

# Assessment of Wychavon DC's 5YHLS

For Formula Land | 22-537

At 1<sup>st</sup> April 2022



**Project:** 22-537  
**Site Address:** Wychavon Five Year Housing Land Supply  
**Client:** Formula Land  
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# 1. Introduction and summary

1.1 Emery Planning is instructed by Formula Land to provide an assessment of the five year housing land supply (5YHLS) position in Wychavon at 1<sup>st</sup> April 2022, which is the base date of Wychavon District Council’s latest position on its housing land supply.

## Background

1.2 Emery Planning has extensive experience in dealing with housing supply matters and has prepared and presented evidence relating to five year housing land supply calculations at numerous Local Plan examinations and public inquiries across the country.

1.3 Our current assessment is based on the latest position set out in the South Worcestershire Five Year Housing Land Supply Report (December 2022) and Addendum (April 2023), which set out the five year housing land supply position at a base date of 1<sup>st</sup> April 2022 and a five year period to 31<sup>st</sup> March 2027. For the avoidance of doubt, the South Worcestershire Five Year Housing Land Supply Report is not an “Annual Position Statement” as defined in the glossary on page 66 of the Framework. Wychavon DC’s housing land supply has not been “confirmed” through the Local Plan or a subsequent annual position statement as set out in paragraph 74 of the Framework. It therefore can be challenged as part of a case for an application or appeal.

1.4 The three South Worcestershire authorities of Malvern Hills, Worcester and Wychavon have a joint development plan; the South Worcestershire Development Plan (SWDP, adopted February 2016). Policy SWDP 3 of the SWDP is entitled “*Employment, Housing and Retail Provision Requirement and Delivery*”. It is a strategic policy which states that provision will be made for about 28,400 net additional dwellings in the plan area between 2006 and 2030. Policy SWDP 3 explains that the housing requirement of 28,400 dwellings will be distributed between the Councils as follows:

- Worcester City = 6,800 dwellings
- Malvern Hills (excluding WWA) = 5,650 dwellings;
- Wychavon (excluding WWA) = 10,600 dwellings;
- Wider Worcester Area (Malvern Hills) = 4,450 dwellings; and
- Wider Worcester Area (Wychavon) = 900 dwellings.

1.5 The rationale for this approach is because Worcester’s administrative area is tightly constrained in that there is insufficient space to meet all its housing need and Malvern Hills has limited ability to accept new



development due to natural and environmental constraints. This is set out in paragraph 10 on page 51 of the SWDP:

“The Sub Areas are the SWDP response to two strategic issues:

a. Worcester City’s built up area is tightly constrained inside its boundaries. There is insufficient space in the City’s administrative area to meet all its needs for development, especially housing. This is the driver for the concept of the Wider Worcester Area (WWA) enabling Worcester as a sub regional centre to grow beyond the City boundary. A share of Worcester’s housing and employment need is redirected to the Worcester urban extensions so that need is met on sites just outside and abutting its boundary, in both Malvern Hills and Wychavon.

b. Because of natural and environmental constraints, Malvern Hills district has limited ability to accept new development. The Plan therefore proposes that part of its housing need which cannot be met in the Malvern Hills (Excluding WWA) Sub Area be redirected in the first instance to the Wider Worcester Area, at the Worcester urban extensions.”

1.6 Prior to the South Worcestershire Development Plan becoming five years old, five separate 5YHLS calculations were made in South Worcestershire based on the requirement for each sub-area as described in policy SWDP 3.

1.7 After the SWDP became five years old (in February 2021), the South Worcestershire Authorities then published a South Worcestershire Five Year Housing Land Supply Report in September 2021, which set out a joint position based on a combined local housing need for the three South Worcestershire Authorities and the supply across the whole of the plan area as set out in the SWDP. The authorities’ calculation at that time sought to reduce the requirement by the oversupply against the adopted housing requirement.

1.8 The approach to the oversupply was found to be unjustified at appeal<sup>1</sup> and the authorities subsequently accepted that they could not demonstrate a 5YHLS at 1<sup>st</sup> April 2021 on a joint basis.

1.9 On 29<sup>th</sup> November 2022, the South Worcestershire Authorities then published the following statement:

“The South Worcestershire Councils (SWCs) have reviewed their 5 Year Housing Land Supply position for 2022. In the light of recent appeal decisions, the SWCs are now proposing to adopt an individual district approach for the 5 Year Housing Land Supply calculation. The result is that Malvern Hills has a 5.06 year supply, Worcester City 3.06 and Wychavon 3.68. These figures will be used as a material consideration in determining planning applications.

The SWCs will continue to publish a joint calculation for information and monitoring purposes and will seek confirmation of this approach through the South

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<sup>1</sup> E.g. PINS ref: 3289569 – Land off Morris Road, Broadway (Wychavon) – 13<sup>th</sup> June 2022



Worcestershire Development Plan Review (SWDPR) which is currently out to consultation. The joint calculation results in 3.94 years of housing land supply across the whole SWDP area.

The full report and supporting evidence is expected to be published later this year.”

- 1.10 In December 2022, the South Worcestershire Authorities published the South Worcestershire Five Year Housing Land Supply Report, which set out separate 5YHLS calculations for Malvern Hills, Worcester and Wychavon. The calculations within the report are based on the local housing need for each authority and the supply within each authority regardless as to whether that was to meet its own needs or the unmet needs of Worcester. It concludes that the supply in Wychavon at 1<sup>st</sup> April 2022 equates to 3.68 years.
- 1.11 An addendum to the report was published in April 2023 to reflect the latest position on some sites and adjust the local housing need to reflect the 2022 affordability ratio and use the average household projections over the period 2023-33. It concludes that the supply in Wychavon at 1<sup>st</sup> April 2022 equates to 3.81 years.
- 1.12 In June 2023, an update note was published, which referred to three appeals since the Addendum was published:
- North Lodge, Main Road, Hallow (Malvern Hills)<sup>2</sup> – in this appeal, which was considered by written representations, the Inspector was critical of the use of the latest affordability ratio and the average household projections from 2023-33;
  - Land adjacent to Sandyfields, Kingswood, Martley (Malvern Hills)<sup>3</sup> – in this appeal, which was considered at a hearing on 18<sup>th</sup> April 2023, the Appellant argued that the sub area approach should be used for calculating 5YHLS as set out in the Local Plan and the Council argued that the approach taken in the position statement (December 2022) and addendum (April 2023) be used. The Inspector did not come to a definitive conclusion on the extent of the undersupply but found no compelling evidence to overcome his concerns that the Councils’ approach would be a departure from the spatial distribution as set out in the development plan; and
  - Land south of Post Office Lane, Kempsey (Malvern Hills)<sup>4</sup> – this appeal was considered by way of a public inquiry, which took place in April and May 2023. The decision was not published until 14<sup>th</sup> August 2023 and therefore the June 2023 update note referred to it in the context of the Councils presenting substantial evidence to justify their methodology, including appeal decisions from other Councils which was not before the Martley or North Lodge Inspectors.

