



Five Year Housing Land Supply Statement

Residential development of up to 100 dwellings, including
45% affordable housing and 10% self-build homes,
together with all ancillary works at land off Bullens Green
Lane, Colney Heath

for Canton Ltd

Emery Planning project number: 20-235

PINS refs: 3265925 and 3265926

Project : 20-235
Site address : Land off Bullens Green
Lane, Colney Heath
Client : Canton Ltd

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1. Introduction and summary

- 1.1 Emery Planning is instructed by Canton Ltd (the Appellant) to provide this statement in relation to the five year housing land supply position in St Albans and Welwyn Hatfield at 1st April 2020. It has been prepared in support of an appeal for outline planning permission for the residential development of up to 100 dwellings, including 45% affordable and 10% self-build homes, together with all ancillary works at land off Bullens Green Lane, Colney Heath, which is located within both St Albans and Welwyn Hatfield.
- 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. We have also made submissions on draft Annual Position Statements. We provided an assessment of the five year housing land supply position in St Albans and Welwyn Hatfield at 1st April 2019, which was submitted in support of the appeal application.
- 1.3 This statement is based on the latest position statements set out in the St Albans Authority Monitoring Report (base date 31st March 2020) and the draft Welwyn Hatfield Authority Monitoring Report (base date 31st March 2020). For the avoidance of doubt, neither position statement is an “Annual Position Statement” as defined in the glossary on page 65 of the Framework. The position statements and the evidence to support them have not been consulted on or independently examined. Indeed, neither Councils’ housing land supply could be confirmed through an Annual Position Statement because they do not have a recently adopted plan as defined by footnote 38 of the Framework.
- 1.4 Neither authority can demonstrate a deliverable five year housing land supply against their local housing need and a 20% buffer by a significant margin. St Albans Council considers that it has a deliverable supply of 2,612 dwellings, which against its local housing need and a 20% buffer equates to 2.44 years. We consider that the deliverable supply is less than this and around 1,746 dwellings, equating to **1.64 years**.
- 1.5 Welwyn Hatfield considers that it has a deliverable supply of 2,706 dwellings, which against its local housing need and a 20% buffer equates to 2.58 years. We consider that the deliverable supply is less than this and around 1,947 dwellings, equating to **1.85 years**.

2. Planning Policy Context

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration, which is discussed below.

Development plan context

Existing development plans

- 2.2 The existing development plans are:

- The St Albans District Local Plan Review (adopted 1994); and
- The Welwyn Hatfield District Plan (adopted 2005).

- 2.3 The conformity of the application proposals to the development plan is addressed by Woods Hardwick. In terms of our statement, the fact that both plans are over five years old is relevant in terms of the housing requirement to be used for calculating housing land supply.

Emerging development plans

- 2.4 On 19th November 2020, St Alban withdrew its emerging Local Plan from examination. The Council will now start afresh on a new Local Plan which will cover the period 2020 to 2038. The latest Local Development Scheme (January 2021) sets out an ambitious timetable for the production of the new local plan. It states that a regulation 18 consultation will take place in January / February 2022, a regulation 19 consultation will take place in November / December 2022, the plan will be submitted in Spring / Summer 2023 and it will be adopted at the end of 2023.
- 2.5 The Welwyn Hatfield Local Plan (2013-32) was submitted for examination almost four years ago in May 2017. It is still being examined. The Inspector has not provided his final conclusions on the proposed housing requirement. In accordance with paragraph 214 of the Framework, the Local Plan is being examined within the context of the 2012 Framework, which is relevant in terms of the definition of "deliverable" set out in the 2019 Framework, which we set out below.

National planning policy and guidance

- 2.6 The definition of "deliverable" is set out on page 66 of the Framework 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.”

2.7 The PPG was most recently updated on 22nd July 2019. Paragraph 68-007 of the PPG¹ 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*

¹ Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”

that sets out the timescale for approval of reserved matters applications and discharge of conditions;

- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and build-out rates;*
- firm progress with site assessment work; or*
- clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.*

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

2.8 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition in the 2019 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.

2.9 In our original assessment we referred to several appeal decisions, including those of the Secretary of State where the definition of "deliverable" and "clear evidence" have been considered.

