



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

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

Date : 19 August 2020
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Contents:

1. Introduction and summary	1
2. Planning Policy Context	4
3. Housing Delivery Test	6
4. Assessment of housing supply	9
5. Stage 1: Agreeing the base date and five year period	10
6. Stage 2: Identifying the housing requirement	12
7. Stage 3: Identifying the past shortfall or over-supply	16
8. Stage 4: Identifying the method of addressing the past shortfall	17
9. Stage 5: Applying the appropriate buffer	17
10. Stage 6: Identifying a Realistic and Deliverable Supply	19
11. St Alban's Housing Land Supply	40
12. Welwyn Hatfield's Housing Land Supply	46
13. Conclusions	51

1. Introduction and summary

1.1 Emery Planning is instructed by Canton Ltd to provide an assessment of the five year housing land supply position in St Albans and Welwyn Hatfield. This statement has been prepared in support of an outline planning application 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.

Background

1.2 Emery Planning has extensive experience in dealing with housing land 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.

1.3 Our assessment is based on the latest position statements set out in the St Albans Authority Monitoring Report (AMR, March 2020)¹ and the draft Welwyn Hatfield Authority Monitoring Report (AMR, February 2020)². The AMR for Welwyn Hatfield is in draft because the meeting to endorse it was cancelled due to the Covid-19 pandemic. Both position statements have a base date of 1st April 2019 and a five year period to 31st March 2024. 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.

St Albans Housing Land Supply

1.4 The 2019 Authority Monitoring Report claims that at 1st April 2019 St Albans had a deliverable five year housing land supply of 2,021 dwellings, which against its local housing need and a 20% buffer equates to just **1.9 years**.

¹<https://www.stalbans.gov.uk/sites/default/files/attachments/AMR%20Authority%27s%20Monitoring%20Report%202019.pdf>

²[https://www.welhat.gov.uk/media/16188/Draft-Annual-Monitoring-Report-2018-2019/pdf/Draft Annual Monitoring Report 2018-19.pdf?m=637207328046770000](https://www.welhat.gov.uk/media/16188/Draft-Annual-Monitoring-Report-2018-2019/pdf/Draft%20Annual%20Monitoring%20Report%202018-19.pdf?m=637207328046770000)

- 1.5 On the requirement side, the strategic policies in the St Albans Local Plan are more than five years old and therefore in accordance with paragraph 73 and footnote 37 of the Framework the five year supply should be measured against the local housing need using the standard method set out in the Planning Practice Guidance (PPG). At 1st April 2019, applying the current standard method means the local housing need is 896 dwellings per annum. The five year requirement is therefore 4,480 dwellings (i.e. $896 \times 5 = 4,480$).
- 1.6 In addition, a buffer should be applied. The Council's latest (2019) Housing Delivery Test (HDT) result was 63%. As this is less than 85%, in accordance with paragraph 73 and footnote 39 of the Framework the buffer is 20%. Therefore the supply that should be demonstrated is 5,376 dwellings (i.e. $4,480 + 20\%$).
- 1.7 On the supply side, the Council claims that the deliverable supply at 1st April 2019 is 2,021 dwellings. We have assessed the supply and conclude that the deliverable supply in St Albans is 1,462 dwellings. Against the local housing need and a 20% buffer, this equates to **1.36 years**. The implication of this is addressed by Woods Hardwick in their Planning Statement submitted as part of the planning application.

Welwyn Hatfield's Housing Land Supply

- 1.8 The draft 2019 Authority Monitoring Report claims that at 1st April 2019 Welwyn Hatfield has a deliverable five year housing land supply of 2,435 dwellings, which against its local housing need and a 20% buffer equates to just **2.34 years**.
- 1.9 As with the position in St Albans, the strategic policies in the Welwyn Hatfield Local Plan are more than five years old and therefore in accordance with paragraph 73 and footnote 37 of the Framework the five year supply should be measured against the local housing need using the standard method set out in the Planning Practice Guidance (PPG). At the base date, this is 868 dwellings per annum. The five year requirement is therefore 4,340 dwellings (i.e. $868 \times 5 = 4,340$).
- 1.10 In addition, a buffer should be applied. As the Council's latest Housing Delivery Test result was less than 85% in accordance with paragraph 73 and footnote 39 of the Framework the buffer is 20%. Therefore the supply that should be demonstrated is 5,208 dwellings (i.e. $4,340 + 20\%$).
- 1.11 On the supply side, the Council claims that the deliverable supply at 1st April 2019 is 2,435 dwellings. We have assessed the supply and have found the deliverable supply in Welwyn

Hatfield to be 2,109 dwellings. Against the local housing need and a 20% buffer, this equates to **2.02 years**. Again, the implication of this is addressed by Woods Hardwick in their Planning Statement submitted as part of the planning application.

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 plans

- 2.3 The existing development plans are:
- The St Albans District Local Plan Review (adopted 1994); and
 - The Welwyn Hatfield District Plan (adopted 2005).
- 2.4 The conformity of the application proposals to the development plan is addressed by Woods Hardwick in their planning statement. 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

- 2.5 On 14th April 2020, the Inspectors examining St Albans' Local Plan explained that in light of their serious concerns regarding the duty to co-operate, there is a very strong likelihood that there will be no other option other than that the Plan is withdrawn from examination or the Inspectors write a final report recommending its non-adoption because of a failure to meet the duty to co-operate. On 2nd July 2020, the Council responded to the Local Plan Inspectors' letter and suggested a way that the examination of the Local Plan could proceed. At the time of writing, the Inspectors have not responded.
- 2.6 The Welwyn Hatfield Local Plan was submitted for examination over three years ago in May 2017. It is still being examined. 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.

National planning policy and guidance

The National Planning Policy Framework (“the Framework”)

- 2.7 The Framework was published in March 2012. It was revised in July 2018 and again in February 2019. In relation to housing land supply, section 5 of the Framework: “*Delivering a sufficient supply of homes*” and the definition of “deliverable” set out on page 66 of the Framework are relevant to our statement.

Planning Practice Guidance (PPG)

- 2.8 The PPG was first published in March 2014 and has been updated since. It contains guidance on “*Housing and economic needs assessment*” at section 2a, “*Housing and economic land availability assessments*” at section 3, and “*Housing supply and delivery*” at section 68, which were all updated on 22nd and 23rd July 2019. We refer to paragraphs within these sections of the PPG in our statement.

Other material considerations

- 2.9 The other material considerations in relation to our statement are the latest position statements set out in the St Albans Authority Monitoring Report (March 2020)³ and the draft Welwyn Hatfield Authority Monitoring Report (February 2020)⁴. Both position statements have a base date of 1st April 2019 and a five year period to 31st March 2024.

³<https://www.stalbans.gov.uk/sites/default/files/attachments/AMR%20Authority%27s%20Monitoring%20Report%202019.pdf>

⁴[https://www.welhat.gov.uk/media/16188/Draft-Annual-Monitoring-Report-2018-2019/pdf/Draft Annual Monitoring Report 2018-19.pdf?m=637207328046770000](https://www.welhat.gov.uk/media/16188/Draft-Annual-Monitoring-Report-2018-2019/pdf/Draft%20Annual%20Monitoring%20Report%202018-19.pdf?m=637207328046770000)

3. Housing Delivery Test

3.1 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”

3.2 The HDT is measured as a percentage each year. The following implications apply where delivery falls below specific thresholds.

3.3 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%.

3.4 Secondly, paragraph 73 and footnote 39 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.

3.5 Thirdly, Paragraph 75 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.

3.6 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”. However, it then explains that for areas such as St Albans and Welwyn Hatfield where the latest adopted housing requirement figure is more than five years old, “the number of homes required” means the lower of the annual local housing need figure. The transitional arrangements set out in paragraph 21 of the HDT Measurement Rule Book then explain that for the financial years 2015/16, 2016/17 and 2017/18, the minimum annual local housing need figure is replaced by household projections.

