

# **Land to the Rear of 42-100 Tollgate Road & 42 Tollgate Road, Colney Heath**

Statement of Common ground on the implications of the updated National Planning Policy Framework  
(December 2023)

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BETWEEN ST ALBANS CITY & DISTRICT COUNCIL AND VISTRY HOMES LTD

APPEAL REF: APP/B1930/W/23/3323099

January 2024

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## 1. Introduction

1.1 This Statement of Common Ground (“**SoCG**”) has been prepared by Nexus Planning on behalf of Vistry Homes Ltd (“**the Appellant**”) and St Albans City & District Council (“**the Council**”).

1.2 This SoCG has been informed by the Planning Statement of Common Ground (“**the Planning SoCG**”) signed by the Appellant and the Council on the 15<sup>th</sup> August 2023 and should be read alongside this document.

1.3 The appeal is lodged against the Council’s refusal of the following development:

*“Outline application (access sought) - Demolition of existing house and stables and the construction of up to 150 dwellings including affordable and custom-build dwellings together with all ancillary works”*

At

*Land to the Rear of 42-100 Tollgate Road & 42 Tollgate Road, Colney Heath, St Albans, Hertfordshire (“**the Appeal Site**”).*

1.4 As per agreement within the Planning SoCG, the description of development has been amended to:

*“Outline application (access sought) – Demolition of existing house and stables and the construction of up to 150 dwellings including affordable and self-build and custom housebuilding dwellings together with all ancillary works” (“**the Appeal Scheme**”).*

1.5 The Inquiry for appeal APP/B1930/W/23/3323099 was held from the 19<sup>th</sup> September 2023 until 28<sup>th</sup> September 2023.

1.6 In September 2023, during the Inquiry, a revised version of the Framework was published, however these amendments solely related to renewable energy which it was verbally agreed had no implications on the appeal scheme compared to the 2021 version.

1.7 On the 19<sup>th</sup> December 2023, the Government published a further revised version of the National Planning Policy Framework. This was republished on the 20<sup>th</sup> December 2023 to remove some erroneous text. This SoCG sets out the agreed implications of the revised National Planning Policy Framework (December 2023) (“**the revised Framework**”) between the Appellant and the Council in relation to the appeal reference APP/B1930/W/23/3323099.

1.8 The parties agree that the changes to the NPPF have no material impact on the cases they presented at the Inquiry

## 2. Weight Afforded to the Revised Framework

- 2.1 The Framework referred to within the main Planning SoCG was the July 2021 edition. Paragraph 5.14 of the Planning SoCG sets out that:

*“It is agreed that significant weight should be given to the NPPF in the determination of this appeal.”*

- 2.2 It is agreed by both parties that the revised Framework dated December 2023 should be afforded significant weight in line with paragraph 5.14 of the Planning SoCG.

- 2.3 It is further agreed that the now superseded July 2021 and September 2023 versions of the NPPF carry no weight.

### 3. Implications of the Revised Framework on the Appeal

#### Achieving Sustainable Development

Paragraph – Framework (September 2023)	Paragraph – revised Framework (December 2023)	Changes from the September 2023 Framework to the revised December 2023 Framework (additions underlined, deletions struck through and fully revised paragraphs in italics)	Implication on the Appeal
Footnote 8	Footnote 8	This includes, for applications involving the provision of housing, situations where: <u>(a)</u> the local planning authority cannot demonstrate a five year supply <i>(or a four year supply, if applicable, as set out in paragraph 226)</i> of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) <u>and does not benefit from the provisions of paragraph 76;</u> or <u>(b)</u> where the Housing Delivery Test indicates that the delivery of housing was <del>substantially below (less than 75% of)</del> of the housing requirement over the previous three years.	<p>It is agreed that due to the Council having published a Regulation 18 Plan on 12/07/2023 with both a policies map and allocations, a four-year supply is required to be demonstrated by the Council in line with paragraph 226.</p> <p>It is common ground that the Council cannot demonstrate a four-year supply.</p> <p>It is common ground the Council’s housing delivery test (HDT) result for 2022 is 55%, down from 69% in 2021 but with the same consequence of triggering the presumption in favour of sustainable development.</p>

