in favour as discussed above will continue even if there is a 5YHLS.

Why does HBBC not have a 5YHLS ?

- 3.10 Until 2018 the Council was able to demonstrate a 5YHLS. However, in February 2019, the Government changed the definition of a “deliverable” site. In the 2012 NPPF all sites were considered deliverable if the Council considered there was a reasonable prospect of them coming forward within a 5 year period. In February 2019 the revised NPPF included a new definition of deliverable. The new definition means that where a site has outline planning permission for major development (10 house or more), or is a site allocated in the a development plan it should only be considered deliverable if there is **clear evidence** that housing completions will begin on site within 5 years. The onus is therefore on the Council to prove they will be delivered in a 5 year period.
- 3.11 Fundamentally, the Council’s Local Plan is towards the end of the plan period and the majority of sites, with the exception of the SUEs have come forward. The SUE’s make a considerable proportion of the housing supply. With these being excluded from the 5YHLS calculation (as the Council has no clear evidence that the sites will deliver homes in the next 5 years) then the level of supply is reduced. Furthermore, the number of planning applications received for new housing and approved has been reducing.

Consequences

- 3.12 As outlined above, if a LPA does not have a 5YHLS then when considering applications for housing they should be approved unless the application impacts on a protected area or where any adverse impacts of approving the application would **significantly** and **demonstrably** outweigh the benefits. Various appeal decisions and case law have set a high bar in this regard given the importance the government places on increasing the number of new homes built.

What can we do about it?

- 3.13 Officers have been working hard and will continue to do so to ensure that applications for housing which have been approved and subject to a s106 agreement are finalised as quickly as possible and the consent given.
- 3.14 The usual time given on an outline planning application to submit reserved matters applications is 2 years. HBBC have now reduced this to 18months to encourage delivery to come forward sooner.
- 3.15 Officers have been working with Neighbourhood Plan groups to help put in place neighbourhood plans. Areas with made plans that are less than 2 years old are able to use the neighbourhood plan in decision making where the Council can demonstrate at least a 3 year housing land supply.
- 3.16 Officers have provided briefings to Planning Committee and other Members have received advice in July of this year of the consequences of not having a 5YHLS. A planning front line service review report was also considered in October by Finance and Performance Committee which highlighted the lack of a five year supply. This report also considered the Governments performance measures and Members were briefed towards the end of 2019 about the impact of falling below the quality measure in terms of performance.
- 3.17 Officers have been working with the developers promoting the 2 remaining urban extensions to understand what assistance can be given to bring forward these sites quickly. Since the County Council advised they wanted further work on Highways to be undertaken by the applicant for the Barwell SUE the Council has brought together the applicants and the County Council to seek a pragmatic approach to resolving these issues.
- 3.18 Finally, officers have been working to bring forward the Local Plan. Work on the evidence base continues and it is hoped, subject to further work by the County Council on highway impact, to bring a draft plan to Council for consideration later this summer.

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

- 4.1 Open session.

5. FINANCIAL IMPLICATIONS

- 5.1 The Council has a duty to secure a five-year land supply, which should be taken into account when the Planning Committee is considering planning applications. If a planning application is refused, when there is no reason in law why it should not go ahead, it is likely that it will lead to an appeal. For larger appeals, there is the potential for each appeal to cost the council up to £50,000 in external legal and consultant cost. This does not include officer time lost, nor if the costs of the appellant are awarded against the council.

These costs will fall on the general fund and impact resources available to deliver services.

- 5.2 Advice in this area is normally provided to members to consider in their decision on each planning application that impacts on the ability of the Council to ensure a five year supply is maintained.
- 5.3 In 2016 Government* made it clear that planning authorities should not reject more than 10% of major development applications unnecessarily. This is due to a strong desire nationally to deliver to the increased housing need faced. This was particular meant to stop Councils refusing applications due to local opposition that they could easily foresee would be approved at appeal. If the 10% target is breached, it can lead to the planning powers being removed from the council. This would be a significant loss of income to the Council as per the table below.

** Improving Planning Performance - Criteria for Designation before Parliament on 22 November 2016*

	2015/16	2016/17	2017/18	2018/19	2019/20 Apr-Dec	Total
	£0	£0	£0	£0	£0	£0
Small	211	193	212	244	184	1,044
Medium	175	169	191	153	190	878
Large	400	378	628	436	406	2,246
total	786	740	1,031	832	780	4,167

6. LEGAL IMPLICATIONS

- 6.1 Set out in report.

7. CORPORATE PLAN IMPLICATIONS

- 7.1 Places:
1. Keep our borough clean and green
 2. Make our neighbourhoods safer
 3. Protect and improve our parks and open spaces for everyone across the borough
 4. Improve the quality of existing homes and enable the delivery of affordable housing
 5. Inspire standards of urban design that create attractive places to live
- 7.2 Prosperity
1. Boost economic growth and regeneration by encouraging investment that will provide new jobs and places to live and work all over the borough
 2. Support the regeneration of our town centres and villages
 3. Support our rural communities

8. CONSULTATION

8.1 None.

9. RISK IMPLICATIONS

9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
<p>DLS.19 Recruitment and retention of staff</p> <p>Failure to recruit & retain staff leads to failure to maintain staffing levels within Development Services to deal with works required</p>	<p>Provision of staff development and training opportunities.</p> <p>Career grade for professional posts to give staff the opportunity to progress within the authority. A career grade for Building Control is currently being developed.</p>	Nicola Smith
<p>DLS.44 Housing Land Supply</p> <p>Failure leads to speculative unplanned housing developments plus additional costs incurred due to planning appeal process.</p>	<p>Member engagement / training in relation to housing developments has taken place.</p> <p>Regular Member briefings at Planning Policy Member Working Group about major housing schemes, including appeals and five year housing land supply calculations.</p> <p>Quarterly reports to Planning Committee to advise upon progress relating to strategic housing developments."</p>	Kirstie Rea

DLS.51 Housing Delivery Test Failure leads to lack of housing requirements	Targeted approach to facilitating housing delivery once a site has planning permission. Including working with developers and partners to bring stalled sites forward. New monitored discharge of condition process to ensure conditions are discharged without delay	Stephen Meynell
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10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 10.1 Not having a five year housing land supply will result in not enough homes to meet the identified need being built. This might lead if it continues to greater numbers on the housing waiting list, overcrowding, sofa surfing and homelessness.

11. CORPORATE IMPLICATIONS

- 11.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications including the declared climate emergency
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: residential Land Availability 1 April 2018- 31 March 2019 :
https://www.hinckley-bosworth.gov.uk/info/856/local_development_framework/395/monitoring/2

Frontline Service Review : Planning, FINANCE & PERFORMANCE SCRUTINY, 17 October 2019

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