2.10 In terms of a windfall allowance, paragraph 70 of the Framework states:

"Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area."

2.11 The definition of "windfall sites" is provided on page 73 of the Framework as follows:

"Sites not specifically identified in the development plan".

3. Housing Delivery Test

3.1 The 2020 Housing Delivery Test (HDT) results were published on 19th January 2021. The results for St Albans and Welwyn Hatfield are summarised in the tables below:

Table 3.1 – Summary of the 2020 Housing Delivery Test Result for St Albans

	2017-18	2018-19	2019-20	Total
Number of homes required	649	902	820	2,372
Number of homes delivered	412	638	443	1,493
HDT measurement				63%

Table 3.2 – Summary of the 2020 Housing Delivery Test Result for Welwyn Hatfield

	2017-18	2018-19	2019-20	Total
Number of homes required	623	867	795	2,284
Number of homes delivered	314	463	673	1,450
HDT measurement				63%

3.2 As shown in the tables above, the result for each authority is 63%. This means the following applies:

- Firstly, as explained in footnote 7 of the Framework, because the results are substantially below the requirement (i.e. below 75%) **the tilted balance to the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework applies;**
- Secondly, paragraph 73 and footnote 39 of the Framework explain that because the HDT results are below 85%, **the 20% buffer will apply for purposes of calculating the five year housing land supply;** and
- Thirdly, Paragraph 75 of the Framework explains that because the HDT results are below 95%, **the local planning authorities should prepare an action plan** to assess the causes of under delivery and identify actions to increase delivery in future years.

4. St Albans Housing Land Supply

Stage 1: Identifying the base date and five year period

- 4.1 The base date set out in the AMR is 1st April 2020 and the five year period is to 31st March 2025.

Stage 2: Identifying the housing requirement

- 4.2 The current Local Plan is more than five years old. In accordance with paragraph 73 and footnote 37 of the Framework, the five year housing land supply should be measured against the local housing need using the standard method set out in the PPG. Paragraph 2a-004 of the PPG² explains how local housing need is calculated. The local housing need for St Albans is currently 893 dwellings per annum. The five year housing requirement is therefore 4,465 dwellings (893 X 5 = 4,465).
- 4.3 The AMR sets out a second scenario where the housing land supply is measured against the household projections only. However, there is no support for this approach in national planning policy or guidance. The figure to be used is the local housing need set out in the standard method,

Stages 3 and 4: Identifying the past shortfall and how the past shortfall should be addressed

- 4.4 Paragraph 68-031 of the PPG³ explains that where the standard method for assessing local housing need is used, 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.

Stage 5: Applying the appropriate buffer

- 4.5 As a result of the latest Housing Delivery Test, the 20% buffer applies. The five year housing land supply to be demonstrated is therefore 5,358 dwellings (i.e. 4,465 + 20%).

² Paragraph: 004 Reference ID: 2a-004-20190220: "What is the standard method for assessing local housing need?"

³ Paragraph: 031 Reference ID: 68-031-20190722: "How can past shortfalls in housing completions against planned requirements be addressed?"

Stage 6: Identifying a Realistic and Deliverable Supply

- 4.6 St Albans claims to have a “deliverable” housing land supply at 1st April 2020 of 2,612 dwellings. This is notably significantly higher than its claimed deliverable supply of 2,012 dwellings at 1st April 2019. We consider that the deliverable supply is less than this for the reasons set out below.

Unit 2, St Peters House, 45 Victoria Street, St Albans

- 4.7 On 11th December 2017, the Council confirmed that prior approval was not required for the conversion of the building to 27 apartments (LPA ref: 5/2017/3081). However, since then on 23rd September 2019 planning permission was granted for a series of alterations to the building to as set out in the application documentation: *“enhance the building’s appearance and attractiveness to prospective tenants, ultimately with the aim of continuing the use of the building as offices”* (LPA ref: 5/2019/0146). The conditions for the improvements to the office building have since been discharged (LPA ref: 5/2019/0897) and the site has been marketed for office use. On the basis that there is clear evidence that the building will not be converted to residential use, **27 dwellings** should be removed from the supply.