3.7 The HDT results for 2018 were published on 19th February 2019. The 2018 result for St Albans and Welwyn Hatfield is summarised in the tables below:

Table 3.1 – Summary of the 2018 Housing Delivery Test Result for St Albans

	2015-16	2016-17	2017-18	Total
Number of homes required	670	668	649	1,987
Number of homes delivered	396	347	412	1,155
HDT measurement				58%

Table 3.2 – Summary of the 2018 Housing Delivery Test Result for Welwyn Hatfield

	2015-16	2016-17	2017-18	Total
Number of homes required	535	544	623	1,701
Number of homes delivered	507	671	314	1,493
HDT measurement				88%

3.8 As can be seen from the tables above, St Albans delivered 1,155 new homes over the three year period 2015-18 against a “requirement” based on household projections only over the same period of 1,987 dwellings. This resulted in a HDT measurement of 58% and meant that the Council failed the 2018 HDT. This meant that the 20% buffer applied and the Council had to produce a Housing Delivery Action Plan. Welwyn Hatfield also failed the 2018 HDT which was based on household projections only. As the result was over 85%, the 5% buffer applied but the Council needed to produce a Housing Delivery Action Plan.

3.9 The HDT results for 2019 were published on 13th February 2020. The 2019 results for St Albans and Welwyn Hatfield are summarised in the table below:

Table 3.3 – Summary of the 2019 Housing Delivery Test Result for St Albans

	2016-17	2017-18	2018-19	Total
Number of homes required	668	649	902	2,219
Number of homes delivered	347	412	638	1,397
HDT measurement				63%

Table 3.4 – Summary of the 2019 Housing Delivery Test Result for Welwyn Hatfield

	2016-17	2017-18	2018-19	Total
Number of homes required	544	623	867	2,034
Number of homes delivered	671	314	463	1,448
HDT measurement				71%

3.10 As can be seen from the above, both Councils failed the 2019 HDT against a “requirement” based on household projections for 2016/17 and 2017/18 and the local housing need in 2018/19. The 20% buffer applies in both authorities and both Councils must produce another Housing Delivery Action Plan by 13th August 2020 (i.e. within 6 months of the HDT result being published).

3.11 The 2020 HDT results are not due to be published until November 2020. However, using the projected delivery figure from their respective housing trajectories both Councils are expected to fail the HDT against a requirement based on household projections for 2017/18 and the local housing need in 2018/19 and 2019/20. This is shown in the following tables:

Table 3.5 – Prediction of the 2020 Housing Delivery Test Result for St Albans

	2017-18	2018-19	2019-20	Total
Number of homes required	649	902	896	2,447
Number of homes delivered	412	638	441	1,491
HDT measurement				61%

Table 3.6 – Prediction of the 2020 Housing Delivery Test Result for Welwyn Hatfield

	2017-18	2018-19	2019-20	Total
Number of homes required	623	867	868	2,358
Number of homes delivered	314	463	470	1,247
HDT measurement				53%

3.12 As shown in the tables above, the 2020 HDT result for both Councils is expected to be under 75% and therefore 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 will apply. The 20% buffer will apply and both Councils will again have to prepare a Housing Delivery Action Plan within 6 months of the 2020 HDT result being published.

4. Assessment of housing supply

4.1 Our assessment of each Council's five year housing land supply is based on five key stages:

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

4.2 Each stage is addressed below.

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

- 5.1 The base date is the start date for the five year period for which both the requirement and supply should relate.
- 5.2 The current housing land supply position for both St Albans and Welwyn Hatfield has a base date of 1st April 2019 and a five year period of 1st April 2019 to 31st March 2024. We have assessed the supply at 1st April 2019 as that remains the most up to date position.

The base date as a “cut-off date”

- 5.3 The Councils should not attempt to include any new sites, which did not meet the definition of “deliverable” at 1st April 2019. This would effectively mean changing the base date to beyond 1st April 2019. Within this context, there have been several appeal decisions, which have found such an approach to be inappropriate.
- 5.4 For example, Inspector Harold Stephens discussed this issue in the Woolpit appeal decision⁵. Paragraph 67 of the appeal decision states:

“The relevant period is 1 April 2017 to 31 March 2018. There is therefore a clear cut-off date within the AMR, which is 31 March 2018. The Council’s supply of deliverable sites should only include sites that fall within the definition of deliverable at the end of the period of assessment i.e. 31 March 2018. Sites that have received planning permission after the cut-off date but prior to the publication of the AMR have therefore been erroneously included within the Council’s supply. The inclusion of sites beyond the cut-off date skews the data by overflating the supply without a corresponding adjustment of need”.

- 5.5 in allowing an appeal for up to 150 dwellings at a site on Bath Road, Corsham, Inspector Prentis stated at paragraph 53 of the appeal decision⁶:

“Finally, I note that since the Inquiry the Council has permitted housing development on two sites at or near Corsham, amounting to 152 dwellings. However, it would not be appropriate simply to add that figure to the supply – that would be tantamount to changing the base date of the HLS exercise. Moreover, some of these units are already accounted for in the HLS figures. The Council and the appellant have agreed that the correct base date for this appeal is 1 April 2014. If any later base date were used it would be necessary to review all the elements of the HLS exercise”.

⁵ PINS ref: 3194926

⁶ PINS ref: 2222641

5.6 Similarly, in an appeal decision regarding land to the rear of former Dylon International Premises, Station Approach, Lower Sydenham, London⁷, the Inspector noted the following in paragraphs 17 and 18:

"17. The final site is the former Town Hall and car park that was granted planning permission for 53 units in November 2015, after the base date of 1 April 2015. The appellants submit that the appropriate estimate is the 20 units envisaged at the base date, whereas the Council considers that the latest position should be the one on which the figures are based.

18. Whilst there is more up-to-date information now available, it seems to me that if additional units granted planning permission after the base date are to be taken into account, so should any units that have been completed after the base date and consequently removed from the future supply availability, in order to present the most accurate overall picture. This exercise had not been completed for the Inquiry and I therefore conclude that for the purposes of this appeal, the position as agreed in the SoCGH should be adhered to."

⁷ PINS ref: 3144248

6. Stage 2: Identifying the housing requirement

National planning policy and guidance

6.1 Paragraph 60 of the Framework states:

"To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for."

6.2 Paragraph 73 of the Framework states:

"Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old."

6.3 Footnote 37 of the Framework explains that unless the housing requirement set out in the strategic policy has been "reviewed and found not to require updating", local housing need will be used for assessing whether a five year supply of specific deliverable sites exists using the standard method set out in the PPG once the strategic policy is more than five years old.

6.4 Paragraph 68-002 of the PPG⁸ states:

"A 5 year land supply is a supply of specific deliverable sites sufficient to provide 5 years' worth of housing (and appropriate buffer) against a housing requirement set out in adopted strategic policies, or against a local housing need figure, using the standard method, as appropriate in accordance with paragraph 73 of the National Planning Policy Framework."

6.5 Paragraph 68-003 of the PPG⁹ explains:

"The purpose of the 5 year housing land supply is to provide an indication of whether there are sufficient sites available to meet the housing requirement set out in adopted strategic policies for the next 5 years. Where strategic policies

⁸ Paragraph: 002 Reference ID: 68-002-20190722: "What is a 5 year land supply?"

⁹ Paragraph: 003 Reference ID: 68-003-20190722: "What is the purpose of the 5 year housing land supply?"

are more than 5 years old, or have been reviewed and found in need of updating, local housing need calculated using the standard method should be used in place of the housing requirement."

6.6 Paragraph 68-005 of the PPG¹⁰ states:

"Housing requirement figures identified in adopted strategic housing policies should be used for calculating the 5 year land supply figure where:

- the plan was adopted in the last 5 years, or*
- the strategic housing policies have been reviewed within the last 5 years and found not to need updating.*

In other circumstances the 5 year housing land supply will be measured against the area's local housing need calculated using the standard method."

6.7 Consequently, it is clear that the five year supply should be measured against the housing requirement set out in strategic policies when those policies are less than five years old and when they are more than five years old, the local housing need figure should be used unless the housing requirement has been reviewed and found not to require updating.

Assessment

6.8 The strategic policies in the St Albans Local Plan and the Welwyn Hatfield Local Plan are more than five years old. The five year housing land supply in each authority should therefore be measured against the local housing need for each authority calculated by using the standard method set out in the PPG.

6.9 Paragraph 2a-004 of the PPG¹¹ explains how local housing need is calculated. There are three steps. The first step calculates the average annual household growth over a 10 year period using the 2014-based household projections. The second step then makes an adjustment to take account of affordability. The third step provides a cap of 40% above the projected household growth in step one.

¹⁰ Paragraph: 005 Reference ID: 68-005-20190722: "What housing requirement figure should authorities use when calculating their 5 year housing land supply?"

¹¹ Paragraph: 004 Reference ID: 2a-004-20190220: "What is the standard method for assessing local housing need?"

