

Proof of Evidence of Tom Smith BSc(Hons), MPlan, MRTPI in relation to Five Year
Housing Land Supply

For St. Modwen Homes | 25-005

Residential development of 115 dwellings - Land North of Rounds Gardens, Rugby

PINS ref: 3373251, LPA ref: R24/0111



Project: 25-005
Site Address: Land North of Rounds Gardens, Rugby
Client: St. Modwen Homes
Date: 19 December 2025
Author: Tom Smith

Contents

1.	Introduction	1
2.	Planning policy context	5
3.	What constitutes a deliverable site?	9
4.	Matters agreed re: 5YHLS	15
5.	Matters not agreed – the “deliverable” supply	19
6.	Matters not agreed – Coventry’s unmet need	20
7.	Conclusions	37
8.	Appendix EP1 – relevant appeal decisions	38
9.	Appendix EP2 – assessment of disputed sites	43

Appendices

EP3	Evidence relied on by Braintree
EP4	Evidence relied on by South Oxfordshire
EP5	Evidence relied on by West Oxfordshire
EP6	Evidence relied on by Central Bedfordshire



1. Introduction

- 1.1 This proof of evidence is submitted on behalf of the Appellant (St. Modwen Homes) in support of its appeal against the decision of Rugby Borough Council to refuse to grant full planning permission for:

“Redevelopment of the former football pitch and tennis courts associated with the adjacent employment use, including demolition of the existing pavilion and all other remaining structures and enclosures relating to the previous use of the site; and the erection of 115 dwellings, accesses, landscaping, parking, drainage features and associated works”

at land north of Rounds Gardens (LPA ref: R24/0111, PINS ref: 3373251).

- 1.2 This proof of evidence addresses the Council’s Five Year Housing Land Supply (5YHLS). It should be read alongside the proof of evidence of Debbie Farrington, which addresses all other planning matters in relation to the appeal.

Qualifications

- 1.3 I am Tom Smith. I have a BSc (Hons) from the University of Liverpool; a Masters in Town Planning from the University of Manchester; and am a member of the Royal Town Planning Institute. I am a Associate of Emery Planning, based in Macclesfield, Cheshire.
- 1.4 I understand my duty to the inquiry and have complied, and will continue to comply, with that duty. I confirm that this evidence identifies all facts which I regard as being relevant to the opinion that I have expressed, and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion. I believe that the facts stated within this proof are true and that the opinions expressed are correct and comprise my true professional opinions which are expressed irrespective of by whom I am instructed.
- 1.5 I provide this proof of evidence, a summary proof of evidence and a set of appendices. I also refer to several core documents. I am working with the Council on a Statement of Common Ground (SoCG) in relation to housing land supply. The Council was sent a final draft SoCG on 19th December 2025. To date, I have not had a response from the Council.



Summary

1.6 The following matters in relation to 5YHLS are agreed:

- The base date for assessing the 5YHLS is 1st April 2025 and the 5YHLS period is to 31st March 2030;
- In accordance with paragraph 78 and footnote 39 of the Framework, the 5YHLS should be measured against the local housing need calculated using the standard method set out in the PPG. This is 636 dwellings per annum; and
- A 5% buffer should be applied.

1.7 The extent of the deliverable supply is not agreed. The Council considers the deliverable supply is 2,797 dwellings. There are two areas of dispute, which I summarise below.

1.8 Firstly, with reference to the definition of “deliverable” as set out on in the Annex on page 72 of the Framework, I conclude that the following dwellings should be removed from the Council’s 5YHLS:

Table 1.1 – Disputed sites

Site	Council’s 5YHLS	Appellant’s 5YHLS	Difference	Summary Reason
R11/0699 – Remainder of Houlton allocation	680	0	-680	The Council has not provided clear evidence for the inclusion of this category b) site.
R18/0995 – Cawston Farm 1 (Tritax Symmetry)	100	0	-100	The Council has not provided clear evidence for the inclusion of this category b) site.
R22/0853 – Cawston Farm 2 (Tritax Symmetry)	80	0	-80	The Council has not provided clear evidence for the inclusion of this category b) site.
R25/0487 – Land South West of Cawston Lane (Catesby Estates)	75	0	-75	The Council has not provided clear evidence for the inclusion of this category b) site.
R25/0407 – Land to the North East of Cawston Lane & Land to the	72	0	-72	The Council has not provided clear evidence for the



Site	Council's 5YHLS	Appellant's 5YHLS	Difference	Summary Reason
East of Alwyn Road (Taylor Wimpey)				inclusion of this category b) site.
N/A – Taylor Wimpey remaining land	20	0	-20	The Council has not provided clear evidence for the inclusion of this category b) site.
Total	1,027	0	-1,027	