62-72 Victoria Street, St Albans

- 4.8 On 16th January 2018, the Council confirmed that prior approval was not required for the conversion of the building to 19 apartments (LPA ref: 5/2017/3252). However, since then a planning application was made for an extension to the building and refurbishment of the office building, which were described in the planning application documents as representing *“the preferred viable option for the building’s use to ensure that it remains in employment generating use”* (LPA ref: 5/2019/1652). That application was withdrawn but confirms the preferred use of the building, which is occupied by Mid Hearts Probation Service. On the basis that there is clear evidence that the building will not be converted to residential use, **19 dwellings** should be removed from the supply.

Land at Three Cherry Trees Lane (Spencer’s Park Phase 2)

- 4.9 The site has outline planning permission for a mixed use scheme including 600 dwellings (LPA ref: 5/2016/2845, approved 30th April 2019). The whole site crosses the boundary with Dacorum. The Council includes 120 dwellings in the five year housing land supply based on 40 dwellings per annum in years 3 to 5. However, it has not provided any clear evidence that housing completions will begin within five years. A reserved matters application has not been made. We note that only

one application to discharge conditions has been made and that relates to archaeology (LPA ref: 6/2020/2468), which has been approved. In the absence of clear evidence, the site should not be considered deliverable, meaning **120 dwellings** should be removed from the Council's supply.

The Old Electricity Works, Campfield Road

- 4.10 This site has planning permission for 107 apartments (LPA ref: 5/2018/0095). However, a subsequent planning application was made in December 2019 for 107 apartments, which effectively sought to reduce the basement car parking (from 118 spaces to 78 spaces) and reduce the affordable housing (from 37 units to 7 units) (LPA ref: 5/2019/3164). The latest application explains that permission 5/2018/0095 is not viable. However, application 5/2019/3164 was refused due to a lack of daylight, sunlight and outlook and lack of car parking provision. An appeal has been lodged but is awaiting a start date. On the basis that the existing permission is not viable and the subsequent application has been refused, this site should be removed, meaning **107 dwellings** should be removed from the Council's supply.

Windfall allowance

- 4.11 The Council now includes a windfall allowance of 573 dwellings in the five year supply. This is notably higher than the windfall allowances of 493 dwellings in the 2019 AMR, 457 in the 2018 AMR and 409 dwellings in the 2016 AMR.
- 4.12 The Council has not provided compelling evidence to justify a windfall allowance of 573 dwellings in the five year supply. Firstly, there is no reference to the SHLAA. It is unknown where the sites are located or why they are expected to come forward and deliver dwellings in the five year period. Secondly, whilst no evidence is provided in the AMR, it appears the Council relies on past trends as this was referred to in the Council's matter 8 hearing statement for the Local Plan examination. However, that statement provided no figures to support the Council's assertions. We note that the Inspectors examining the submitted Local Plan did not consider the Council had provided compelling evidence for the inclusion of a windfall allowance. Paragraph 89 of the Inspectors' letter of 14th April 2020 states:

"It became apparent at the hearing session where we touched on the Council's reliance on windfalls as part of its housing strategy that the Council do not have the requisite historic windfall data available to support their reliance on them for future supply".

4.13 On this basis, as no compelling evidence has been provided for the inclusion of a windfall allowance **593 dwellings** should be removed from the Council's supply.

4.14 In summary, we have concluded that St Albans five year housing land supply is 1,746 dwellings (i.e. $2,612 - 27 - 19 - 120 - 107 - 593 = 1,746$). Against the local housing need and a 20% buffer, this equates to **1.6 years** as shown in the following table:

Table 4.1 – St Albans's Housing Land Supply at 1st April 2020

A	Local housing need	893
B	Five year requirement	4,465
C	Supply to be demonstrated (B + 20%)	5,358
D	Annual supply to be demonstrated (C / 5 years)	1,072
E	Five year supply at 1 st April 2020	1,746
F	Supply in years (E / D)	1.63
G	Shortfall (C – E)	3,612

5. Welwyn Hatfield's Housing Land Supply

Stage 1: Identifying the base date and five year period

- 5.1 The base date is 1st April 2020 and the five year period is to 31st March 2025.