6.10 The standard method results in the local housing need figures of 896 dwellings per annum in St Albans and a local housing need figure of 868 dwellings in Welwyn Hatfield as set out in the following table:

Table 6.1 – Local housing need using the current standard method

	Step 1	Step 2	Step 3	
	Projected annual average household growth 2019-29	Adjustment factor	Should the cap be applied?	Local housing need
St Albans	640	1.76	Yes	896
Welwyn Hatfield	620	1.41	Yes	868

6.11 It is of note that the Government is already committed to revising the standard method so that it results in a national figure of 300,000 dwellings per year. The current method only results in a figure of around 265,000 dwellings per year nationally. “*Planning for the Future*” (March 2020) states that the Government will be:

“Reviewing the formula for calculating Local Housing Need – we will introduce a new approach which encourages greater building within and near to urban areas and makes sure the country is planning for the delivery of 300,000 new homes a year”

6.12 On 6th August 2020, consultation began on “*Changes to the current planning system*”. The Government’s proposed approach sets out two steps:

- Step one – Setting the baseline – providing stability and certainty by incorporating a blend of household projections and stock. This step uses whichever is higher of 0.5% of existing housing stock in each local authority OR the latest projected average annual household growth over a 10-year period.
- Step two – Adjusting for market signals – maintaining price signals using the current affordability ratio and the change in affordability over the last 10 years. This step initially uses the workplace-based median house price to median earnings ratio for the most recent year and how affordability has changed over the last 10 years.

6.13 The Government’s proposed approach results in a local housing need of 997 dwellings per annum for St Albans and 667 dwellings per annum for Welwyn Hatfield as set out in the following table:

Table 6.2 – Local housing need using the revised standard method

	Step 1		Step 2	Local housing need
	0.5% of existing stock	Projected annual average household growth 2020-30	Adjustment factor	
St Albans	305.24	220.4	3.27	997
Welwyn Hatfield	239.29	304.3	2.17	667

6.14 The consultation on the revised standard method closes on 1st October 2020. Following the outcome of the consultation, the Government intends to update the planning practice guidance with the revised standard method for assessing local housing need. Should the proposed revised standard method be adopted, we will provide an update to our statement.

7. Stage 3: Identifying the past shortfall or over-supply

7.1 Paragraph 68-031 of the PPG¹²: “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.” (our emphasis)

7.2 As in both authorities 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.

¹² Paragraph: 031 Reference ID: 68-031-20190722: “How can past shortfalls in housing completions against planned requirements be addressed?”

8. Stage 4: Identifying the method of addressing the past shortfall

8.1 As above, because the housing land supply in both authorities is measured against the local housing need, there is no past shortfall or over-supply to address.

9. Stage 5: Applying the appropriate buffer

9.1 Paragraph 73 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 39 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 Paragraph 68-022 of the PPG¹³ states:

“To ensure that there is a realistic prospect of achieving the planned level of housing supply, the local planning authority should always add an appropriate buffer, applied to the requirement in the first 5 years (including any shortfall), bringing forward additional sites from later in the plan period. This will result in a requirement over and above the level indicated by the strategic policy requirement or the local housing need figure.

Buffers are not cumulative, meaning that an authority should add one of the following, depending on circumstances:

¹³ Paragraph: 022 Reference ID: 68-022-20190722: “How should buffers be added to the 5 year housing land supply requirement?”

5% - the minimum buffer for all authorities, necessary to ensure choice and competition in the market, where they are not seeking to demonstrate a 5 year housing land supply;

10% - the buffer for authorities seeking to 'confirm' 5 year housing land supply for a year, through a recently adopted plan or subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework), unless they have to apply a 20% buffer (as below); and

20% - the buffer for authorities where delivery of housing taken as a whole over the previous 3 years, has fallen below 85% of the requirement, as set out in the last published Housing Delivery Test results."

9.4 As set out above, the 2019 Housing Delivery Tests mean that the 20% buffer applies in both authorities. A summary of the housing requirement is set out in the following table:

Table 9.1: Summary in relation to the supply to be demonstrated

		St Albans	Welwyn Hatfield
A	Local housing need	896	868
B	Five year requirement	4,480	4,340
C	Supply to be demonstrated (B + 20%)	5,376	5,208
D	Annual supply to be demonstrated (C / 5 years)	1,075	1,042

10. Stage 6: Identifying a Realistic and Deliverable Supply

What constitutes a deliverable site?

Previous National Planning Policy (2012) and Guidance (2014)

10.1 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.”

10.2 Paragraph 3-031 of the previous PPG (dated 6th March 2014): “What constitutes a ‘deliverable site’ in the context of housing policy?” stated:

“Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within 5 years.

However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the 5-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints (eg infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a 5-year timeframe.

The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust 5-year housing supply.”

10.3 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.

Draft revised National Planning Policy Framework (March to May 2018)

10.4 The Government consulted on the draft revised Framework between March and May 2018. The draft revised Framework provided the following definition of “deliverable” in the glossary:

“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. Small sites, and sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (e.g. they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

10.5 Question 43 of the Government’s consultation on the draft revised Framework asked: “do you have any comments on the glossary?”

10.6 Under the title: “What constitutes a ‘deliverable site’ in the context of housing policy?”, the draft Planning Practice Guidance (March 2018, page 16) simply included the same definition as that set out in the draft revised NPPF above.

Government’s response to the draft revised Framework consultation

10.7 There were 750 responses to question 43 of the consultation. Some of the points raised included:

“Local authorities called for the proposed definition of ‘deliverable’ to be reconsidered, as it may result in them being unable to prove a five year land supply and place additional burdens on local authorities to produce evidence. Private sector organisations were supportive of the proposed definition.” (our emphasis)

10.8 The government’s response was as follows:

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

Revised Framework (July 2018)

10.9 The revised Framework was published on 24th July 2018. The definition of deliverable was provided on page 66 of the 2018 Framework and was as follows:

"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. Sites that are not major development, and sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (e.g. they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years." (our emphasis)

10.10 Consequently, the 2018 Framework stated that sites with outline planning permission or allocated sites should "only" be considered deliverable where there is "clear evidence" that housing completions will "begin" on site within five years. The onus is on the Council to provide the clear evidence for any sites with outline planning permission and allocated sites it considers deliverable.

10.11 The "clear evidence" required is not described any further in the Framework. However, it is discussed in the updated PPG, which I discuss below.

Technical consultation on updates to national planning policy and guidance

10.12 Between 26th October and 7th December 2018, the Government consulted on:

- Changes to planning practice guidance relating to the standard method for assessing local housing need; and
- Policy clarifications relating to housing land supply, the definition of deliverable and appropriate assessment.

10.13 In terms of the definition of deliverable, the consultation document stated at paragraph 36:

"The new Framework published in July this year set out a revised definition of 'deliverable' (contained in the glossary at Annex 2 of the Framework). Early experience of applying this definition has suggested that it would benefit from some clarification of the wording. In particular, the existing text could be clearer that sites that are not major development, and which have only an outline planning consent, are in principle considered to be deliverable. The relationship between the first sentence of the definition (which sets out general considerations in terms of deliverability), and the remainder that explains how particular circumstances should be approached, also needs to be clear. The specific circumstances cited in the definition are intended to indicate how the

general considerations in the first sentence apply to the types of development referred to in the text that follows.

10.14 The consultation document then set out a proposed revised definition as follows:

“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.”

10.15 Question 5 of the consultation asked: *“Do you agree with the proposed clarification to the glossary definition of “deliverable”?”*

Government's response to the technical consultation

10.16 The Government's response to the consultation was published on 19th February 2019. It explained that there were 461 responses to question 5 and the points raised included:

“• There was considerable support (68%) for the proposal from the private sector, although some concerns were raised that sites will need longer than five years to be built out.

• About half (54%) of local authorities agreed with the proposal, although some felt that it may make delivery harder to demonstrate, resulting in sites being removed from plans and therefore make it more difficult for authorities when demonstrating a five year land supply.

• Many respondents across the groups suggested that sites with outline planning permission and / or sites that are included within local plans should be included in the definition of deliverable. Many respondents also suggested that the proposal would result in developers using specialist knowledge and resources to influence planning decisions in their favour, as well as complaints concerning land banking” (our emphasis)

10.17 The Government's response states:

"The Government welcomes the views submitted on this proposal. Taking them into account, it considers that the revised definition does provide helpful clarification of the approach established already in the National Planning Policy Framework. The concerns that have been expressed relate more to this overall approach than the merits of the clarification (and the relevance of the overall approach was considered when the Framework was being finalised, following the consultation in the spring of 2018). The changes to the definition that the present consultation proposes should not make it harder for authorities to demonstrate that they have a deliverable portfolio of sites; indeed, it makes it clearer that non-major sites with outline consent should be considered deliverable unless there is evidence to the contrary. We are, however, providing further information on applying the approach through planning practice guidance." (our emphasis).