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<sup>2</sup> PINS ref: 3304685 – 25<sup>th</sup> May 2023

<sup>3</sup> PINS ref: 3306186 – 26<sup>th</sup> May 2023

<sup>4</sup> PINS ref: 3313440 – 14<sup>th</sup> August 2023



1.13 The June 2023 update provided a revised calculation of local housing need for Malvern Hills using 2022 as the base date for the household projections and applying the affordability ratio published in March 2022 for 2022/23 and the affordability ratio published in March 2023 for the subsequent 4 years.

1.14 The June 2023 update concludes by stating:

“The Councils are considering their position on the five year housing land supply and will provide a further update in due course”.

1.15 A further update has not been published at the time of writing. However, as above, the Kempsey appeal decision was issued on 14<sup>th</sup> August 2023. In the decision, the Inspector considered five different approaches to calculating 5YHLS in Malvern Hills:

- Approach (i) – 5YHLS is measured on an individual authority basis using the local housing need for each area calculated using the standard method and the supply within each authority (regardless as to whether it was to meet that authority’s need or the unmet need from Worcester). This is the Council’s approach as set out in its position statement (December 2022) and addendum (April 2023);
- Approach (ii) – 5YHLS is measured on individual authority basis using the local housing need for the whole of Malvern Hills but the supply excludes the land allocated in the Wider Worcester Area within Malvern Hills. This was the Appellant’s preferred approach;
- Approach (iii) – 5YHLS is measured on an individual authority basis using an alternative to the standard method to calculate local housing need within the sub-area of Malvern Hills (excluding the WWA) and the supply also excludes the land allocated in the WWA within Malvern Hills;
- Approach (iv) – 5YHLS is measured against the local housing need calculated using the standard method for Malvern Hills and the supply is that within the Malvern Hills (excluding WWA) sub-area, the supply within Wychavon (excluding the WWA) intended to meet the needs of Malvern Hills and part of the supply within the WWA (Malvern Hills) to meet the needs of Malvern Hills; and
- Approach (v) – 5YHLS is measured on a joint planning area as was previously set out in the September 2021 position statement discussed above.

1.16 In paragraph 33 of the decision, the Inspector explains that he agrees with the Council and the Appellant that 5YHLS should not be calculated on a joint planning area because this has not been established through the plan-making process. Within this context, reference is made to paragraph 68-028 of the PPG<sup>5</sup>, which states:

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<sup>5</sup> Paragraph: 028 Reference ID: 68-028-20190722: “How will areas with joint plans be monitored for the purposes of a 5 year land supply?”



“Areas which have a joint plan have the option to monitor their 5 year housing land supply and have the Housing Delivery Test applied over the whole of the joint planning area or on a single authority basis. The approach to using individual or combined housing requirement figures will be established through the plan-making process and will need to be set out in the strategic policies.”

1.17 On this basis, approach (v) was rejected.

1.18 The Inspector concluded that the sub-area approach to supply proposed by the Appellant in approach (ii) was inappropriate and unreasonable and was not supported by paragraph 68-028 of the PPG which requires 5YHLS to be calculated on a joint planning area or single authority basis and not a sub-area basis (paragraph 51). The Inspector also found approach (iii) which sought to calculate need through an alternative method to the standard method was not supported by the Framework (paragraph 52).

1.19 The Inspector concluded that approach (iv) was the best fit in terms of local and national policy. In doing so, the Inspector explained that this approach does not disregard the agreed distribution as set out in the Development Plan, which was a concern of the Martley Inspector with approach (i). The Inspector also explained that 5YHLS cannot be measured in the way the Development Plan intended because the standard method applies on a district basis and approach (iv) enables a single authority approach could be applied, consistent with the PPG. Paragraphs 53 and 54 of the decision state:

“53. The need to be met in suggested approach (iv) is the local housing need for the whole of the Malvern Hills District, calculated using the standard method, consistent with the Framework. The supply taken into account is that allocated by the SWDP to meet the needs of the district, including that within the Malvern Hills (Excluding WWA), the part of the supply within the WWA (Malvern Hills) intended to respond to the needs of Malvern Hills District and the part of the supply within Wychavon (Excluding WWA) intended to respond to the needs of Malvern Hills District. To my mind, that approach to the supply side of the assessment, which does not re-distribute supply intended to meet the needs of other authorities, is consistent with the SWDP. It does not disregard the agreed distribution of supply set out in the Development Plan, a concern raised in relation to approach (i) by my colleague who determined appeal Ref. APP/J1860/W/22/3306186. I acknowledge that approach (iv) does not enable five-year housing land supply to be assessed on the basis intended by the SWDP of Sub-Area/area, which was raised as a concern by the same colleague with reference to other appeal decisions. However, in my view, that is a direct consequence of the application of the standard method, which only provides local housing need for the District as a basis for the assessment of the five-year housing land supply position and so is appropriate. It does enable the relevant single authority to measure the five-year housing land supply on a single authority basis, consistent with the PPG.

54. I consider that, of those five suggested to me, approach (iv) provides the best fit with regard to local and national policy and a reasonable basis for the assessment of





the five-year housing land supply position. Using approach (iv), the supply of deliverable housing sites appears to me to amount to around 3.7 years.”

1.20 The Kempsey Inspector was also presented with evidence in relation to the use of average household projections from a 2022 and 2023 base date and the use of the most recent affordability ratios to calculate the local housing need. Consistent with the findings of the North Lodge Inspector, the Kempsey Inspector concluded that the 2022 base date for the household projections and the 2021-based affordability ratio should be used for calculating the local housing need (i.e. those used in the December 2022 position statement and not those use in the April 2023 update).

## Summary

1.21 In summary, Wychavon DC cannot demonstrate a 5YHLS by a significant margin.

1.22 The Council’s latest published position is that set out in its April 2023 addendum, which claims that at 1<sup>st</sup> April 2022, it had a deliverable supply of 1,951 dwellings which against the local housing need of 488 dwellings per annum and a 5% buffer equates to just **3.81 years**.

1.23 On the requirement side, following the approach taken in the Kempsey appeal decision, the local housing need at 1<sup>st</sup> April 2022 is 508 dwellings per annum, not 488. In addition, a buffer should be applied. The Housing Delivery Test (HDT) was passed which means that a 5% buffer applies. The five year requirement and buffer is therefore 2,667 dwellings (533 p.a.).

1.24 On the supply side, Wychavon DC claims to have a deliverable supply of 1,951 dwellings. Following the approach taken in the Kempsey appeal decision, from this should be taken:

- Sites which were allocated in the Wider Worcestershire Area within Wychavon but were to meet the unmet needs of Worcester i.e. sites in the WWA (Wychavon). The April 2023 update explains that of the 1,951 dwellings, 88 were in the WWA (Wychavon) – 50 dwellings under construction and 38 dwellings not started. This means the claimed supply in Wychavon excluding the WWA is 1,863 dwellings; and then
- A proportion of dwellings within Wychavon’s supply (excluding the WWA), which would address some of Malvern Hills’ unmet need. In the Kempsey appeal decision, this was calculated as 5.8% of Wychavon’s supply (excluding the WWA). This is based on the fact that 620 dwellings of Wychavon’s total requirement in the SWDP of 10,600 (excluding the WWA) equates to 5.8%. 5.8% of 1,863 dwellings equates to 108 dwellings.