Stage 2: Identifying the housing requirement

- 5.2 The current Local Plan is more than five years old. In accordance with paragraph 73 and footnote 37 of the Framework, the five year housing land supply should be measured against the local housing need using the standard method set out in the PPG. Paragraph 2a-004 of the PPG⁴ explains how local housing need is calculated. The local housing need for Welwyn Hatfield is currently 875 dwellings per annum. The five year housing requirement is therefore 4,465 dwellings ($875 \times 5 = 4,375$).
- 5.3 The submitted draft Local Plan proposed a housing requirement of 800 dwellings per annum. The Council has since sought to reduce this further to 715 dwellings and more recently to 690 dwellings per annum. As the plan is being examined within the context of the 2012 Framework under transitional arrangements, there is no requirement for it to meet the local housing need. However, the proposed housing requirement figure and the sites to meet the housing requirement are subject to unresolved objections and independent examination. The Inspector has not concluded on either the proposed housing requirement or the proposed allocations. Until the Local Plan is adopted, the five year housing land supply should be measured against the Local Housing Need.
- 5.4 In addition, because the Local Plan is being examined under the 2012 Framework, the five year housing land supply is not being considered with reference to the revised definition of "deliverable" as set out in the 2019 Framework.

⁴ Paragraph: 004 Reference ID: 2a-004-20190220: "What is the standard method for assessing local housing need?"

Stages 3 and 4: Identifying the past shortfall and how the past shortfall should be addressed

- 5.5 As above, paragraph 68-031 of the PPG⁵ explains that where the standard method for assessing local housing need is used, 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.

Stage 5: Applying the appropriate buffer

- 5.6 As a result of the latest Housing Delivery Test, the 20% buffer applies. The five year housing land supply to be demonstrated is therefore 5,250 dwellings (i.e. 4,375 + 20%).

Stage 6: Identifying a Realistic and Deliverable Supply

- 5.7 Welwyn Hatfield claims to have a "deliverable" housing land supply at 1st April 2020 of 2,706 dwellings. This is higher than its claimed deliverable supply of 2,435 dwellings at 1st April 2019. We consider that the deliverable supply is less than this for the reasons set out below.

Link Drive Car Park, Hatfield

- 5.8 The site is identified on the Brownfield Register but does not have planning permission. The onus is on the Council to provide clear evidence that housing completions will begin on this site within the next five years. Whilst a full planning application for 80 dwellings was made in November 2019 (LPA ref: 6/2019/2431/MAJ) and approved at committee in July 2020, the S106 has not been signed 8 months later and therefore the decision notice has still not been issued. In the absence of clear evidence for the inclusion of this site, it should be removed, meaning a deduction of **80 dwellings** in the five year supply.

Land south of Filbert Close, Hatfield

- 5.9 The site has outline planning permission for up to 39 no. dwellings (LPA ref: 6/2019/2162). The onus is on the Council to provide clear evidence that housing completions will begin on this site within the next five years. No evidence has been provided and we note that a reserved matters

⁵ Paragraph: 031 Reference ID: 68-031-20190722: "How can past shortfalls in housing completions against planned requirements be addressed?"

application has not been made. In the absence of clear evidence for the inclusion of this site, it should be removed, meaning a deduction of **39 dwellings** in the five year supply.

Garages at Hollyfield, Hatfield

- 5.10 The site is identified on the Brownfield Register but does not have planning permission. The onus is on the Council to provide clear evidence that housing completions will begin on this site within the next five years. A planning application has not been made. In the absence of clear evidence for the inclusion of this site, it should be removed, meaning a deduction of **13 dwellings** in the five year supply.