Revised Framework (February 2019)

10.18 The definition of "deliverable" is set out on page 66 of the 2019 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." (our emphasis)

10.19 The "further information" on applying the approach of the revised definition of "deliverable" referred to in the Government's response has now been set out in the PPG, which is discussed below.

Updated Planning Practice Guidance (PPG, September 2018)

10.20 The PPG was originally updated on 13th September 2018. Paragraph 3-036 of the PPG¹⁴ stated:

“For sites with outline planning permission, permission in principle, allocated in a development plan or identified on a brownfield register, where clear evidence is required to demonstrate that housing completions will begin on site within 5 years, this evidence may include:

- *any progress being made towards the submission of an application;*
- *any progress with site assessment work; and*
- *any relevant information about site viability, ownership constraints or infrastructure provision.*

For example:

- *a statement of common ground between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and build-out rates.*
- *a hybrid planning permission for large sites which links to a planning performance agreement that sets out the timescale for conclusion of reserved matters applications and discharge of conditions.”*

Further Updated Planning Practice Guidance (PPG, July 2019)

10.21 The PPG was more recently updated on 22nd July 2019. Paragraph 68-007 of the PPG¹⁵ 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;*

¹⁴ Paragraph: 036 Reference ID: 3-036-20180913: ““What constitutes a ‘deliverable site’ in the context of housing policy?”

¹⁵ Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”

- *are allocated in a development plan;*
- *have a grant of permission in principle; or*
- *are identified on a brownfield register.*

Such evidence, to demonstrate deliverability, may include:

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

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

Assessment

10.22 There are two key issues as result of the revised Framework and the updated PPG:

- Firstly, there has been a radical change in terms of what constitutes a deliverable site; and
- Secondly, the Government's view as to what this means has been set out in the PPG.

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

10.24 The revised definition of "deliverable" effectively sets out when sites at various stages of the planning process are realistically expected to deliver dwellings. This was made clear in the Government's response to the consultation on the then draft revised Framework.

10.25 As above, the PPG has been updated to provide the type of evidence required 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. Whatever form the “clear evidence” takes, this must be published.

Relevant appeal decisions

10.26 Within this context, we refer to the following appeal decisions.

Land to the south of Cox Green Road, Rudgwick, Surrey¹⁶

10.27 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, Rudgwick, 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.

10.28 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. I note the following points:

- Firstly, 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 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.
- Secondly, 24 sites without full planning permission were removed for the reason set out in paragraphs 21 to 24. Paragraph 23 of the appeal decision states:

“To justify including sites of these types it would be necessary to produce clear and specific evidence, in sufficient detail, to show that the sites were available, suitable, and achievable, with a realistic prospect of delivery within the required timescale. I appreciate that this would be a large task, but self-evidently the size of that task is related to the number of sites without full planning permission that the Council seeks to rely on. On the evidence before me now, none of the sites in the second section of the schedule can currently justify being included in the 5-year supply.”

¹⁶ PINS ref: 3227970

Land off Popes Lane, Sturry, Kent¹⁷

10.29 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, 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 need to be removed from the “deliverable” supply.

10.30 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)

10.31 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.”

Land east of Gleneagles Way, Hatfield Peverel, Braintree¹⁸

10.32 The Secretary of State called-in for his own determination David Wilson Homes’ application to Braintree Council for up to 120 dwellings at land east of Gleneagles Way, Hatfield Peverel. An

¹⁷ PINS ref: 3216104

¹⁸ PINS ref: 3180729

inquiry was held in December 2017 and January 2018 and the Inspector issued his report on 20th March 2018 i.e. before the 2018 Framework was published. Over a year after the Inspector had issued his report, on 11th April 2019, Braintree Council published new information in relation to housing land supply. This was an addendum to Braintree's housing land supply position paper, which included the evidence the Council relied on to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission in its supply.

10.33 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”

10.34 The ten removed sites are listed in a table provided at Annex D on page 24 of the Secretary of State's decision letter. Of the ten sites removed from Braintree's supply, 9 had outline planning permission and the remaining site was an allocated site with a hybrid planning application pending determination. For these sites, Braintree Council had submitted completed forms and emails from landowners, developers and their agents providing the timescales for the submission of reserved matters applications and anticipated build rates. 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. It is of note that the Secretary of State did not remove any of the sites with outline planning permission for major development where a reserved matters application had been made.

10.35 The Secretary of State made the same conclusions in three other appeal decisions in Braintree at that time: land off Stone Path Drive, Hatfield Peverel (ref: 3180725 – 8th July 2019), land off Stone Path Drive, Hatfield Peverel (ref: 3162004 – 8th July 2019) and land north and south of Fitch Way, Pods Brook Road, Braintree (ref: 3197293 – 13th June 2019).

10.36 We summarise the evidence provided by Braintree in the following table.

Table 10.1 – Sites the Secretary of State removed from Braintree’s Housing Land Supply

	Address	No. of dwellings in Braintree’s 5YHLS	Status	Developer	Evidence provided by Braintree Council
1	Land South of The Limes Gosfield	19	Outline planning permission for 19 dwellings with a full planning application for 22 dwellings pending determination	Chelsteen Homes	E-mail from the agent explaining that a revised planning application has been made
2	Land east of Sudbury Road Halstead	218	Outline planning permission for 205 dwellings with a full planning application for 218 dwellings pending determination	Bellway Homes	Form explaining that a full planning application had been made and setting out the build rate
3	Land NE of Inworth Rd Feering	150	Outline planning permission for 165 dwellings with a reserved matters application being prepared.	Bloor Homes	E-mail from agent confirming commencement date and build rate
4	Station Field, Land west of Kelvedon Station Road (Monks Farm) Kelvedon	150	Outline planning permission for 250 dwellings. A reserved matters application is expected imminently	Cala Homes	Form from the housebuilder explaining that an application for reserved matters is to be submitted in 2019 and build rates
5	SE side Ashen Rd, at junction with Tilbury Rd Ridgewell	16	Outline planning permission for 16 dwellings. Full planning application pending determination	Not known	E-mail from agent explaining that a full application will be made in March / April 2019

	Address	No. of dwellings in Braintree's 5YHLS	Status	Developer	Evidence provided by Braintree Council
6	Land rear of Halstead Road Earls Colne	80	Outline planning permission for 80 dwellings. Reserved matters application to be submitted in 2019	The Hunt Property Trust	Form explaining that an application for reserved matters will be submitted in July 2019
7	Former Bowls Club And Land At Old Ivy Chimneys Hatfield Road Witham	12	Outline planning permission for 12 dwellings.	Not known	None
8	Land north of Conrad Road Witham	124	Outline planning permission for 150 dwellings. Full planning application pending determination.	Sanctuary Homes	E-mail from developer explaining that a full planning application has been submitted and setting out build rates
9	Land south of Maltings Lane, Witham	40	Outline planning permission for 63 dwellings	Churchmanor Estates	Form explaining that discussions have been made with the LPA
10	Land west of Panfield Lane	200	Allocated site with a hybrid application (full application for 189 dwellings, and outline application for 411 dwellings) pending determination	Mersea Homes and Hill Residential	Form explaining that the application is to be determined in spring 2019 and setting out the build rates
	Total	1,009			

Green Road, Woolpit, Suffolk¹⁹

10.37 In allowing the appeal for 49 dwellings at land off Green Road, Woolpit, Inspector Harold Stephens concluded that Mid Sussex Council could not demonstrate a five year supply. The Inspector concluded the following:

- Sites with outline planning permission made up a very large proportion of Mid Sussex Council's claimed supply (paragraph 68);
- The onus is on the LPA to provide clear evidence that housing completions will begin in the next five years for sites with outline planning permission for major development and allocated sites (paragraph 65); and
- Mid Sussex Council's AMR fell substantially short of producing the evidence that sites with outline planning permission for major development are expected to have as set out in paragraphs 3-035, 3-047 and 3-048 of the (previous version of the) PPG (paragraphs 68 and 69).