- 1.9 Secondly, whether there should be a reduction in the supply to reflect Coventry's unmet need. The Council does not include any reduction in the supply to reflect this. As above, the 5YHLS should be measured against the local housing need of 636 dwellings per annum and a 5% buffer. However, this does not include any of Coventry's unmet needs. However, the sites in the 5YHLS were allocated in part to meet some of Coventry's unmet need. Therefore, there should be a deduction in the supply to reflect this. On the basis that 23% of the overall requirement in the Local Plan is to meet some of Coventry's unmet need (i.e. $2,800 / 12,400 * 100 = 23\%$), I apply a 23% reduction in the supply. This is consistent with the approach taken in other areas as the appeal decisions I refer to in my proof of evidence demonstrate.
- 1.10 Consequently, I conclude that the deliverable supply at 1st April 2025 is 1,363 dwellings. This is the Council's supply figure of 2,797 dwellings minus 1,027 dwellings in the table above and then minus 23%. This equates to **2.04 years** as shown in the table below.



Table 1.2 – Rugby’s 5YHLS at 1st April 2025

	Requirement	Council	EP
A	Annual local housing need figure	636	636
B	Five year requirement	3,180	3,180
C	5% buffer	159	159
D	Total five year requirement including 5% buffer	3,339	3,339
E	Annual housing requirement including 5% buffer	668	668
	Supply		
F	Deliverable supply at 1 st April 2025	2,797	1,363
G	Supply in years (F / E)	4.19	2.04
H	Under/oversupply against the five year requirement (F – D)	-542	-1,976

1.11 The policy implications of this is addressed by Debbie Farrington.



2. Planning policy context

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (“The Framework”) is a material consideration. The Framework sets out what a 5YHLS is, how it should be calculated and what the consequences are for failing to demonstrate a 5YHLS.

Development plan context

Existing development plan

- 2.2 The existing development plan comprises the Rugby Local Plan (adopted June 2019). Policy DS1: ‘Overall Development Needs’ sets out that the housing requirement is for 12,400 dwellings, which includes 2,800 dwellings to contribute to Coventry’s unmet needs, with the following phased requirement:
- 540 dwellings per annum for the period 2011-2018; and
 - 663 dwellings per annum for the period 2018-2031.
- 2.3 Removing the 2,800 dwellings to contribute to Coventry’s unmet needs leaves a housing requirement for Rugby of 9,600 dwellings.
- 2.4 The adopted strategic policies, which set out the housing requirement, are more than five years old and have not been reviewed and found to be up to date. Therefore, in accordance with paragraph 78 and footnote 39 of the Framework, the five year housing land supply should be measured against the local housing need figure of 636 dwellings per annum. The local housing need is solely for Rugby and does not include any unmet need for Coventry.

Emerging development plan

- 2.5 The Council has started work on a Local Plan Review. According to the Council’s Local Development Scheme, published in October 2024, the Local Plan Review is at Regulation 18 stage, having completed consultation on Issues and Options between October 2023 and February 2024. The Council’s timetable for the remainder of the Local Plan Review is:
- Consultation on Issues and Options (Regulation 18) (complete);
 - Consultation on Preferred Options (Regulation 18) (complete);



- Consultation on the Pre-Submission draft (Regulation 19) in January 2026;
- Submission for examination in June 2026; and
- Adoption of the Local Plan by June 2027.

Other material considerations

5 Year Housing Land Supply Position Statement 2025-2030¹

- 2.6 The Council's position is that at 1st April 2025, the deliverable supply in Rugby is 2,797 dwellings, which against the local housing need and a 5% buffer equates to **4.16 years**.

National Planning Policy Framework

- 2.7 The Framework was published in March 2012. It was revised in July 2018, February 2019, July 2021, September 2023, December 2023, and most recently on 12 December 2024 (with minor updates on 7th February 2025).
- 2.8 The relevant sections of the revised Framework in relation to my proof of evidence are:
- Footnote 8 which explains that the tilted balance to the presumption in favour of sustainable development applies where a) a local planning authority cannot demonstrate a 5YHLS or b) where the Housing Delivery Test result is less than 75%;
 - Section 5: Delivering a sufficient supply of homes, including:
 - Paragraph 61, which refers to the Government's objective of significantly boosting the supply of homes;
 - Paragraph 62, which explains that to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment calculated using the standard method set out in the PPG. 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;
 - Paragraph 75, in relation to an allowance for windfall sites;
 - Paragraph 78, which states:

"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 identify and update annually a supply of specific deliverable sites sufficient to provide a

¹ 5 Year Housing Land Supply Position Statement 2025-2030 – core document **CD10.4**



minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies³⁸ or against their local housing need where the strategic policies are more than five years old³⁹. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

- a) 5% to ensure choice and competition in the market for land; or
- b) 20% where there has been significant under delivery⁴⁰ of housing over the previous three years, to improve the prospect of achieving the planned supply; or
- c) From 1 July 2026, for the purposes of decision-making only, 20% where a local planning authority has a housing requirement adopted in the last five years examined against a previous version of this Framework⁴¹, and whose annual average housing requirement⁴² is 80% or less of the most up to date local housing need figure calculated using the standard method set out in national planning practice guidance.