1.25 On this basis, following the approach taken in the Kempsey appeal, Wychavon DC’s supply at 1<sup>st</sup> April 2022 is 1,755 dwellings, which equates to **3.29 years**.



1.26 In addition, we have reviewed the supply and for the reasons set out in Section 11 of this statement, dispute the inclusion of 184 dwellings on 5 sites. We therefore conclude that the deliverable supply in Wychavon is 1,571 dwellings. This equates to **2.95 years** as shown in the following table.

**Table 1.1 – Wychavon’s 5YHLS at 1<sup>st</sup> April 2022**

	Requirement	Council’s published position	Approach taken in Kempsey appeal decision	Emery Planning’s position
A	Annual local housing need figure	488	508	508
B	Five year housing requirement (A X 5 years)	2,440	2,540	2,540
C	5% buffer (5% of B)	122	127	127
D	Five year supply to be demonstrated (B + C)	2,562	2,667	2,667
E	Annual requirement plus 5% buffer (D / 5 years)	512	533	533
	<b>Supply</b>			
F	Five year supply at 1 <sup>st</sup> April 2022	1,951	1,755	1,571
G	Supply in years (F / E)	<b>3.81</b>	<b>3.29</b>	<b>2.95</b>
H	Undersupply against the five year requirement	<b>-611</b>	<b>-912</b>	<b>-1,096</b>

1.27 The implication of this is addressed by Savills. Should Wychavon DC publish an updated five year housing land supply assessment (e.g. with a base date of 1<sup>st</sup> April 2023), we respectfully request the opportunity to comment on it.



## 2. Planning policy context

- 2.1 This section of our statement sets out the relevant planning policy context, which we refer to later.
- 2.2 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, which is discussed below.

### Development plan context

#### Existing development plan

- 2.3 The existing development plan comprises the South Worcestershire Development Plan (February 2016).

#### Emerging development plan

- 2.4 The South Worcestershire Councils started a review of the South Worcestershire Development Plan (SWDP) in late 2017 however the process has been subject to several delays. The latest update was published in February 2023 and sets out that the timetable for the preparation of the plan is as follows:
- Regulation 19 Publication Consultation - November and December 2022 (completed);
  - Submission (Regulation 22) – Early 2023. Exact date to be confirmed;
  - Independent Examination (Regulation 24) – February-May 2023. Exact date to be confirmed;
  - Receipt of Inspector’s Report (Regulation 25) – August 2023. Exact date to be confirmed; and
  - Adoption (Regulation 26) – October 2023. Exact date to be confirmed.

- 2.5 However, this timescale has already slipped given that the plan is still yet to be submitted as of June 2023.

### Other material considerations

#### National planning policy and guidance

##### The National Planning Policy Framework (“the Framework”)

- 2.6 The Framework was published in March 2012. It was revised in July 2018, February 2019, July 2021 and September 2023. The relevant sections of the Framework in relation to our statement are:
- Section 5: Delivering a sufficient supply of homes, including:



- Paragraph 60, which refers to the Government’s objective of significantly boosting the supply of homes;
- Paragraph 61, which explains that the minimum number of homes needed should be informed by a local housing need calculated using the standard method set out in the PPG;
- Paragraph 71, in relation to an allowance for windfall sites;
- Paragraph 74, which explains which figure the five year housing land supply should be measured against and which buffer applies;
- Paragraph 75, which explains the circumstances in which a five year housing land supply can be demonstrated through a recently adopted plan or subsequent annual position statement; and
- Paragraph 76, in relation to Housing Delivery Test Action Plans; and
- Annex 2: Glossary, including:
  - The definition of “deliverable” on page 66; and
  - The definition of “windfall sites” on page 73.

### Planning Practice Guidance (PPG)

2.7 The PPG was first published in March 2014 and has been updated since. The relevant chapters of the PPG in relation to our statement are:

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

### South Worcestershire Five Year Housing Land Supply Report December 2022

2.8 The South Worcestershire Five Year Housing Land Supply Report sets out a separate 5YHLS calculation for Malvern Hills, Worcester and Wychavon. It was published in December 2022 and claims that at 1<sup>st</sup> April 2022, Wychavon DC had a deliverable supply of 1,964 dwellings, which against the local housing need (as set out in the report) and a 5% buffer equates to 3.68 years.

### Addendum to the South Worcestershire Five Year Housing Land Supply Report April 2023

2.9 An addendum to its housing land supply report in April 2023 in order to a) remove 13 dwellings from the supply on sites that had lapsed planning permission and b) update the local housing need calculation in line with the updated affordability ratios and 2023 baseline.



2.10 The updated report claims that at 1<sup>st</sup> April 2022, Wychavon DC had a deliverable supply of 1,951 dwellings which against the local housing need and a 5% buffer equates to 3.81 years.

### Kempsey appeal decision

2.11 As discussed in section 1 of this statement, the recent Kempsey appeal decision is a relevant material consideration because it has comprehensively considered how 5YHLS should be measured in South Worcestershire now that the SWDP is more than five years old.



### 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 6<sup>th</sup> 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.

#### Current National Planning Policy and Guidance

3.4 The definition of “deliverable” is set out on page 67 of the Framework (2023) 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.”

3.5 The PPG was most recently updated on 22<sup>nd</sup> July 2019. Paragraph 68-007 of the PPG<sup>6</sup> 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;

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



- 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.”

### Assessment

- 3.6 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition in the 2021 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.
- 3.7 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

- 3.8 There have been several appeal decisions which have considered the definition of “deliverable” as set out in the 2018, 2019, 2021 and 2023 versions 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 is discussed below.

#### The absence of any written evidence

- 3.9 Where no evidence has been provided for the inclusion of category b) sites, the Secretary of State and Inspectors have concluded that these sites should be removed. For example:
- In an appeal decision regarding land off Audlem Road, Stapeley, Nantwich and land off Peter De Stapeleigh Way, Nantwich<sup>7</sup>, 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 15<sup>th</sup> July 2020);

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<sup>7</sup> PINS refs: 2197532 and 2197529 – 15<sup>th</sup> July 2020





- In an appeal decision regarding land to the south of Cox Green Road, Surrey<sup>8</sup> 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 16<sup>th</sup> September 2019);
- In an appeal decision regarding land at Station Road, Stalbridge, North Dorset<sup>9</sup> an Inspector removed 2 large sites from North Dorset’s supply (references A02 and A04) because the Council had not provided any up to date information from the developers for these sites and applications for reserved matters had not been made (paragraphs 53 and 57); and
- In an appeal decision regarding land within the Westhampnett / North East Strategic Development Location, North of Madgwick Lane, Chichester<sup>10</sup>, an Inspector removed the second phase of a wider site that is under construction on the basis that an application for reserved matters had not been made for phase 2 and the fact that a major housebuilder was progressing phase 1 was not in itself clear evidence (paragraph 82).