Entech House, London Road, Woolmer Green²⁰

10.38 In allowing an appeal for 72 dwellings, Inspector George Baird concluded that Welwyn Hatfield Borough Council could not demonstrate a five year supply. The Inspector concluded the following:

- The definition of "deliverable" in the revised Framework goes significantly further than the 2012 Framework (paragraph 30);
- The definition of "deliverable" identifies 2 closed lists. Whilst sites with outline planning permission, with permission in principle, allocated in the development plan or identified on a brownfield register can be included within the supply, there is no presumption of deliverability and it is for the LPA to justify their inclusion with clear evidence that housing completions will begin on-site within 5 years (paragraph 30);
- The PPG provides a non-exhaustive list of examples of the type of evidence that can be used to justify the inclusion of such sites within the 5 year supply (paragraph 30); and
- The information produced by Welwyn Hatfield to support sites with outline planning permission was on data sheets, which the Inspector found to be short of the "clear evidence" required by the Framework to justify the inclusion of these sites within the housing land supply (paragraph 32).

¹⁹ PINS ref: 3194926

²⁰ PINS ref: 3190821

Land off Colchester Road, Bures Hamlet, Essex²¹

10.39 In dismissing an appeal for up to 98 dwellings at land off Colchester Road, Bures Hamlet (due to the harm to the landscape character and visual amenity of the area), Inspector Robert Mellor concluded that Braintree Council could not demonstrate a deliverable five year supply of housing land within the context of the revised Framework and the updated PPG. The Inspector concluded the following:

- The clear evidence to support category b) sites should be published alongside the position statement. It can be provided in summary form but there needs to be some means of identifying the basis for the conclusion reached (paragraph 66); and
- The information Braintree Council published in its AMR was “minimal” and relied “heavily on unsupported assertions that a site will be delivered.” That does not amount to clear evidence (paragraph 67).

Land to the rear of the former Dylon International Premises, Station Approach, Lower Sydenham, London²²

10.40 In allowing an appeal for 151 dwellings at the above site, Inspector Baird concluded that contrary to its claims, Bromley Council could not demonstrate a five year supply of land. The Inspector concluded that the information Bromley Council provided was nowhere close to the clear evidence required for sites that were in category b) of the definition (paragraph 18).

Land south of Kislingbury Road, Rothersthorpe²³

10.41 In dismissing the appeal (due to its accessibility by public transport), Inspector Philip Major agreed with the Appellant that South Northamptonshire Council could not demonstrate a deliverable five year housing land supply. In terms of the clear evidence required, the Inspector concluded the following:

- It is insufficient to rely on the fact that outline planning permission exists. The PPG indicates that the assessment of housing land supply should go further and seek evidence that completions are likely to be forthcoming (paragraph 16); and
- Whilst the LPA had assumed that further phases of development on large sites would come forward in the five year period on the basis of delivery of current phases, there was no real evidence to back up the position (paragraph 17); and

²¹ PINS ref: 3207509

²² PINS ref: 3206569

²³ PINS ref: 3206346

- A short email from a developer confirming build rates on one of the sites does not amount to the clear evidence of deliverability, which is now required (paragraph 17).

10.42 In summary, the above appeal decisions found that sites with outline planning permission for major development and allocated sites should not be included in the deliverable supply where the respective Councils had failed to provide the clear evidence required.

10.43 Even where Councils had produced some evidence, Inspectors and the Secretary of State found that the evidence provided was not enough to include some of the category b) sites as deliverable. In the Rothersthorpe case, this was in the form of an email from a developer. In the Braintree case at Hatfield Peverel, this was in the form of proformas and emails from developers with details of who the developer was, when the reserved matters application would be made and what the anticipated build rates would be. In the Rudgwick and Sturry cases, this was in the form of statements of common ground between the Council and the developer.

10.44 Whilst these e-mails, proformas and statements of common ground were not considered sufficient, it is of note that St Albans and Welwyn Hatfield Councils have not provided even this type of evidence to support the inclusion of sites with outline planning permission and allocated sites without planning permission.

Annual position statements

Wyre Annual Position Statement

10.45 The Wyre Local Plan was adopted on 28th February 2019. Under transitional arrangements, it was examined under the 2012 Framework. Wyre Council submitted its Annual Position Statement to the Planning Inspectorate on 31st July 2019. It claimed that at 31st March 2019 Wyre Council could demonstrate a five year supply of 3,520 dwellings, which against the housing requirement and 10% buffer would equate to 5.69 years.

10.46 The Wyre Inspector's Report is dated 15th January 2020 and was published on 16th January 2020. The Inspector recommended to Wyre Council that the five year housing land supply should be reduced by 313 dwellings (9%) leaving a supply of 3,207 dwellings, which against the housing requirement and 10% buffer would equate to 5.18 years. In doing so, the Inspector referred to the definition of "deliverable" as set out on page 66 of the 2019 Framework.

10.47 The Inspector noted that 39 sites remained in dispute. Of these, the Inspector agreed with the Council that 1 site should not be included (at land south of Prospect Farm) and concluded that

nine sites should be removed from Wyre Council's supply and the contribution to the supply from one site should be reduced. The reasons why the Inspector removed the nine sites was because the Inspector did not consider that Wyre Council had provided the "clear evidence" required by the Framework for their inclusion.

10.48 The Inspector's report on the APS for Wyre is relevant because Wyre sought to rely on sites with outline planning permission for major development and allocated sites without planning permission or even a planning application pending determination in its supply.

10.49 In terms of the sites with outline planning permission, the Wyre Inspector included the sites with outline planning permission and a reserved matters application pending determination and sites with an outline planning permission where a masterplan was being prepared. However, the Wyre Inspector removed three sites with outline planning permission where a reserved matters application had not been made and a masterplan was not being progressed.

10.50 At land off Garstang Road, Barton, the Inspector concluded at paragraph 21:

"This is an allocated site with outline permission only, for 72 dwellings, 64 of which are currently included within the 5 year HLS provision. A reserved matters (RM) application was withdrawn and the Council has had preapplication discussion with another housebuilder. However, it is unclear as to whether the site has been sold and whilst a new RM application was expected in the late summer, I have no updated evidence on this. The Council acknowledges that delivery of the site may be delayed but not to the extent that no dwellings would be delivered within the five year period. In light of the uncertainty surrounding this site, there is not clear evidence that there will be any housing completions within the 5 year HLS period."

10.51 At land at Daniel Fold Farm, the Inspector concluded at paragraph 29:

"This is an allocated site in the Local Plan with outline planning permission for 66 dwellings. Although a masterplan is being progressed for the site, this remains in draft form. Furthermore, although the site is being actively marketed, there remains no developer in place and no RM application submitted, albeit that a masterplan would be likely to guide any such proposal. The Council considers that a contribution of 20 units within the five year period would be appropriate, having lowered the figure from 50 due to the reduced progress made. However, for the above reasons, although that contribution would be fairly low, there is not sufficiently clear evidence that even those will be built within the 5 year HLS period."

10.52 At land off Holts Lane, the Inspector concluded at paragraph 53:

"This is an allocated site for development in the Local Plan with outline planning permission. However, despite a pre-application meeting between the Council and a developer relating to the submission of a RM application, no such application has been submitted. There is also an ongoing application to remove a condition of the outline permission relating to provision of affordable housing on viability grounds which has remained undetermined for some time. This therefore casts doubt as to the timescales for further progression towards development of the site. As such, there is not clear evidence that the 57 dwellings concerned will be completed on the site within the 5 year HLS period."

10.53 In terms of the allocated sites without a planning application pending determination, the Inspector examining the APS concluded that all three sites within this category should be removed because there is not clear evidence for their inclusion.

10.54 At West of Broadway, the Inspector concluded at paragraph 32:

"This is a site allocated for development in the Local Plan but without any planning permission in place or applications pending. Site investigation work has been completed on the site, and following recent marketing there was some interest in purchasing the site, albeit that a further necessary marketing exercise was anticipated to take place in August. Despite some progress towards enabling development through the site investigation work, without a purchaser or any planning applications pending, there is not clear evidence that there will be any housing completions within the 5 year HLS period."

10.55 At Fleetwood Dock and Marina, the Inspector concluded at paragraph 33:

"This is an allocated site for development with no planning permission or applications pending, albeit that work towards producing a masterplan is ongoing in respect of development options. However, the masterplan is not in place and there are no firm thoughts on how to develop the site. This appears to be reflected in the low number of units (10) set out as the contribution to 5 year HLS whereby the site capacity is much greater. For the above reasons, there is insufficient clear evidence that even that number will be constructed in the 5 year HLS period."