#### Delivering a Sufficient Supply of Homes

Paragraph – Framework (September 2023)	Paragraph – revised Framework (December 2023)	Changes from the September 2023 Framework to the revised December 2023 Framework (additions underlined, deletions struck through and fully revised paragraphs in italics)	Implication on the Appeal
61	61	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 <del>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.</del> <i>The outcome of the standard method is an advisory starting-point for</i>	<p>It is agreed that this amendment relates to plan making and not decision taking.</p> <p>It is agreed for the purposes of this appeal that the Standard Method should be used to calculate the housing requirement in relation to housing land supply.</p>

	<p><u>establishing a housing requirement for the area (see paragraph 67 below).</u> There may be exceptional circumstances, including relating to the particular demographic characteristics of an area which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals.</p>
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### Maintaining Supply and Delivery

Paragraph – Framework (September 2023)	Paragraph – revised Framework (December 2023)	Changes from the September 2023 Framework to the revised December 2023 Framework (additions underlined, deletions struck through and fully revised paragraphs in italics)	Implication on the Appeal
74	75	<p>Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should <del>identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing</del> <u>monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies.</u> <del>or against their local housing need where the strategic policies are more than five years old</del></p>	It is agreed that paragraph 75 is relevant to plan making not decision taking.
	76	<p><i>Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:</i></p> <ul style="list-style-type: none"> <li><i>a) their adopted plan is less than five years old; and</i></li> <li><i>b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.</i></li> </ul>	It is agreed that neither criteria a nor b of paragraph 76 are met by the Council's development plan and the application was submitted before publication of the NPPF and therefore it is not relevant to the Appeal Scheme.
	77	<p><i>In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to</i></p>	It is agreed between the parties that paragraph 77 is engaged.

Paragraph – Framework (September 2023)	Paragraph – revised Framework (December 2023)	Changes from the September 2023 Framework to the revised December 2023 Framework (additions underlined, deletions struck through and fully revised paragraphs in italics)	Implication on the Appeal
		<p><i>provide either a minimum of five years’ worth of housing, or a minimum of four years’ worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old(42). Where there has been significant under delivery of housing over the previous three years(43), the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period).</i></p>	<p>It is agreed that the Council should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of <u>four years’</u> worth of housing rather than five years noting that the Council has published a regulation 18 draft plan that meets the requirements of paragraph 226.</p> <p>It is agreed that a 20% buffer should continue to be applied given the Council’s performance in the HDT, most recently at 55% in the 2022 results released in December 2023.</p> <p>It is agreed that supply should now be calculated over a four-year period.</p> <p>It is agreed that the housing land supply shortfall remains substantial, as previously agreed in paragraph 6.6 of the Planning SoCG.</p>
76 and 223 (Previously in Annex 1)	79(c)	<p>To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below <del>95%</del> of the local planning authority’s housing requirement over the previous three years, <del>the authority should prepare an action plan in line with national planning guidance, to assess the causes of under delivery and identify actions to increase delivery in future years.</del> <u>the following policy consequences should apply:</u></p> <p><u>...c) where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8 of this Framework, in addition to the requirements for an action plan and 20% buffer.</u></p>	<p>It is agreed that this does not alter paragraph 6.7 of the Planning SoCG and the presumption in favour of sustainable development remains to be engaged as a result of the Council’s performance against the HDT, irrespective of HLS position. It is also agreed that disengagement of the presumption is also a matter for the Inspector pursuant to the evidence at the inquiry.</p>



## Annex 1: Implementation

Paragraph – Framework (2021)	Paragraph – revised Framework	Changes from the Framework (2021) to the revised Framework	Implication on the Appeal Scheme
N/A	226	<p><i>From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years’ worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning)(England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.</i></p>	<p>It is agreed that the implications of paragraph 226 are covered by the agreement to paragraph 77 earlier in this SoCG.</p>



## 4. Other Matters

4.1 The parties agree that the Revised Framework raises no additional implications for the appeal.

Signed: 	Signed: 
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On behalf of: St Albans City and District Council	On behalf of: Vistry Homes Ltd
Date: 05/01/2024	Date: 05/01/2024

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