### The most up to date evidence

3.10 Paragraph 68-004 of the PPG<sup>11</sup> explains that for decision-taking purposes, an authority will need to be able to demonstrate a five year housing land supply when dealing with applications and appeals. They can do this in one of two ways:

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

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

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<sup>8</sup> PINS ref: 3227970 – 16<sup>th</sup> September 2019

<sup>9</sup> PINS ref: 3284485 – 20<sup>th</sup> June 2022

<sup>10</sup> PINS ref: 3270721 – 27<sup>th</sup> May 2022

<sup>11</sup> Paragraph: 004 Reference ID: 68-004-20190722: *“How can an authority demonstrate a 5 year supply of deliverable housing sites?”*



3.12 In an appeal regarding land on the east side of Green Road, Woolpit<sup>12</sup>, the Inspector found Mid Suffolk Council’s approach in publishing its AMR and then retrospectively seeking evidence to justify its position “wholly inadequate”. Paragraph 70 of the appeal decision states:

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

3.13 However, evidence can post date the base date. This is because many authorities publish their position statement long after the base date. In an appeal regarding land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands (Milton Keynes)<sup>13</sup>, the Secretary of State agreed with Inspector Gilbert-Woolridge that the latest available evidence should be used when considering deliverability. Paragraph 12 of the Secretary of State’s decision letter dated 25<sup>th</sup> June 2020 states:

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

3.14 Similarly, in a decision regarding land off Darnhall School Lane, Winsford<sup>14</sup>, 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 supply<sup>15</sup>.

3.15 This means for example that sites with outline planning permission at the base date can be included in the five year supply even if there was no clear evidence at the time the position statement was published but an application for reserved matters has since been approved. It also means the latest position can be taken into account where sites have not progressed as the Council’s trajectory claimed at the time the position statement was published.

3.16 In the Audlem Road appeal<sup>16</sup>, 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 15<sup>th</sup> July 2020)

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<sup>12</sup> PINS ref: 3194926 – 28<sup>th</sup> September 2018

<sup>13</sup> PINS ref: 3169314 – 25<sup>th</sup> June 2020

<sup>14</sup> PINS ref: 2212671 – 4<sup>th</sup> November 2019

<sup>15</sup> Paragraph 344 of the Inspector’s Report and paragraph 15 of the Decision Letter.

<sup>16</sup> PINS refs: 2197532 and 2197529



3.17 Cheshire East Council’s Housing Monitoring Update (HMU) had a base date of 31<sup>st</sup> March 2019 and was published in November 2019. Representations by both parties on the HMU were received with the final comments received on 12<sup>th</sup> 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.

### The form and value of the evidence

3.18 In the Woburn Sands appeal decision referred to above, the Secretary of State agreed with the Inspector that a proforma can, in principle, provide clear evidence of a site’s deliverability (please see paragraph 12 of the decision letter and paragraphs 12.13 to 12.15 of the Inspector’s Report). However, the evidential value of the written information is dependent on its content. The Secretary of State and Inspectors have concluded that it is simply not sufficient for Councils to provide agreement from landowners and promoters that their intention is to bring sites forward. The evidence needs to provide a realistic prospect that housing will be delivered on the site within five years.

3.19 For example, in allowing an appeal for 120 dwellings at land east of Gleneagles Way, Hatfield Peverel<sup>17</sup>, the Secretary of State found Braintree Council could not demonstrate a five year housing land supply.

3.20 Braintree Council claimed that it could demonstrate a 5.29 year supply. In determining the appeal, the Secretary of State concluded that the Council could only demonstrate a 4.15 year supply. The reason for this is set out in paragraph 41 of the decision letter (page 7), which states:

“Having reviewed the housing trajectory published on 11 April, the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more, and sites without planning permission do not meet the requirement in the Framework Glossary definition of “deliverable” that there be clear evidence that housing completions will begin on site within five years. He has therefore removed ten sites from the housing trajectory”

3.21 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

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<sup>17</sup> PINS ref: 3180729 – 8<sup>th</sup> July 2019



anticipated build rates. However, the Secretary of State removed these sites because he did not consider they met the definition of “deliverable” as set out in the Framework.

3.22 As part of its case in seeking to defend an appeal against its decision to refuse to grant outline planning permission for up to 140 no. dwellings at land off Popes Lane, Sturry<sup>18</sup>, Canterbury City Council claimed that it could demonstrate a 6.72 year supply. For there to be a shortfall in the supply, Canterbury Council claimed that some 1,654 dwellings (out of 6,455 dwellings) would have to be removed from the “deliverable” supply.

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

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

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

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

3.25 Similarly, as part of its case in seeking to defend an appeal made by Parkes Ltd against its decision to refuse to grant outline planning permission for up to 53 dwellings at land to the south of Cox Green Road,

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<sup>18</sup> PINS ref: 3216104 – 3<sup>rd</sup> September 2019



Rudgwick<sup>19</sup>, Waverley Council claimed it could demonstrate a supply of 5,708 dwellings, which equated to just under 5.2 years against its housing requirement and buffer.

- 3.26 The Inspector concluded that the supply should be reduced by 928 dwellings and therefore that Waverley Council could only demonstrate a “deliverable” supply of 4.3 years. The reasons why the Inspector considered the supply should be reduced are set out in paragraphs 10 to 27 of the appeal decision. We note that whilst Waverley Council’s assumptions of delivery on a site at Dunsfold Park relied on estimated numbers of delivery from a pro-forma returned by the site’s lead developer, the Inspector however considered that the details contained within it were “scant”. There was no explanation as to how the timings of delivery could be achieved including the intended timescales for submitting and approving reserved matters, applications of discharge of conditions, site preparation and installing infrastructure. The Inspector therefore did not include the site.
- 3.27 In an appeal for up to 181 dwellings at land at Caddywell Lane / Burwood Lane, Great Torrington, Devon<sup>20</sup>, Inspector Harold Stephens concluded that Torridge Council could not demonstrate a five year housing land supply. Paragraphs 56 and 57 of the appeal decision state:

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

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions.”

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

57. 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 the 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)

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<sup>19</sup> PINS ref: 3227970 – 16<sup>th</sup> September 2019

<sup>20</sup> PINS ref: 3238460 – 18<sup>th</sup> March 2020



- 3.28 Similarly, in a recent appeal decision dated 25<sup>th</sup> June 2021 regarding an appeal made by Senior Living (Sonning Comon) Ltd and Investfront Ltd against the decision of South Oxfordshire District Council to refuse to grant planning permission for a care village of up to 133 units at Little Sparrows, Sonning Common, Oxfordshire<sup>21</sup>, Inspector Harold Stephens found that South Oxfordshire could not demonstrate a deliverable supply because it had not provided the necessary clear evidence. Paragraphs 20 and 21 of the appeal decision reflect paragraphs 56 and 57 of the Great Torrington appeal decision above.
- 3.29 Finally, in an appeal decision dated 25<sup>th</sup> 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, Exeter<sup>22</sup>, the Inspector found:
- The pro-formas used by Exeter in that case were undated, unsigned and deficient (paragraph 39);
  - That 2 sites with outline planning permission and no reserved matters applications pending and no clear evidence for their inclusion should be removed (paragraphs 40 and 41); and
  - That even where reserved matters application had been made, where those applications are subject to outstanding objections and there is no written agreement with the developer, the sites should not be included because no clear evidence had been provided (paragraphs 42 and 43).
- 3.30 In summary, the above appeal decisions found that sites with outline planning permission for major development and allocated sites without planning permission should not be included in the deliverable supply where the respective Councils had failed to provide the clear evidence required. They are relevant because in this case, Wychavon has chosen not to publish any site-specific evidence for any of the sites which are within category b) of the definition of deliverable.