10.56 At the Inskip extension, the Inspector commented at paragraph 49:

"This is an allocated site for development in the Local Plan with no planning permission in place. An outline application for 30 dwellings has been submitted by a land promoter who the Council highlights has a track record of bringing sites forward. Despite that, in light of there being no planning permission in place and no developer on board, there is not clear evidence that housing completions will occur within the 5 year HLS period"

10.57 As we discuss later in this statement, the position on these sites is comparable to many of the sites with outline planning permission for major development and allocated sites without planning

permission that St Albans and Welwyn Hatfield Councils claim should be included in their “deliverable” supply. However, without a detailed planning application pending determination, the Inspector examining Wyre’s APS concluded that there is not clear evidence that there will be any housing completions within the five year period on these sites.

The impact of Covid-19 on housing land supply

10.58 The Covid-19 pandemic in the UK will have an impact in terms of housing land supply. Firstly, build rates in 2020/21 will be lower than those predicted before the pandemic. This is because following the Prime Minister’s announcement of the ‘lockdown’ in the UK on 23rd March 2020 construction on many sites ceased. Construction did not re-commence on those sites which had closed until late April / early May 2020. Therefore, there was at least 5 weeks when work was not being undertaken on many housing sites. Even though construction has now resumed on many sites, build rates will still be reduced due to social distancing on site and the supply of trade and materials. Build rates could be reduced further in 2020/21 because of the economic recession and reduced consumer confidence.

10.59 Other position statements have sought to reduce the build rates in 2020/21 for this reason. For example Emery Planning has recently submitted representations to two draft Annual Position Statements in Fylde and Wyre with a base date of 31st March 2020. In each case the impact of Covid-19 was recognised and taken into account.

10.60 The draft Fylde APS states:

*“4.25 It is recognised that there is a degree of uncertainty as to the impact of the COVID-19 lockdown period. The majority of development sites shut for a two-month period, which on a pro-rata basis would be equivalent to one-sixth of a year’s delivery. **On a site delivering the standard assumption rate of 30 dwellings per annum, this would amount to 5 dwellings, and would give delivery of 25 rather than 30 dwellings in the current year, with the 5 dwellings added to the end of the period of delivery. However, in terms of impact on the supply over 5 years, a number of sites will end during the five-year period and therefore delivery on those sites within the five years would not be affected.** On other sites, commercial imperatives may encourage developers to make up for lost delivery over a period, which is unlikely to exceed five years. There is some concern over the economic impact of COVID-19 on the overall housing market, but it is much too early to make any assessment and it cannot be justified to make a revision to housing delivery via a blanket approach on the basis of macro-economic outlook and its impact on overall housing demand at this stage. It should be noted that at the base date 1st April 2020, one week*

into the lockdown, no rational analysis of the position was possible.”(our emphasis)

10.61 The draft Wyre APS states:

“3.5 Given the differing types of responses and the information provided in response to the telephone survey it has been necessary for the Council to reach a planning judgement on some of the information supplied. Therefore where the Council is of a different view on matters of housing land supply this is clearly set out in the ‘notes’ section of Appendix 1 Tables 1 and 3. Any difference of opinion on the total amount of housing that any one site contributes to the five year supply position is clearly shown. These differences are clearly identified and are the subject of further consultation as part of this draft APS consultation. **In general there are two reasons for the Council reaching a different view on the five year supply position for a given site, where:**

a. information was lacking, incomplete or not in-line with previous information provided; and/or

b. **the Council considers that the impact of the COVID19 national health emergency has not been taken into account or taken into account in an insufficient way.**

In all cases where the Council has reached a differing view on the information provided as part of the telephone survey this has resulted in the total five year supply position either remaining the same or being reduced. In no circumstances has the Council increased the level of total five year supply as a result of adjustment following the telephone survey. This is considered by the Council to be a cautious and realistic approach, and replicates the approach (where possible) from the 2019 APS.” (our emphasis)

10.62 Specific examples from the draft Wyre APS are as follows:

- “Alloc SA1/21 2702 - The council agrees with the developer that full delivery of all 88 units will be within the next 5 years but as a precautionary measure due to the current lockdown, delivery has been reduced in 20/21 and thereafter maintained at 24 dpa which is considered reasonable.
- Large 2831 - The council agrees with the owner that delivery will be within the next 5 years but as a precautionary measure due to the current lockdown, initial delivery could be delayed by one year until 22/23 which is considered reasonable.
- Alloc SA1/9 2687A - The council agrees with the developer regarding delivery of 40 units per annum but as a precautionary measure due to the current lockdown, delivery has been reduced in 20/21 which is considered reasonable. May 2020 McDermott website states construction recommenced

on their sites, following lockdown. (Emery Note - in that case completions for 2020/21 was reduced to 30 per annum from 40 per annum).

- *Alloc SA1/12 2680 - The council agrees with the developer regarding the delivery of 24 units per annum but as a precautionary measure due to the current lockdown, first completions in 20/21 have been reduced which is considered reasonable."*

10.63 It is clear that these two examples have shown that Covid-19 will reduce completions. As lockdown lasted for 2 months, a discount of a sixth was applied in Fylde. In Wyre, discounts ranged up to a quarter for sites (from 40 dwellings to 30 dwellings per annum).

10.64 Within this context, we refer to a recent decision dated 9th April 2020 regarding an appeal made by Welbeck Strategic Land against the decision of Wokingham Borough Council to refuse to grant outline planning permission for up to 118 dwellings at land north of Nine Mile Ride, Finchampstead, Berkshire²⁴. The public inquiry into the appeal took place in February 2020. Following the close of the inquiry, Inspector Christina Downes asked the main parties whether they wished to comment on any implications that the Covid-19 pandemic may have in terms of their evidence on housing delivery. The Appellant and Wokingham Council responded. Paragraphs 109-111 of the appeal decision state:

"109. The Covid-19 pandemic is likely to have implications for the housebuilding industry as with other sectors of the economy. The evidence indicates that a number of developers are temporarily closing their construction sites to protect employee and customer welfare. For those remaining open, the lock-down will impact on the availability of support services. Customer confidence is also likely to be reduced with a consequent effect on the buying and selling of property.

110. The Appellant has concluded that the effects would be felt for a 3 to 6 month period, which does not seem unreasonable. On that basis the conclusion is that a further 168 dwellings should be removed from the trajectory to take these factors into account. Whilst it is contended that this is an optimistic assessment, it is equally possible that a bounce back will occur once the crisis ends. Indeed, it is reasonable to surmise that housebuilders and their suppliers will be keen to rectify losses if it is possible to do so.

111. At this stage the economic effects of Covid-19 cannot be known. However, even if all of the impacts suggested by the Appellant are accepted, the Council would still be able to demonstrate about 5.2 years supply of deliverable sites."

²⁴ PINS ref: 3238048

10.65 The second impact Covid-19 will have on five year housing land supply is in terms of the definition of “deliverable”. This is because any “clear evidence” provided by the Council to support the deliverability of sites cannot be relied on unless it has taken into account the impact that the Covid-19 will have on build rates for those sites with detailed planning permission and on viability for those sites with outline planning permission for major development or allocated site without planning permission.

10.66 We now assess the supply in each authority with regard to the revised definition of “deliverable” as set out in the 2019 Framework.

11. St Alban's Housing Land Supply

11.1 St Albans claims to have a "deliverable" housing land supply at 31st March 2019 of 2,021 dwellings. We have broken the supply down per category of the definition of deliverable as set out in the Framework as shown in the following table.

Table 11.1 – Breakdown of St Alban's claimed supply by category

Description	Category a) Should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered in 5 years	Category b) Should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5 years	Windfall - Compelling evidence required	Not included within categories a) or b)	Total
(A) Sites under construction	918				918
(B) Large sites with full planning permission	335				335
(C) Small sites with permission	181				181
(D) Conversions with permission	144				144
(E) Sites with outline planning permission		22			22
(F) Sites with an application submitted				51	51
(G) Sites with pre-application discussions				33	33
(H) Allocated sites		11			11
(I) Garage sites programme	5				5
(J) Windfall allowance			493		493
(K) Office to residential prior approval	154				154
(L) Unanticipated delay factor	-325				-325
Total	1,412	33	493	84	2,022

Has the Council provided the “clear evidence” required to include allocated sites without planning permission and sites with outline planning permission for major development for these sites to be considered “deliverable”?