- Footnote 39 states: "Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning practice guidance"

Footnote 40 states: "This will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement"

- Paragraph 79, in relation to Housing Delivery Test Action Plans and the policy consequences for failing the HDT.

- Annex 1: Implementation, including:

- Paragraph 232, which explains that where a local planning authority can demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78) and where the Housing Delivery Test indicates that the delivery of housing is more than 75% of the housing requirement over the previous three years, policies should not be regarded as out-of-date on the basis that the most up to date local housing need figure (calculated using the standard method set out in planning practice guidance) is greater than the housing requirement set out in adopted strategic policies, for a period of five years from the date of the plan's adoption.
- Paragraph 233, which sets out the circumstances in which an authority can confirm its housing land supply through an Annual Position Statement.

- Annex 2: Glossary, including:

- The definition of "deliverable" on page 72; and
- The definition of "windfall sites" on page 80.



Planning Practice Guidance (PPG)

2.9 The relevant chapters of the PPG in relation to my proof of evidence are:

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

National Planning Policy Framework: proposed reforms

2.10 On 16th December 2025, the government began consultation on proposed reforms to the Framework. Key points of relevance are:

- LPAs will still be required to identify and update annually a supply of specific deliverable sites. This should be sufficient to provide a minimum of five years' worth of housing.
- This will be assessed against their housing requirement in the development plan, or against their local housing need (calculated using the standard method) where the development plan requirement is more than five years old.
- The definition of 'deliverable' is not proposed to change significantly.



3. What constitutes a deliverable site?

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

3.1 Footnote 11 of the 2012 Framework stated:

“To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.”

3.2 Paragraph 3-031 of the previous PPG (dated 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.”

3.3 Therefore, under the 2012 Framework, all sites with planning permission, regardless of their size or whether the planning permission was in outline or in full were to be considered deliverable until permission expired unless there was clear evidence that schemes would not be “implemented” within five years. The PPG went further by stating that allocated sites “could” be deliverable and even non-allocated sites without planning permission “can” be considered capable of being delivered.

3.4 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.”

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

3.6 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.” (my emphasis)

3.7 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.**” (my emphasis)

Current National Planning Policy and Guidance

3.8 The definition of “deliverable” is set out on page 72 of the Framework (December 2024). It has not materially changed since the Framework was updated in 2018. The definition states:

“Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified



on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

- 3.9 The PPG was most recently updated on 5th February 2024. Paragraph 68-007 of the PPG² provides some examples of the types of evidence, which could be provided to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission. It states:

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- have outline planning permission for major development;
- are allocated in a development plan;
- have a grant of permission in principle; or
- are identified on a brownfield register.

Such evidence, to demonstrate deliverability, may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;
- 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.”

- 3.10 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition in the 2018 and subsequent versions of the Framework is clear that only sites with detailed consent for major development should be considered

² Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”



deliverable and those with outline planning permission should only be considered deliverable where there is clear evidence that housing completions will begin in five years.

- 3.11 As above, the PPG has been updated to provide some examples of the type of evidence which may be provided to be able to consider that sites with outline planning permission for major development, allocated sites and sites identified on a brownfield register are deliverable.

Rugby's approach to "clear evidence"

- 3.12 The change to the definition of deliverable since the 2012 version of the Framework is significant in this case because the Council relies on category b) sites in its 5YHLS.
- 3.13 No clear evidence was provided alongside the Council's trajectory when it was published. The Council's position statement provides limited commentary about the deliverability of 5 specific sites and brief notes about other sites.
- 3.14 The onus is on the Council to provide clear evidence of deliverability for category b) sites. This was confirmed in a decision dated 28th September 2018 soon after the definition of "deliverable" was made relating to an appeal made by Landex Ltd against the decision of Mid Suffolk District Council to refuse to grant outline planning permission for up to 49 dwellings at land on east side of Green Road, Woolpit³. Paragraph 65 of the appeal decision states:

"The NPPF 2018 provides specific guidance in relation to the calculation of the five years supply but specifically with regard to qualifying sites, the Glossary definition of 'Deliverable' in Annex 2 goes further than its predecessor. Small sites and those with detailed permission should be considered deliverable until permission expires unless there is clear evidence that they will not be delivered. Sites with outline permission, or those sites that have been allocated, should only be considered deliverable where there is clear evidence that housing completions will begin on sites within five years. The onus is on the LPA to provide that clear evidence for outline planning permissions and allocated sites." (my emphasis added)