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<sup>21</sup> PINS ref: 3265861 – 25<sup>th</sup> June 2021

<sup>22</sup> PINS ref: 3292721 – 25<sup>th</sup> August 2022



# 4. Housing Delivery

## Housing Delivery Test

4.1 The definition of the Housing Delivery Test (HDT) is provided in the Glossary to the Framework on page 67 as follows:

“Housing Delivery Test: Measures net additional dwellings provided in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England every November”

4.2 The HDT is measured as a percentage each year. The following implications apply where the HDT results confirm delivery falls below specific thresholds.

4.3 Firstly, as explained in footnote 7 of the Framework, the tilted balance to the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework applies where the HDT indicates that the delivery of housing was “substantially below” the housing requirement over the previous years. The transitional arrangements set out in Annex 1 of the Framework explain that “substantially below” means for the 2018 HDT results below 25%, for the 2019 HDT results below 45% and for the 2020 HDT and beyond below 75%.

4.4 Secondly, paragraph 74 and footnote 41 of the Framework explain that where the HDT result is below 85%, the 20% buffer will apply for purposes of calculating the five year housing land supply.

4.5 Thirdly, Paragraph 76 of the Framework explains that where the HDT result is below 95%, the local planning authority should prepare an action plan to assess the causes of under delivery and identify actions to increase delivery in future years.

4.6 The HDT Measurement Rule Book (July 2018) explains that HDT is calculated as a percentage of net homes delivered against the “number of homes required”. Paragraph 12 then explains that where the latest adopted housing requirement figure is less than five years old, or has been reviewed and does not need updating, the figure used will be the lower of:

“EITHER the latest adopted housing requirement, including any unmet need from neighbouring authorities which forms part of that adopted housing requirement. This requirement will be the stepped housing requirement (or the annual average requirement where there is no stepped requirement)...



OR the minimum annual local housing need figure (and any need from neighbouring authorities which it has been agreed should be planned for, and which has been tested at examination) for that authority calculated with a base date of 1<sup>st</sup> April each year”

- 4.7 Paragraph 14 of the rulebook explains that where the latest adopted housing requirement is over five years old, unless the strategic policies have been reviewed and found not to require updating, the figure used for areas with a joint plan will be the minimum annual local housing need figure.
- 4.8 Footnote 7 of the HDT Measurement Rule Book explains that the latest adopted housing requirement is collected by MHCLG from local planning authorities on an annual basis through a Housing Delivery Test DELTA collection.
- 4.9 The HDT results for 2021 were published on 14<sup>th</sup> January 2022. Unlike the way 5YHLS is calculated, a joint result was published for Wychavon, Worcester and Malvern Hills. This is because over the period the HDT was measured, the South Worcestershire Development Plan was less than five years old. It only became five years old in February 2021 at the very end of the HDT period. The published 2021 HDT result is summarised below.

**Table 4.1 – Published 2021 Housing Delivery Test Result**

	Housing requirement				Housing delivery				HDT%
	2018-19	2019-20	2020-21	Total	2018-19	2019-20	2020-21	Total	
Wychavon, Worcester and Malvern Hills	1,268	1,172	841	3,281	2,178	1,477	1,446	5,100	155%

- 4.10 As can be seen from the table above, Wychavon, Worcester and Malvern Hills delivered 5,100 new homes over the last three years against a “requirement” over the same period of 3,281 dwellings. This results in a HDT measurement of 155% and means the tilted balance set out in paragraph 11(d) of the Framework is not triggered because of the HDT result, an action plan is not required, and the buffer is not increased to 20%.
- 4.11 The requirement figures used in the HDT are based on the local housing need. This is because the combined local housing need across the three authorities is lower than the adopted housing requirement as per paragraph 12 of the HDT rulebook as discussed above. The requirement figures for 2019/20 and 2020/21 were reduced by 1 month and 4 months respectively to factor in any impact the Covid-19 pandemic had on build rates in those two years.





## Housing delivery against the adopted housing requirement

- 4.12 The base date of the SWDP Local Plan is 1<sup>st</sup> April 2006. Between 1<sup>st</sup> April 2006 and 31<sup>st</sup> March 2022, 10,016 dwellings were completed in Wychavon DC excluding the completions within the Wider Worcestershire Area (WWA).
- 4.13 The Annual Monitoring Report explains that 944 dwellings were completed in Wychavon DC excluding the WWA in the last monitoring year (2021/22). As set out in the completions data, only 15 of these were in Pershore. We also note that 200 completions were at a care home in Droitwich Spa. The Authority Monitoring Report explains that of the 1,044 completions, 80% were on greenfield land. The AMR also explains that 50 dwellings were completed in the WWA within Wychavon in 2021/22.



# 5. Assessment of Wychavon DC's housing supply

5.1 Our assessment of Wychavon DC's 5YHLS is based on six key stages:

1. Identifying the base date and five year period;
2. Identifying the housing requirement;
3. Identifying the oversupply;
4. Identifying how the oversupply should be addressed;
5. Applying the appropriate buffer; and
6. Identifying a Realistic and Deliverable Supply.

5.2 Each stage is addressed below.



## 6. Stage 1: Agreeing the base date and five year period

- 6.1 The base date is the start date for the five year period for which both the requirement and supply should relate.
- 6.2 The current housing land supply position statement has a base date of 1<sup>st</sup> April 2022 and a five year period to 31<sup>st</sup> March 2027. We have assessed the supply at 1<sup>st</sup> April 2022 as that remains the most up to date position.
- 6.3 Wychavon DC should not attempt to include any new sites, which are not already within its schedule of sites at the base date. This would effectively mean changing the base date to beyond 1<sup>st</sup> April 2022. Within this context, there have been several appeal decisions, which have found such an approach to be inappropriate.
- 6.4 In 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<sup>23</sup>, the Secretary of State agreed with Inspector Gilbert-Wooldridge that whilst evidence which post-dated the base date was acceptable, this was only in relation to sites already in the schedule of sites. New sites should not be added after the base date<sup>24</sup>.
- 6.5 Similarly, in 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, Winsford<sup>25</sup>, the Secretary of State agreed with Inspector Middleton 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<sup>26</sup>.
- 6.6 We have therefore proceeded on the basis of the sites included in the published schedule at the base date.