11.2 As set out in table 11.1 above, the Council includes 122 dwellings where the onus is on the Council to provide “clear evidence” that housing completions will begin within five years. For ease of reference, the sites are listed in the table below.

Table 11.2 – Category b) sites in St Albans

	Site Address	Status at 1 st April 2019	Capacity	St Albans 5YHLS
A	Radio Nurseries and 54 Oaklands Lane	Outline permission	22	-2
B	Former Westfield Allotment Site, Beeching Close	Outline permission	24	24
C	114 Ashley Road, St Albans	Application submitted	5	5
D	238 London Road, St Albans	Application submitted	6	6
E	Kennels, 1 Betts Cottages, Little Revel End Lane	Application submitted	5	5
F	Land between the River Lea and Palmerston Drive	Application submitted	28	28
G	Mereden Court, St Albans	Application submitted	-10	-10
H	22-24 Grove Road, Harpenden	Application submitted	17	17
I	222 London Road, St Albans	Allocation	22	11
J	Unknown	Pre-application	Unknown	33
			Total	117

11.3 The Council has not provided any “clear evidence” in support of the inclusion of these sites. We comment as follows.

11.4 Firstly, in terms of the two sites with outline planning permission, an application for the approval of reserved matters has been made at both sites and therefore following the Secretary of State's approach in the Braintree case described above and that of the Inspector examining Wyre's Annual Position Statement, these should be included in the supply.

11.5 Secondly, in relation to the sites where an application has been submitted, full planning permission has now been granted at five of the sites and they should be included in the supply. However, outline planning permission only was granted at 22-24 Grove Road (LPA ref: 5/2018/2000) and an application for the approval of reserved matters has not been made. As the Council has not provided any “clear evidence” that housing completions will begin within the next five years, it should be removed. This means a reduction of **17 dwellings** in the supply.

11.6 Thirdly, in terms of the one allocated site at 222 London Road, St Albans, the site has been allocated for development since 1994 yet it does not have planning permission. The only comments the Council provides are:

“Site likely to be redeveloped for housing over time, as supported by District Local Plan Review 1994, Saved Policy 122. PDL”

11.7 This is not clear evidence that housing completions will begin within the next five years. The site should be removed, which means a reduction of **11 dwellings** from the supply.

11.8 Finally, in relation to the sites where a pre-application had been made by 1st April 2019, the Council has not listed these sites. Therefore, it is unclear whether even if it was positive, the pre-application process led to the submission of a planning application. These unknown sites should not be included within the deliverable supply. This results in a deduction of **33 dwellings**.

Is there “compelling evidence” to justify the inclusion of a windfall allowance?

11.9 The Council includes a windfall allowance of 493 dwellings in the five year supply as follows:

- 62 dwellings in year 1 (2019/20);
- 92 dwellings in year 2 (2020/21);
- 105 dwellings in year 3 (2021/22);
- 111 dwellings in year 4 (2022/23); and
- 123 dwellings in year 5 (2023/24)

11.10 The windfall allowance assumes that currently unknown sites (i.e. sites in addition to those included within the schedule) will become available, secure planning permission and deliver housing in the five year period.

National Planning Policy and Guidance

11.11 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.”

11.12 The definition of “windfall sites” is provided on page 73 of the Framework as follows:

“Sites not specifically identified in the development plan”.

11.13 Paragraph 3-023 of the PPG²⁵ states:

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

11.14 Whilst it relates to Annual Position Statements, paragraph 68-014 of the PPG²⁶ is relevant in terms of the information annual position statements are expected to include in relation to windfall sites. It states (amongst other things) the following needs to be provided:

“Permissions granted for windfall development by year and how this compares with the windfall allowance”

Compelling evidence

11.15 The Council has not provided compelling evidence to justify a windfall allowance of 493 dwellings in the five year supply for the following reasons.

11.16 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.

²⁵ Reference ID: 3-023-20190722: “How should a windfall allowance be determined in relation to housing?”

²⁶ Reference ID: 68-017-20190722: “What information will annual position statements need to include?”

11.17 Secondly, whilst no evidence is provided in the AMR, it appears the Council relies on past trends. The Council's hearing matter 8 statement for the Local Plan examination provides the following methodology:

The Windfall Allowance is calculated by:

1) Calculating the historic annual average completions of Large Sites on Previously Developed Land (5 or more dwellings) from 1 April 2008 up to the Trajectory base date. It is important to note that the majority of Large Sites prior to completion were known to the Council, either through the SHLAA and/or extensive pre-application meetings prior to the application being submitted to the Council.

Plus

2) Calculating the historic annual average of completions on both small sites and conversions (1 to 4 dwellings) for the previous five years up to the Trajectory base date. This captures previous delivery on windfall sites.

Plus

3) Identifying the number of small site permissions (1 to 4 dwellings) that both (a) have been completed and (b) are yet to be completed from the Trajectory base date.

i. First, the percentage of small site permissions that are not located on garden land has been calculated. Garden Land has been excluded from the calculations because including it to calculate windfall would be contrary to NPPF paragraph 70 as set out above.

ii. Second, the percentage of small site permissions that are not located on garden land has been applied to the annual average of small site completions for the previous five years.

iii. Third, the figure above is then added to the annual average of conversions (1 to 4 dwellings) for the past five years.

4) The three sources above are subsequently combined to provide an overall windfall allowance (average) figure. This figure is then divided into the future five years after the Trajectory base date and distributed in the Trajectory. From years 1 to 5, each consecutive year represents a higher percentage and higher windfall allowance figure. The stepped windfall allowance is based on the evidence that an increased number of dwellings will be completed from windfall sites over time.

11.18 The above is not supported by any figures. This is not compelling evidence to justify a windfall allowance in the five year supply. 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 they Council do not have the requisite historic windfall data available to support their reliance on them for future supply"

11.19 On this basis, **493 dwellings** should be removed from the supply from the windfall allowance.

11.20 In summary, we have found the deliverable supply in St Albans to be 1,467 (i.e. 2,021 – 17 – 11 – 33 – 493 = 1,467). Against the local housing need and a 20% buffer, this equates to **1.36 years** as summarised in the following table.

Table 11.3 – St Albans's Housing Land Supply at 31st March 2019

		St Albans
A	Local housing need	896
B	Five year requirement	4,480
C	Supply to be demonstrated (B + 20%)	5,376
D	Annual supply to be demonstrated (C / 5 years)	1,075
E	Five year supply at 1 st April 2019	1,467
F	Years supply (E / D)	1.36
G	Shortfall (C – E)	3,909

12. Welwyn Hatfield's Housing Land Supply

12.1 Welwyn Hatfield claims to have a "deliverable" housing land supply at 31st March 2019 of 2,435 dwellings. We have assessed the supply and make deductions on the following sites.

Broadwater Road West SPD Site

Capacity = 1,454 dwellings; Council's 5YHLS = 670 dwellings

12.2 This very large site is 9.1 ha in area and is located to the east of Welwyn Garden City town centre. It is vacant having been previously occupied by a cereal production factory, which was vacant from 2008 and has since been demolished. The only buildings which remain are listed.

Planning History

12.3 In February 2015, Spen Hill Developments Ltd submitted a hybrid planning application for a mixed use scheme including up to 850 dwellings, which was approved on 18th August 2017 (LPA ref: N6/2015/0294/PP). The planning permission enabled demolition of the non-listed buildings and structures to take place without formally implementing the permission. Listed Building Consent was granted in March 2017 (LPA ref: N6/2015/0293/LB).

12.4 In February 2018, the Wheat Quarter Ltd then submitted a revised mixed use application for:

"Creation of a mixed-use quarter comprising the erection of up to 1,340 residential dwellings including 414 (31%) affordable dwellings (Use Class C3); 114 extra care homes (Use Class C2); the erection of a civic building comprising 497 m² of health (Use Class D1), 497 m² of community use (Use Class D1), 883 m² of office (Use Class B1) and 590 m² of retail (Class A1/A2/A3/A4/A5); alterations, additions and change of use of Grade II Listed Building and retained Silos to provide 5,279 m² of flexible business floorspace (Use Class B1), 270 m² Combined Heat and Power (Sui Generis), 2,057 m² International Art Centre (Use Class D1), 1,235 m² Gymnasium (Use Class D2), 1,683 m² of restaurant/coffee shop/bar (Use Class A1/A3/A4/A5), Creche/Day Nursery (Use Class D1) of 671m² as well as a Network Rail TOC Building (Use Class B1) of 360 m²; plus associated car parking, access, landscaping, public art and other supporting infrastructure"

12.5 The application (LPA ref: 6/2018/0171/MAJ) was approved on 15th February 2019 subject to a S106 agreement and 56 conditions, including pre-commencement conditions. Applications to discharge some of the pre-commencement conditions have since been made and approved. Most of these relate to phase one of the south site. The application was accompanied by a listed building consent application (LPA ref: 6/2018/0960), which has also been approved.