- 3.15 Paragraph 68 of the same appeal decision states:

"Sites with outline planning permission make up a very large proportion of the Council's claimed supply. The onus is on the Council to provide the clear evidence that each of these sites would start to provide housing completions within 5 years. I accept that there was clear evidence of what was necessary on one site provided in Mr Robert's evidence and so the 200 dwellings in respect of that site should be added to the Appellant's supply calculations. As for the other 1,244 dwellings with outline

³ PINS ref: 3194926 – 28th September 2018 – core document CD10.5



permission, the Council has not even come close to discharging the burden to provide the clear evidence that is needed for it to be able to rely upon those sites.” (my emphasis added)

- 3.16 I make the following general points with reference to relevant appeal decisions where the definition of “deliverable” and “clear evidence” have been considered.

Relevant appeal decisions

- 3.17 There have been several appeal decisions which have considered the definition of “deliverable” as set out in the current version of the Framework and whether “clear evidence” has been provided for the inclusion of sites which only have outline planning permission for major development or are allocated without planning permission. Whilst each appeal has been determined on a case by case basis on the evidence before the decision-maker, several themes have arisen in appeal decisions, which I summarise below and in appendix EP1.

The absence of any written evidence

- 3.18 Where no evidence has been provided for the inclusion of category b) sites, the Secretary of State and Inspectors have concluded that these sites should be removed. Examples are provided in appendix EP1.

The most up to date evidence

- 3.19 Inspectors and the Secretary of State have found that the most up to date evidence in relation to the sites that were considered deliverable can be considered. This includes where sites have not progressed as the trajectory in the published position statement anticipated they would. It is, however, not appropriate to include additional sites, which were not considered deliverable at the base date. Examples are provided in appendix EP1.

The form and value of the evidence

- 3.20 The evidential value of any written information is dependent on its content. The Secretary of State and Inspectors have concluded that it is simply not sufficient for Councils to provide agreement from landowners and promoters that their intention is to bring sites forward. Examples are provided in appendix EP1.

The fact an application has been submitted may not mean there is clear evidence of deliverability

- 3.21 Even where a planning application or reserved matters application has been made, Inspectors have found this does not in itself provide clear evidence of deliverability; for example where those applications are



subject to outstanding objections or there is no written agreement from the developer. Examples are provided in appendix **EP1**.

- 3.22 In summary, the appeal decisions I refer to found that sites with outline planning permission for major development and allocated sites without planning permission should not be included in the deliverable supply where the respective Councils had failed to provide the clear evidence required. In some cases those Councils had provided proformas and other evidence from those promoting sites, and Inspectors and the Secretary of State found this not to be clear evidence.
- 3.23 I respectfully invite the Inspector to compare the evidence Rugby has provided to support the inclusion of the category b) sites with the evidence provided by Braintree (**EP3**), South Oxfordshire (**EP4**), West Oxfordshire (**EP5**) and Central Bedfordshire (**EP6**) which was found not to be clear evidence by the Secretary of State and Inspectors in those cases.



4. Matters agreed re: 5YHLS

4.1 The following matters are agreed in relation to 5YHLS.

The base date and the 5YHLS period

- 4.2 The base date is the start date for the five year period for which both the requirement and supply should relate. It is agreed that the relevant base date for assessing the 5YHLS for the purposes of this appeal is 1st April 2025 and the relevant 5YHLS period is to 31st March 2030.
- 4.3 The Council should not attempt to include any new sites which are not already within its schedule of sites. This would effectively mean changing the base date to beyond 1st April 2025. Within this context, there have been several appeal decisions, which have found such an approach to be inappropriate.
- 4.4 A recent example is dated 16th December 2025 and relates to an appeal made by Richborough Estates against the decision of Cherwell District Council to refuse to grant outline planning permission for up to 99 no. dwellings at land west of Fringford Road, Caversfield⁴. In that case, Cherwell District Council sought to rely on the inclusion of sites that had become “deliverable” since the base date – specifically, those allowed on appeal. The Inspector disagreed. Paragraphs 14 and 15 of the appeal decision states:

“14. A key point made by the appellant relates to the defined period for calculations. Essentially, that a base date is set and the figures should be based on that point in time. I agree with that view as new sites coming forward after that base date should not be counted unless a total recalculation is undertaken thereby creating a new base date. This is because adding new deliverable sites is only one side of the equation as other sites may be being lost from being deliverable, for instance because the land is used for other purposes or development stalls because of unanticipated problems. In this respect I concur with the views of my Inspector colleague in the ‘Woolpit’ decision.