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<sup>23</sup> PINS ref: 3169314 – 25<sup>th</sup> June 2020

<sup>24</sup> Please see DL paragraph 12 and IR paragraph 12.12

<sup>25</sup> PINS ref: 2212671 – 4<sup>th</sup> November 2019

<sup>26</sup> Please see DL paragraph 15 and IR paragraph 344



# 7. Stage 2: Identifying the housing requirement

## Adopted housing requirement

7.1 The adopted housing requirement is set out in the South Worcestershire Development Plan (SWDP). Policy SWDP 3 of the SWDP states that provision will be made for about 28,400 net additional dwellings in the plan area between 2006 and 2030.

7.2 Policy SWDP 3 explains that the housing requirement of 28,400 dwellings will be distributed between the authorities as follows:

- Worcester City = 6,800 dwellings
- Malvern Hills (excluding WWA) = 5,650 dwellings;
- Wychavon (excluding WWA) = 10,600 dwellings;
- Wider Worcester Area (Malvern Hills) = 4,450 dwellings; and
- Wider Worcester Area (Wychavon) = 900 dwellings.

7.3 Therefore, the housing requirement set out in the adopted strategic policy for Wychavon (excluding the WWA) is 10,600 dwellings. However, it is also relevant to note that the requirement is a “stepped requirement”. Paragraph 68-026 of the PPG: “How is 5 year land supply measured where authorities have stepped rather than annual average requirements?” explains how the supply should be measured in these circumstances. It states:

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

7.4 The housing requirement for Wychavon (excluding the WWA) is stepped as follows:

- 442 dwellings per annum from 2006 – 2015;
- 578 dwellings per annum from 2015 – 2018; and
- 407 dwellings per annum from 2018 to 2030.

7.5 The five year requirement based on the adopted housing requirement for Wychavon, excluding the WWA would be 2,035 dwellings (i.e.,  $407 \times 5 = 2,035$ ).



## The Local Housing Need for Wychavon

7.6 Local Housing Need is defined in the Glossary on page 68 of the Framework as follows:

“The number of homes identified as being needed through the application of the standard method set out in national planning guidance (or, in the context of preparing strategic policies only, this may be calculated using a justified alternative approach as provided for in paragraph 60 of this Framework).”

7.7 Paragraph 2a-004 of the PPG explains how local housing need is calculated. The position statement states that the local housing need is 488 dwellings per annum. However, this uses the annual average household growth over the period 2023-33 and the affordability ratio that was published in March 2023. The recent Kempsey decision found that this approach was not robust and that the annual average household growth over the period 2022-32 and the affordability ratio that was published in March 2022 should be used. On this basis, the local housing need is **508 dwellings per annum** as set out in the December 2022 position statement.

### Which figure should the five year housing land supply be measured against?

7.8 On the basis that the plan from which the housing requirement is derived is more than five years old and has not been reviewed and found not to require updating, in accordance with paragraph 74 and footnote 39 of the Framework, the five year housing land supply should be measured against the local housing need as calculated by the standard method. This is 508 dwellings and follows the approach used in the Kempsey appeal decision.



## 8. Stage 3: Identifying the oversupply and Stage 4: the method for addressing it

8.1 Paragraph 68-031 of the PPG27: “How can past shortfalls in housing completions against planned requirements be addressed?” states:

“Where shortfalls in housing completions have been identified against planned requirements, strategic policy-making authorities may consider what factors might have led to this and whether there are any measures that the authority can take, either alone or jointly with other authorities, which may counter the trend. Where the standard method for assessing local housing need is used as the starting point in forming the planned requirement for housing, Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure. Under-delivery may need to be considered where the plan being prepared is part way through its proposed plan period, and delivery falls below the housing requirement level set out in the emerging relevant strategic policies for housing.

Where relevant, strategic policy-makers will need to consider the recommendations from the local authority’s action plan prepared as a result of past under-delivery, as confirmed by the Housing Delivery Test.

The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period (the Sedgefield approach), then the appropriate buffer should be applied. If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal.

Where strategic policy-making authorities are unable to address past shortfalls over a 5 year period due to their scale, they may need to reconsider their approach to bringing land forward and the assumptions which they make. For example, by considering developers’ past performance on delivery; reducing the length of time a permission is valid; re-prioritising reserve sites which are ‘ready to go’; delivering development directly or through arms’ length organisations; or sub-dividing major sites where appropriate, and where it can be demonstrated that this would not be detrimental to the quality or deliverability of a scheme.” (emphasis added)

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<sup>27</sup> Paragraph: 031 Reference ID: 68-031-20190722: “How can past shortfalls in housing completions against planned requirements be addressed?”



8.2 As in this case the five year housing land supply is to be measured against the local housing need, there is no requirement to specifically address under-delivery separately as this has been factored in as part of the affordability ratio under step 2 as highlighted in this part of the PPG. Therefore, there is no past shortfall or oversupply to address.



## 9. Stage 5: Applying the appropriate buffer

9.1 Paragraph 74 of the Framework states:

“The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

- 5% to ensure choice and competition in the market for land; or
- 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
- 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.”

9.2 Footnote 41 of the Framework explains that from November 2018 “significant under delivery” of housing will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement.

9.3 As set out in section 4 of this statement, the HDT was passed in South Worcestershire and therefore, the 5% buffer should apply.

9.4 The following table sets out the five year housing supply which needs to be demonstrated at 1<sup>st</sup> April 2022 based on the adopted housing requirement and a 5% buffer.

**Table 9.1 – Summary of five year requirement plus buffer**

	Requirement	Council's published position	Approach taken in Kempsey appeal decision	Emery Planning's position
A	Annual local housing need figure	488	508	508
B	Five year housing requirement (A X 5 years)	2,440	2,540	2,540
C	5% buffer (5% of B)	122	127	127
D	Five year supply to be demonstrated (B + C)	2,562	2,667	2,667
E	Annual requirement plus 5% buffer (D / 5 years)	512	533	533





# 10. Stage 6: Identifying a Realistic and Deliverable Supply

10.1 On the supply side, Wychavon DC claims to have a deliverable supply of 1,951 dwellings at 1<sup>st</sup> April 2022. Following the approach taken in the Kempsey appeal decision, from this should be taken:

- Sites which were allocated in the Wider Worcestershire Area within Wychavon but were to meet the unmet needs of Worcester i.e. sites in the WWA (Wychavon). The April 2023 update explains that of the 1,951 dwellings, 88 were in the WWA (Wychavon) – 50 dwellings under construction and 38 dwellings not started. This means the claimed supply in Wychavon excluding the WWA is 1,863 dwellings; and then
- A proportion of dwellings within Wychavon’s supply (excluding the WWA), which would address some of Malvern Hills’ unmet need. In the Kempsey appeal decision, this was calculated as 5.8% of Wychavon’s supply (excluding the WWA). This is based on the fact that 620 dwellings of Wychavon’s total requirement in the SWDP of 10,600 equates to 5.8%. 5.8% of 1,863 dwellings equates to 108 dwellings.