12.6 The latest position is that further proposals may be made to increase the capacity of the site as the Council looks to allocate further land for housing through the emerging Local Plan.

Council's position

12.7 The trajectory indicates that 670 dwellings should be considered deliverable on this site in the five year period 2019-24, with 208 dwellings in 2021/22, 130 dwellings in 2022/23 and 332 dwellings in 2023/24.

12.8 In each of the Council's AMRs, there has been a reliance on this site to deliver at least 600 dwellings in each of the five year periods only for that position to be pushed back each time the new AMR is published. This is shown in the following table:

Table 12.1 – Projected housing trajectory at Broadwater Road

	Projected build out rate							
	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
2016		→	150	150	150	150		
2017			→	178	179	165	164	
2018				→	132	327	387	
2019					→	208	130	332

Assessment

12.9 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.

12.10 The AMR provides no detail in terms of how the site is expected to deliver 208 dwellings in 2021/22, 130 in 2022/23 and 332 dwellings in 2023/24. However, the permission was granted subject to a condition (56), which stated that the development should not be completed other than in accordance with the approved plans, including the phasing plan (drawing no. P0-010). The phasing plan shows three phases:

- Phase One – 374 Units (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);

- Phase Two – 455 dwellings (35 dwellings in block 2C, 114 dwellings in block 3, 107 dwellings in block 10, 101 dwellings in block 12, 98 dwellings in block 13 and the central spine park on the south site; and
- Phase Three – 105 dwellings (239 dwellings in block 6, 281 dwellings in block 7 and 105 dwellings in block 9).

12.11 Condition 44 of the permission states:

“Not to commence construction above ground level of any phase or phases, until details of the phasing have been submitted to and approved by the Local Planning Authority. The phasing details shall illustrate both the sequence and duration of each phase and indicate the start and completion periods for each block. The phasing details will also indicate the programme of delivery of highway works in relation to the development phases. The development shall be implemented in accordance with approved details.”

12.12 This condition has only been partly discharged in relation to the south of the site, which is under control of Metropolitan Thames Valley (LPA ref: 6/2019/2778/COND). The approved plan shows the following:

- Phase One – 208 dwellings (101 dwellings in block 10 and 107 dwellings in block 11);
- Phase Two - 206 dwellings (105 dwellings in block 9 and 101 dwellings in block 12); and
- Phase Three – 229 dwellings (131 dwellings in block 8 and 98 dwellings in block 13).

12.13 Phase One is to be constructed by Higgins Construction on behalf of Metropolitan Thames Valley. According to the employment and skills plan submitted to discharge condition 49 (LPA ref: 6/2019/3180/COND) it will take 2 years to complete. We therefore accept that 208 dwellings will be delivered on phase one of the south site within the five year period.

12.14 In terms of the other phases, no information has been provided. Applications to discharge conditions on those phases have not been made. In accordance with the approved phasing plan, the first phase of the overall project will deliver 374 dwellings, a civic building, healthcare, community and office, a bursary, leisure, office and conference and an art / museum, energy centre, restaurants and cafés. Given the non-residential development that is required under the first phase, we have included those 374 dwellings in first phase in the five year period. This means a deduction of **296 dwellings**.

Highview, Hilltop SPD Site

Capacity = 140 dwellings (net); Council's 5YHLS = 89 dwellings

12.15 This site does not have planning permission. Therefore, the onus is on the Council to provide clear evidence that housing completions will begin on this site within the next five years. The Council has not provided any clear evidence.

12.16 However, in January 2020 the Council resolved to grant planning permission subject to the signing of a S106 agreement (LPA ref: 6/2019/1067/MAJ) for:

"Redevelopment of part of the Hill-Top Shopping Centre at High View, South Hatfield to provide 18 retail units (Class A1, A2, A3, A5, B1, Sui Generis), a doctor's surgery (flexible Use Class A1, A2, A3, A5, D1), 146 residential units (Class C3), new public open space including children's play area off High View, new public square in front of the church, associated parking, highways and drainage works and public realm improvement"

12.17 On this basis, we agree that the site could be considered deliverable. However, the S106 has not been signed 6 months after the resolution to grant permission has been made. It is unclear whether the S106 will be agreed and the permission issued.

12.18 The Council considers that 89 dwellings should be considered deliverable: 2 dwellings in 2021/22, 40 dwellings in 2022/23 and 47 dwellings in 2023/24. The Council has provided no evidence to justify the lead-in time and build rate. We note that the planning statement for the application states the following:

"5.97 The development will be completed in phases. This is primarily to ensure that the existing centre can remain in operation whilst the redevelopment takes place and all retail tenants can remain open throughout, moving seamlessly from their old unit into the new development with minimal disruption to their business. This will also ensure the local services provided by within the centre remain open to service the local community.

5.98 The development will be built in three phases. Phase 1 will see the demolition of all buildings to the east of High View and construction of Blocks A, B1, B2, C1, CH1 and CH2. This will deliver 12 of the retail units, together with 15 houses (4 of which are affordable) and 57 flats (33 of which will be affordable). All the affordable units will therefore be delivered in Phase 1, which was an important objective of the phasing plans.

5.99 Phase 2 will then see the demolition of the vacant residential block fronting Bishops Rise, together with the northern-most three retail units up to the underpass onto High View. Phase 2 will see the delivery of the two blocks

fronting Bishops Rise – Blocks D1 and D2, which will provide a further 5 retail units, including the One-Stop-Shop, and 48 flats above the shops.

5.100 The final Phase will see the demolition of the remaining existing retail units and removal of the public realm to the west of the retail units and in front of the church. This will then enable completion of Blocks E1 and EH, the two areas of public open space at Hill Top Square and Church Square, and the children's play area."

12.19 Allowing time for the S106 to be agreed, the decision notice issued, applications for the discharge of pre-commencement conditions to be made and approved and a start on site made, and taking into account the phasing strategy set out in the planning statement, we consider that phase one could be deliverable in the five year period. This means that 72 dwellings should be included in the five year supply, a deduction of **17 dwellings**.

Garages at Hollyfield, Hatfield

Capacity = 13 dwellings; Council's 5YHLS = 13 dwellings

12.20 The Council includes this site in the deliverable supply. However, because it is a site without planning permission, then the onus is on the Council to provide "clear evidence" that housing completions will begin within the next five years. The Council has not provided any clear evidence; therefore it should be removed. This results in a deduction of **13 dwellings**.

12.21 In summary, we have found the deliverable supply in Welwyn Hatfield to be 2,109 dwellings (i.e. $2,435 - 296 - 17 - 13 = 2,109$). Against the local housing need and a 20% buffer, this equates to **2.02 years** as summarised in the following table.

Table 12.2 – Welwyn Hatfield's Housing Land Supply at 31st March 2019

		Welwyn Hatfield
A	Local housing need	868
B	Five year requirement	4,340
C	Supply to be demonstrated (B + 20%)	5,208
D	Annual supply to be demonstrated (C / 5 years)	1,042
E	Five year supply at 1 st April 2019	2,109
F	Years supply (E / D)	2.02
G	Shortfall (C – E)	3,909

13. Conclusions

- 13.1 Emery Planning is instructed to provide an assessment of the five year housing land supply position in St Albans and Welwyn Hatfield. This statement has been prepared in support of an outline planning application for residential development at land at Roestock Lane, Colney Heath, which is located within both St Albans and Welwyn Hatfield.
- 13.2 Neither authority can demonstrate a deliverable five year housing land supply against their local housing need and a 20% buffer by a significant margin. We conclude that the deliverable supply in St Albans equates to just **1.36 years** and there is a shortfall of **3,909 dwellings**. We also conclude that the deliverable supply in Welwyn Hatfield equates to just **2.02 years** and there is a shortfall of **3,099 dwellings**.
- 13.3 The implications of this are addressed by Woods Hardwick in their planning statement submitted in support of the planning application.