15. The Council considers that where the need for housing has resulted in dwellings being allowed on appeal those dwellings should form part of the deliverable sites. However, for the reasons set out above they will form part of the supply when it is next calculated. I am aware that some planning authorities recalculate housing land supply more than annually but in this case it seems that those sites will form part of the data for the 5 year HLS starting on 1 April 2025, even if these dwellings could be delivered before 31 March 2029.”

- 4.5 A further example is dated 22nd March 2021 and relates to an appeal made by Wates Developments Ltd against the decision of Tonbridge & Malling Borough Council to refuse to grant outline planning permission

⁴ PINS ref: 3355576 – core document **CD10.6**



for up to 250 no. dwellings at land west of Winterfield Lane, East Malling. In that case, the Tonbridge & Malling Council sought to rely on the inclusion of sites that had become “deliverable” since the base date. The Inspector disagreed. Paragraph 9 of the appeal decision states:

“Whilst I see merit in using information that becomes available after the base date to inform deliverability, I note that the Inspector in Woburn Sands was referring solely to sites that were already identified in the housing supply at the base date, in line with the approach taken in Woolpit. Indeed, he noted that to do otherwise would skew the housing supply. I share this view. An assessment of housing supply which introduces new sites would only be accurate if it also took account of lapsed sites, completions and other factors which might reduce sites at that point in time. The Council have not been in a position to supply all of this information and have not reviewed the phasing of extant permissions or indeed all of the permissions granted subsequent to the base date. I therefore have no confidence that the Council’s approach would provide an accurate assessment of the actual state of supply in the district and I must therefore rely instead on the Council’s previous position as of 1st April 2019 as a starting point.”

4.6 Reference is made to the decision in relation to an appeal made by Wavendon Properties Ltd against the decision of Milton Keynes Council to refuse to grant outline planning permission for a mixed use development including up to 203 dwellings at land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands⁵. In that appeal, the Secretary of State agreed with Inspector Gilbert-Wooldridge that whilst evidence which post-dated the base date was acceptable, this was only in relation to sites already in the schedule of sites. New sites should not be added after the base date⁶.

4.7 Reference is also made to the Woolpit appeal decision⁷. Paragraph 67 of that appeal decision states:

“The inclusion of sites beyond the cut-off date skews the data by overinflating the supply without a corresponding adjustment of need.”

4.8 The Woburn Sands appeal decision made reference to an appeal made by the Darnhall Estate against the decision of Cheshire West and Chester Council to refuse to grant residential development for up to 184 dwellings at land off Darnhall School Lane, Winsford⁸. In that case, the Secretary of State agreed with Inspector Middleton and the appellant’s evidence that it would be inappropriate for new sites to be included after the base date and that their insertion should await the next full review of the housing land supply position⁹. Paragraph 344 of the Inspector’s Report states:

⁵ PINS ref: 3169314 – core document **CD10.7**

⁶ Please see DL paragraph 12 and IR paragraph 12.12

⁷ PINS ref: 3194926 – core document **CD10.8**

⁸ PINS ref: 2212671 – core document **CD10.9**

⁹ Please see DL paragraph 15 and IR paragraph 344



“There is a dispute about the introduction of post-base date information by the Council in its review of the April 2018 assessment for the purpose of this Inquiry [ID 17]. Whilst I agree that it is not appropriate to introduce new sites at this stage, their insertion should await the next full review, it is nevertheless appropriate to take into account information received after 1 April 2018 if it affects sites that were in the last full assessment. Subsequent information that supports a pre-base date judgement should not normally be ignored [IR 85, 130 & 131].” (emphasis added)

4.9 Paragraph 15 of the decision letter states:

“The Secretary of State has gone on to consider the issue of supply. In doing so he has had regard to his guidance on deliverability issued 22 July 2019. For the reasons given at IR341-344 the Secretary of State agrees with the Inspector’s conclusions on preliminary points.”

The figure the 5YHLS should be measured against

4.10 In accordance with paragraph 78 of the Framework and footnote 39 of the Framework, it is agreed that the 5YHLS should be measured against the local housing need calculated using the standard method set out in the PPG. I discuss this further in section 6 of my proof of evidence.