10.2 On this basis, following the approach taken in the Kempsey appeal, Wychavon DC’s supply at 1<sup>st</sup> April 2022 is 1,755 dwellings

10.3 In section 3 above, we have set out the definition of deliverable as set out in the current Framework and how this compares to the previous definition of deliverable as set out in the 2012 Framework and associated guidance. We also referred to several appeal decisions where the Secretary of State and Inspectors considered the definition of deliverable and the clear evidence required to include sites within category b) of the definition of deliverable.

10.4 This is relevant because despite the onus being firmly on Wychavon DC, it has not provided the clear evidence to support the inclusion of sites in its trajectory. As we have set out in section 3 above, the Secretary of State and Inspectors have:

- removed category b) sites from the deliverable supply where no evidence of deliverability has been provided; and
- concluded that the evidential value of the written information is dependent on its content. Category b) sites have been removed from the deliverable supply where written evidence is “scant” in detail. A realistic assessment of all factors concerning delivery should be considered.

10.5 We now set out our assessment of Wychavon DC’s deliverable five year supply.



# 11. Assessment of sites

11.1 The following sites are disputed.

**Table 11.1 – Disputed sites**

LPA ref:	Address	Capacity (Net)	LPA 5YHLS	EP 5YHLS	Difference
PAR/32/23 9A/HOU	Raven Hotel, St Andrews Street, Droitwich Spa	36	36	0	-36
PAR/32/23 9B/HOU	Raven Hotel, St Andrews Street, Droitwich Spa	12	12	0	-12
PAR/43/14/ HOU	Windrush, Kidderminster Road, Hampton Lovett	9	9	0	-9
PAR/69/61 A/HOU	Land Adjacent to, Sims Metals UK (South West) Limited, Long Marston	315	280	215	-65
SWDP59/19	Milestone Ground, Station Road	115	62	0	-62
<b>Total</b>					<b>-184</b>

11.2 We set out our assessment of these sites as follows.

## PAR/32/23 9A/HOU – Raven Hotel, St Andrews Street, Droitwich Spa

Capacity = 36 dwellings, LPA's 5YHLS = 36 dwellings

11.3 At the base date, the site did not have planning permission. The site previously had consent for 51 dwellings (36 open market dwellings and 15 affordable dwellings) however this expired in August 2021.

11.4 This entry in the supply concerns the 36 open market dwellings; the remainder of the site is included in the supply separately and discussed below.

### Current planning status?

11.5 Outline planning permission for 51 dwellings was initially granted on 15 October 2015 (ref: W/13/02538/PN). However, no reserved matters applications were made and the consent expired.



11.6 A full planning application for 51 dwellings was subsequently approved on 30 August 2018 (ref: 18/00580/FUL). However, the consent was not implemented and expired in August 2021.

11.7 A revised full planning application for the partial demolition of the former Raven Hotel and the construction of 48 dwellings was submitted on 21 December 2020 (ref: 20/02623/FUL) and is still pending determination, over 2.5 years later. The application was recommended for approval at planning committee on 21 July 2022 subject to the completion of a viability assessment and the signing of a S106 agreement. However, no agreement has been signed to date.

11.8 The committee report in relation to the pending application states:

“The hotel and its site have been vacant since 2010. Two previous sets of planning permission and listed building consent for refurbishment and redevelopment have been granted in 2015 and 2018 but have not been implemented, apparently because of viability issues.”

11.9 There is no evidence to suggest that the viability issues which prevented the two previously consented schemes from coming forward have been addressed. Indeed, no viability assessment had been undertaken at the time prior the application being presented at planning committee; nor has a viability assessment been uploaded to Wychavon DC’s application portal to date. It is therefore not known whether the scheme is viable.

**Firm progress being made towards the submission of an application?**

11.10 As above, a full planning application has been pending determination for over 2.5 years.

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

11.11 No evidence has been provided.

**Firm progress with site assessment work?**

11.12 No evidence has been provided.

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

11.13 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision. As set out above, the site has long-standing issues with viability and it is unknown whether this can be addressed.



## Summary

- 11.14 The site does not have planning permission. Permission for residential development was granted in 2015 and again in 2018, however neither consent was implemented due to viability issues.
- 11.15 A full planning application for 48 dwellings has been pending determination for over 2.5 years subject to the completion of a viability assessment and the signing of a S106 agreement. No agreement has been signed to date. There is no evidence to suggest that the viability issues which prevented the two previously consented schemes from coming forward have been addressed. Indeed, no viability assessment had been undertaken at the time prior the application being presented at planning committee; nor has a viability assessment been uploaded to Wychavon DC's application portal to date. It is therefore not known whether the scheme is viable.
- 11.16 Therefore, Wychavon DC has not provided "clear evidence that housing completions will begin on site within five years." The site fails to meet the definition of "deliverable" as set out on page 67 of the Framework and should be removed from the supply. This results in a reduction of **36 dwellings** from the published supply position.

## PAR/32/23 9B/HOU – Raven Hotel, St Andrews Street, Droitwich Spa

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

- 11.17 At the base date, the site did not have planning permission. The site previously had consent for 51 dwellings (36 open market dwellings and 15 affordable dwellings) however this expired in August 2021.
- 11.18 This entry in the supply concerns the affordable element of the consent. The 36 open market dwellings are included in the supply separately (as discussed above).

### Current planning status?

- 11.19 Outline planning permission for 51 dwellings was initially granted on 15 October 2015 (ref: W/13/02538/PN). However, no reserved matters applications were made and the consent expired.
- 11.20 A full planning application for 51 dwellings was subsequently approved on 30 August 2018 (ref: 18/00580/FUL). However, the consent was not implemented and expired in August 2021.
- 11.21 A revised full planning application for the partial demolition of the former Raven Hotel and the construction of 48 dwellings was submitted on 21 December 2020 (ref: 20/02623/FUL) and is still pending determination, over 2.5 years later. The application was recommended for approval at planning



committee on 21 July 2022 subject to the completion of a viability assessment and the signing of a S106 agreement. However, no agreement has been signed to date.

11.22 The committee report in relation to the pending application states:

“The hotel and its site have been vacant since 2010. Two previous sets of planning permission and listed building consent for refurbishment and redevelopment have been granted in 2015 and 2018 but have not been implemented, apparently because of viability issues.”

11.23 There is no evidence to suggest that the viability issues which prevented the two previously consented schemes from coming forward have been addressed. Indeed, no viability assessment had been undertaken prior to the application being presented at planning committee; nor has a viability assessment been uploaded to Wychavon DC’s application portal to date. It is therefore not known whether the scheme is viable.

**Firm progress being made towards the submission of an application?**

11.24 As above, a full planning application has been pending determination for over 2.5 years.

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

11.25 No evidence has been provided.

**Firm progress with site assessment work?**

11.26 No evidence has been provided.

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

11.27 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision. As set out above, the site has long-standing issues with viability and it is unknown whether this can be addressed.

**Summary**

11.28 The site does not have planning permission. Permission for residential development was granted in 2015 and again in 2018, however neither consent was implemented due to viability issues.