Broadwater Road West SPD Site, Welwyn Garden City

- 5.11 We discussed this very large site in our original assessment. The site has planning permission for a mixed use scheme including 1,340 dwellings. The Council now considers that 751 dwellings should be considered deliverable in the five year period with the first units delivered in year 3 (i.e. 2022/23) compared to the previous position which had a base date of 1st April 2019 where 670 dwellings were considered deliverable with the first units to be delivered in year 3 (i.e. 2021/22).
- 5.12 The site has planning permission. As set out on page 66 of the 2019 Framework, the site should be considered “deliverable”. However, the number of dwellings that should be considered “deliverable” within the five year period is disputed.
- 5.13 The AMR provides no detail in terms of how the site is expected to deliver 360 dwellings in 2022/23, 152 dwellings in 2023/24 and 239 dwellings in 2024/25. However, as we explained in our original assessment, permission 6/2018/0171 was granted subject to a phasing plan which shows that phase one will include 374 dwellings (114 dwellings in blocks 2A&B, 28 dwellings in block 6E, 131 dwellings in block 8 and 101 dwellings in block 11), civic building, healthcare, community and office (block 1), renovated production hall – bursary, leisure, office and conference (block 4), and renovated grain, silos, boiler house for art / museum, energy centre, restaurants and cafés (block 5). For the reasons set out in our original assessment, we include phase one in the deliverable supply but not the other phases as the details for those phases have not been submitted and approved by the Council in accordance with condition 44 of the permission.
- 5.14 Indeed we note that a new planning application has been submitted in January 2021 to replan the northern part of the site and that application is pending determination (LPA ref:

6/2021/0181/MAJ). The inclusion of 374 dwellings in the five year supply means a deduction of **377 dwellings**.

29 Broadwater Road, Welwyn Garden City

- 5.15 The site is identified on the Brownfield Register but does not have planning permission. The onus is on the Council to provide clear evidence that housing completions will begin on this site within the next five years. Whilst a full planning application for 128 dwellings was made in November 2019 (LPA ref: 6/2019/3024/MAJ) and approved at committee in July 2020, the S106 has not been signed 8 months later and therefore the decision notice has still not been issued. In the absence of clear evidence for the inclusion of this site, it should be removed, meaning a deduction of **128 dwellings** in the five year supply.

Norton Building, Bridge Road East, Welwyn Garden City

- 5.16 The site is identified on the Brownfield Register but does not have planning permission. The onus is on the Council to provide clear evidence that housing completions will begin on this site within the next five years. A number of planning applications and prior approval applications have been made and either withdrawn or refused. In the absence of clear evidence for the inclusion of this site, it should be removed, meaning a deduction of **122 dwellings** in the five year supply.
- 5.17 In summary, we have concluded that Welwyn Hatfield's five year housing land supply is 1,947 dwellings (i.e. $2,706 - 80 - 39 - 13 - 377 - 128 - 122 = 1,947$). Against the local housing need and a 20% buffer, this equates to **1.85 years** as shown in the following table:

Table 5.1 – Welwyn Hatfield's Housing Land Supply at 1st April 2020

A	Local housing need	875
B	Five year requirement	4,375
C	Supply to be demonstrated (B + 20%)	5,250
D	Annual supply to be demonstrated (C / 5 years)	1,050
E	Five year supply at 1 st April 2020	1,947
F	Supply in years (E / D)	1.85
G	Shortfall (C – E)	3,303

6. Conclusions

- 6.1 In summary, as explained in footnote 7 of the Framework, because the Housing Delivery Test results (63%) are substantially below the requirement (i.e. below 75%) the tilted balance to the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework applies.
- 6.2 In addition, as is also explained in footnote 7 of the Framework, because neither authority can demonstrate a deliverable five year housing land supply against their local housing need and a 20% buffer, the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework applies. Indeed, neither authority can demonstrate a deliverable five year housing land supply against their local housing need and a 20% buffer by a significant margin.
- 6.3 St Albans Council considers that it has a deliverable supply of 2,612 dwellings, which against its local housing need and a 20% buffer equates to 2.44 years. We consider that the deliverable supply is less than this and around 1,746 dwellings, equating to **1.64 years** and resulting in a shortfall of **3,612 dwellings**.
- 6.4 Welwyn Hatfield considers that it has a deliverable supply of 2,706 dwellings, which against its local housing need and a 20% buffer equates to 2.58 years. We consider that the deliverable supply is less than this and around 1,947 dwellings, equating to **1.85 years** and resulting in a shortfall of **3,303 dwellings**.