The 5% buffer applies

4.11 In accordance with paragraph 78a) of the Framework, the 5% buffer applies.



5. Matters not agreed – the “deliverable” supply

5.1 With reference to the definition of deliverable in the Framework, the associated guidance set out in the PPG and the appeal decisions I have referred to in section 3 of my proof of evidence, I dispute the inclusion of the following sites:

Table 5.1 – Disputed sites

Site	Council's 5YHLS	Appellant's 5YHLS	Difference	Summary Reason
R11/0699 – Remainder of Houlton allocation	680	0	-680	The Council has not provided clear evidence for the inclusion of this category b) site.
R18/0995 – Cawston Farm 1 (Tritax Symmetry)	100	0	-100	The Council has not provided clear evidence for the inclusion of this category b) site.
R22/0853 – Cawston Farm 2 (Tritax Symmetry)	80	0	-80	The Council has not provided clear evidence for the inclusion of this category b) site.
R25/0487 – Land South West of Cawston Lane (Catesby Estates)	75	0	-75	The Council has not provided clear evidence for the inclusion of this category b) site.
R25/0407 – Land to the North East of Cawston Lane & Land to the East of Alwyn Road (Taylor Wimpey)	72	0	-72	The Council has not provided clear evidence for the inclusion of this category b) site.
N/A – Taylor Wimpey remaining land	20	0	-20	The Council has not provided clear evidence for the inclusion of this category b) site.
Total	1,027	0	-1,027	

5.2 I set out my assessment in appendix **EP2** to my proof of evidence.



6. Matters not agreed – Coventry’s unmet need

The 5YHLS Requirement and local housing need

Background

- 6.1 As set out in section 2 of my proof of evidence, the Council’s 5 Year Housing Land Supply Position Statement 2025-2030 states that at 1st April 2025, Rugby has a deliverable five year housing land supply of 2,797 dwellings, which against the local housing need and a 5% buffer equates to **4.16 years**.

National Planning Policy and Guidance

- 6.2 Within section 5 of the Framework; “Delivering a sufficient supply of homes”, paragraph 61 states:

“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area’s identified housing need, including with an appropriate mix of housing types for the local community.”

- 6.3 Paragraph 62 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 practice guidance. **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.**” (my emphasis added)

- 6.4 Paragraph 69 of the Framework states:

“Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment. Within this overall requirement, strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations. Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan



examination, unless there has been a significant change in circumstances that affects the requirement.” (my emphasis added)

6.5 Local housing need is defined in Annex 2 to the Framework on page 74 as:

“The number of homes identified as being needed through the application of the standard method set out in national planning practice guidance.”

6.6 Further guidance is provided in the PPG. In chapter 2a of the PPG: “Housing and economic needs assessment”, paragraph 2a-001 of the PPG¹⁰ answers the question: “What is housing need?” as follows:

“Housing need is an unconstrained assessment of the minimum number of homes needed in an area. Assessing housing need is the first step in the process of deciding how many homes need to be planned for. It should be undertaken separately from assessing land availability, establishing a housing requirement figure and preparing policies to address this such as site allocations. For further details on how constraints should be considered once a housing need figure has been identified, please see Housing and economic land availability assessment guidance”

6.7 Paragraph 2a-002 of the PPG¹¹ answers the question: “What is the standard method for assessing local housing need?” as follows:

“The National Planning Policy Framework expects strategic policy-making authorities to follow the standard method in this guidance for assessing local housing need.

The standard method uses a formula that incorporates a baseline of local housing stock which is then adjusted upwards to reflect local affordability pressures to identify the minimum number of homes expected to be planned for.

The standard method set out below identifies a minimum annual housing need figure, and ensures that plan-making is informed by an unconstrained assessment of the number of homes needed in an area. It does not produce a housing requirement figure.”

6.8 Paragraph 2a-040 of the PPG¹² then answers the question: “What is a housing requirement?” as follows:

“The housing requirement is the minimum number of homes that a plan seeks to provide during the plan period.

Once local housing need has been assessed, as set out in this guidance, authorities should then make an assessment of the amount of new homes that can be provided in

¹⁰ Paragraph: 001 Reference ID: 2a-001-20241212: “What is housing need?” Revision date 12 12 2024

¹¹ Paragraph: 002 Reference ID: 2a-002-20241212: “What is the standard method for assessing local housing need?” Revision date 12 12 2024

¹² Paragraph: 040 Reference ID: 2a-040-20241212



their area. This should be justified by evidence on land availability, constraints on development and any other relevant matters.

The Government is committed to ensuring that more homes are built and supports ambitious authorities who want to plan for growth. The National Planning Policy Framework explains that the housing requirement may be higher than the identified housing need, and authorities should consider the merits of planning for higher growth if, for example, this would seek to reflect economic growth aspirations. Where authorities plan for higher growth this should not normally have to be thoroughly justified at examination.”

- 6.9 In chapter 68 of the PPG: “Housing supply and delivery”, paragraph 68-001 of the PPG¹³ answers the question: “What policies are in place to encourage local authorities to promote a sufficient supply of land for housing and support delivery?” as follows:

“The standard method for calculating local housing need provides a minimum number of homes to be planned for. Authorities should use the standard method as the starting point when preparing the housing requirement in their plan, unless exceptional circumstances justify an alternative approach.

Paragraph 72 of the National Planning Policy Framework sets out what supply and mix of sites authorities should identify through their planning policies.