11.29 A full planning application for 48 dwellings has been pending determination for over 2.5 years subject to the completion of a viability assessment and the signing of a S106 agreement. No agreement has been signed to date. There is no evidence to suggest that the viability issues which prevented the two previously consented schemes from coming forward have been addressed. Indeed, no viability assessment had been



undertaken at the time the application was presented at planning committee; nor has a viability assessment been uploaded to Wychavon DC's application portal to date. It is therefore not known whether the scheme is viable.

11.30 Therefore, Wychavon DC has not provided "clear evidence that housing completions will begin on site within five years." The site fails to meet the definition of "deliverable" as set out on page 67 of the Framework and should be removed from the supply. This results in a reduction of **12 dwellings** from the published supply position.

## PAR/43/14/ HOU – Windrush, Kidderminster Road, Hampton Lovett

Capacity = 9 dwellings, LPA's 5YHLS = 9 dwellings

11.31 At the base date, the site did not have planning permission. The site previously had full planning permission for 10 residential caravans, however this expired in July 2018.

### Current planning status?

11.32 A full planning application for the demolition of the existing dwellings and the siting of 10 residential caravans was approved on 02 July 2015 (ref: 15/00473/CU)

11.33 Condition 5 of the consent for 9 dwellings stated:

"No part of the development shall be commenced until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority"

11.34 An application to discharge condition 5 was made on 25 November 2016, however this was refused on 23 March 2018. The decision notice states:

"In accordance with the powers delegated to me I write to confirm that the details submitted pursuant to condition 5 of planning permission W/15/00473/CU granted on 2 July 2015 are insufficient to discharge the matter. As such I am not in a position to discharge the condition.

Having regard to the length of time since the request to discharge the condition was received and your recent confirmation that further details will not be submitted to address concerns expressed by the council's Landscape Officer the council is left with no alternative action but to refuse the discharge condition request."

11.35 No further applications have been submitted since this time. Therefore, the permission expired on 02 July 2018.



### **Firm progress being made towards the submission of an application?**

11.36 No evidence has been provided to suggest that progress is being made towards the submission of any further planning applications.

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

11.37 No evidence has been provided.

### **Firm progress with site assessment work?**

11.38 No evidence has been provided.

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

11.39 No documentary evidence has been provided in terms of viability, ownership constraints or infrastructure provision.

### **Summary**

11.40 The site does not have planning permission. The site previously had full planning permission for 10 residential caravans, however this expired in July 2018. No further planning applications have been made, nor is there any evidence to suggest that progress is being made towards the submission of a planning application.

11.41 Therefore, Wychavon DC has not provided “clear evidence that housing completions will begin on site within five years.” The site fails to meet the definition of “deliverable” as set out on page 67 of the Framework and should be removed from the supply. This results in a reduction of **9 dwellings** from the published supply position.

## **PAR/69/61 A/HOU – Land Adjacent to, Sims Metals UK (South West) Limited, Long Marston**

**Capacity = 315 dwellings, LPA’s 5YHLS = 280 dwellings**

11.42 At the base date, the site had detailed planning permission for 364 dwellings and was under construction, with 315 dwellings remaining to be delivered. The published trajectory states that in 2021/22, 43 dwellings were completed. It is assumed that the first 6 dwellings were delivered in 2020/21.

11.43 The published evidence states that:



“This site is currently under construction with 43 completions this monitoring year. 56 completions are expected annually for the next 5 years as there is a separate registered provider of social housing, therefore the 40 dwellings per annum has been increase [sic] to 56.”

11.44 However, no agreement between the LPA and developer has been provided. In the absence of any evidence to suggest otherwise, we consider that the actual completions achieved on the site in the first full year of delivery (i.e., 43 dwellings) should be used to project delivery going forward. Therefore, we consider that the site can be expected to deliver as follows in the five year period:

2022/23	2023/24	2024/24	2025/26	2026/27	5YS
43	43	43	43	43	<b>215</b>

11.45 We therefore consider that a maximum of 215 dwellings can be expected to be delivered in the five year period. This results in a reduction of **65 dwellings** from the published supply position.

## SWDP59/19 – Milestone Ground, Station Road, Broadway

Capacity = 115 dwellings, Council’s 5YHLS = 62 dwellings (i.e. 65 dwellings -5% reduction)

11.46 This is an allocated site without planning permission. A planning application has not been made. The Council includes this site as deliverable however it has not provided clear evidence that housing completions will be in the five year period. The evidence it has provided is the response to the deliverability questionnaire, which states:

- The site is not under contract with a developer; and
- A start on site is expected in March 2024 and completions and 60 dwellings are anticipated in 2024/25 and 55 dwellings are expected in 2025/26.

11.47 This is not clear evidence of deliverability.

11.48 Therefore, Wychavon DC has not provided “clear evidence that housing completions will begin on site within five years.” The site fails to meet the definition of “deliverable” as set out on page 67 of the Framework and should be removed from the supply. This results in a reduction of **62 dwellings** from the published supply position.





## 12. Summary of deductions

12.1 In summary, we make the following deductions from the Wychavon DC's supply figure of 1,951

**Table 12.1 – Summary of deductions from Wychavon's Housing Land Supply at 1<sup>st</sup> April 2022**

Source	Deduction
Dwellings on sites within the WWA in Wychavon	88
Dwellings on sites expected to meet Malvern Hills' unmet needs (5.8% of Wychavon's supply excluding the WWA)	108
Disputed sites	184
<b>Total</b>	<b>380</b>

12.2 We therefore conclude that at 1<sup>st</sup> April 2022, the deliverable supply is 1,571 dwellings (i.e.,  $1,951 - 380 = 1,571$  dwellings).



# 13. Conclusions

13.1 We therefore conclude that the deliverable supply at 1<sup>st</sup> April 2022 is 1,571 dwellings. Against the local housing need and a 5% buffer, this equates to **2.95 years** as summarised in the following table.

**Table 13.1 – Summary of Wychavon’s Five Year Housing Land Supply at 1<sup>st</sup> April 2022**

	Requirement	Council’s published position	Approach taken in Kempsey appeal decision	Emery Planning’s position
A	Annual local housing need figure	488	508	508
B	Five year housing requirement (A X 5 years)	2,440	2,540	2,540
C	5% buffer (5% of B)	122	127	127
D	Five year supply to be demonstrated (B + C)	2,562	2,667	2,667
E	Annual requirement plus 5% buffer (D / 5 years)	512	533	533
	<b>Supply</b>			
F	Five year supply at 1 <sup>st</sup> April 2022	1,951	1,755	1,571
G	Supply in years (F / E)	<b>3.81</b>	<b>3.29</b>	<b>2.95</b>
H	Undersupply against the five year requirement	<b>-611</b>	<b>-912</b>	<b>-1,096</b>

13.2 The implication of this is addressed by Savills. Should Wychavon DC publish an updated five year housing land supply assessment (e.g. with a base date of 1<sup>st</sup> April 2023), we respectfully request the opportunity to comment on it.



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