The Housing Delivery Test measures whether planned requirements (or, in some cases, local housing need) have been met over the last 3 years. The 5 year housing land supply is a calculation of whether there is a deliverable supply of homes to meet the planned housing requirement (or, in some circumstances, local housing need) over the next 5 years.”

- 6.10 Consequently, the local housing need calculated using the standard method set out in the current PPG is a “minimum”, “unconstrained assessment of the number of homes needed in an area”. It is the “starting point” for preparing a housing requirement, but not the housing requirement itself. As above, the housing requirement may be higher than the local housing need if, for example, it includes unmet need from neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment.
- 6.11 The standard method is set out in chapter 2a of the PPG: “Housing and economic needs assessment”. Paragraph 2a-004 of the PPG: “*How is a minimum annual local housing need figure calculated using the standard method?*” (Paragraph: 004 Reference ID: 2a-004-20241212, revision date: 12 12 2024) explains that the minimum annual local housing need in Rugby is 636 dwellings per annum. It is calculated as follows:

¹³ Paragraph: 001 Reference ID: 68-001-20241212: “What policies are in place to encourage local authorities to promote a sufficient supply of land for housing and support delivery?” - Revision date: 12 12 2024



- Step 1 – Setting the baseline. 0.8% of the existing housing stock in Rugby (at 2024) as set out in Table 125: dwelling stock estimates by local authority district = 417.672; and
- Step 2 – An adjustment to take account of affordability. The affordability adjustment factor is 1.5225 and therefore the minimum annual local housing need figure is 636 (i.e. $417.672 \times 1.5225 = 636$).

6.12 In accordance with the PPG, the above calculation uses the latest available data sets (i.e. the housing stock data published in May 2025 and the affordability ratios published in March 2025). Step 1 of the standard method, in relation to the housing stock states:

“The baseline is 0.8% of the existing housing stock for the area, and **the most recent data published at the time should be used.**” (my emphasis added)

6.13 Step 2 of the standard method, in relation to affordability ratios states:

“The mean average affordability **over the five most recent years for which data is available should be used.**” (my emphasis added)

6.14 The Council has also used a local housing need figure of 636 dwellings per annum in its 5 Year Housing Land Supply Position Statement 2025-2030.

6.15 As above, the local housing need is an unconstrained assessment of Rugby’s need. Unlike the adopted housing requirement, the 636 dwelling figure does not include any of Coventry’s unmet need.

6.16 The existing housing requirement for Rugby is set out in Policy DS1 of the Local Plan: “Overall Development Needs”. This states that 12,400 additional homes, including 2,800 dwellings to contribute to Coventry’s unmet needs will be planned for and provided within Rugby Borough between 2011 and 2031. On average, the housing requirement for Rugby is 480 dwellings per annum ($12,400 - 2,800 / 20 = 480$). This compares with the local housing need figure of 636 dwellings per annum, i.e. a like-for-like comparison before accounting for any unmet need elsewhere.

6.17 Draft Policy S2 of the Preferred Options document states that 12,978 new homes will be delivered in the period 2024-2045 (618 each year). It is unclear whether this is solely to meet Rugby’s needs or whether the target is also to help meet Coventry City’s unmet need.

Five year housing land supply calculation

6.18 In terms of the figure the 5YHLS should be measured against, paragraph 78 of the Framework requires local planning authorities to: “**identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their adopted housing requirement set out in**



adopted strategic policies, or against their local housing need where the strategic policies are more than five years old”.

6.19 Footnote 39 of the Framework states: “Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning practice guidance.”

6.20 Paragraph 68-005 of the PPG answers the question: “What housing requirement figure should authorities use when calculating their 5 year housing land supply?” as follows:

“Housing requirement figures identified in adopted strategic housing policies should be used for calculating the 5 year housing 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.”

6.21 Consequently, the 5YHLS should be measured against the adopted housing requirement when the strategic policies are less than 5 years old or the local housing need.

6.22 In terms of the adopted housing requirement, the Local Plan (adopted 2019) is more than five years old. The adopted housing requirement should only be used to calculate the 5YHLS if the adopted strategic policies have been reviewed and found not to require updating. The policies have not been reviewed and found to be up to date. Therefore, in accordance with paragraph 78 and footnote 39 of the Framework, the 5YHLS should be measured against the local housing need calculated using the standard method set out in the PPG. This is 636 dwellings per annum.

6.23 However, as above, the local housing need does not meet any of Coventry’s unmet need. The identified supply includes sites to meet both Rugby’s needs and some of Coventry’s unmet need. As I discuss below, there should be a reduction in the deliverable supply to reflect this.



The Local Plan and Coventry's Unmet Need

Background

- 6.24 Rugby, along with the local authorities of Coventry, North Warwickshire, Nuneaton & Bedworth, Stratford-on-Avon and Warwick, fall within the Coventry and Warwickshire Housing Market Area (HMA).
- 6.25 Policy DS1 of the Local Plan: "Overall Development Needs" sets out the housing requirement. It sets out that 12,400 additional homes, including 2,800 dwellings to contribute to Coventry's unmet needs will be planned for and provided within Rugby Borough between 2011 and 2031. This means that 23% of the overall requirement relates to Coventry's unmet needs ($2,800 / 12,400 * 100 = 23\%$).
- 6.26 Paragraph 4.7 of the Local Plan (pages 19) then explains the justification for this and states:

"The 'Updated Assessment of Housing Need: Coventry - Warwickshire HMA' (September 2015) sets out the objectively assessed future housing needs of the Housing Market Area and the six local authority areas within it. The report indicates that Rugby Borough's Objectively Assessed Housing Need (OAHN) is 480 dwellings per annum, which equates to 9,600 dwellings over the plan period. However, in recognition that Coventry City Council is unable to accommodate its housing needs in full within the City boundary, the Local Plan seeks to provide for 2,800 dwellings over the plan period towards Coventry's housing needs. Rugby Borough Council therefore aims to meet its housing requirement by providing for a minimum of 12,400 new homes between 2011 and 2031, at an indicative rate of 620 dwellings per annum during the plan period."

- 6.27 Paragraphs 4.10 and 4.11 of the Local Plan (page 20) sets out how the housing requirement will be met, as follows:

"The housing requirement included within the Local Plan will be provided in two distinct phases with different annual rates of delivery. Phase 1 of the plan period is between 2011 and 2018. The annual housing target in Phase 1 is 540 dwellings per annum, reflecting the adopted target contained within the previous Development Plan - the Core Strategy, June 2011. Phase 2 of the plan period is between 2018 and 2031. The annual housing target in phase 2 is 663 dwellings per annum.

This 'step-change' in delivery is considered appropriate. It would be perverse to retrospectively apply a higher housing target to past years than is required to meet the needs of Rugby Borough, or has been adopted in local planning policy. Upon adoption, the housing target will increase to take account of shortfall arising in Coventry City and the annual housing target is therefore increased to reflect this. The housing trajectory appended to the Local Plan demonstrates how the housing target will be achieved whilst complying with the requirements of national planning policy, particularly those relating to land supply."



6.28 Policy DS3 of the Local Plan then allocates sites for residential development to meet the overall requirement. However, none of the sites are specifically allocated to meet Coventry's unmet need.

The Council's case

6.29 The Council's Statement of Case (SoC) does not make any deductions from the Council's HLS to account for sites intended to meet Coventry's unmet need, nor does it justify its position. On this basis, the Council's case is that there should be no discount to the supply to reflect the Rugby Local Plan that the sites in the deliverable supply are allocated in part to meet some of Coventry's unmet need. Therefore, the Council's case is that the deliverable supply is only to meet Rugby's needs and not Coventry's unmet needs.

The Appellant's case

6.30 In summary, the position in Rugby is:

- The adopted Local Plan sets out a housing requirement that contains Rugby's needs plus some of Coventry's unmet needs;
- The Local Plan allocates sites to meet the adopted housing requirement, which includes some of Coventry's unmet need. These sites are included in the 5YHLS;
- The Local Plan is more than five years old and the adopted strategic policies have not been reviewed and found to require updating. Therefore, the 5YHLS should be measured against the local housing need calculated using the standard method set out in the PPG. This is 636 dwellings per annum but does not include any of Coventry's unmet need.

6.31 The Framework and PPG do not set out the approach which should be followed in these circumstances and therefore a planning judgment needs to be made. In my view, the planning judgment should reflect the strategy set out in the development plan and the policy in the Framework.

6.32 The position is however not unique and there have now been several appeals where this issue has been considered in other areas by Inspectors, which I refer to below. The appeal decisions are consistent in finding that where the strategy in a development plan seeks to meet unmet need from neighbouring authorities but the 5YHLS is now measured against the local housing need, an adjustment should be made to the supply to reflect the strategy.



Central Bedfordshire

- 6.33 Central Bedfordshire adopted its Local Plan in July 2021. The adopted housing requirement of 39,350 dwellings over the period 2015 to 2035 includes 7,350 dwellings to meet Luton's unmet need. Specific sites are identified to meet Luton's unmet need in the Central Bedfordshire Local Plan.
- 6.34 Prior to the adoption of the Local Plan, Central Bedfordshire assessed its 5YHLS against its objectively assessed need (OAN) because the previous standard method for calculating local housing need was problematic due to unattributed population change. The OAN did not include any of Luton's unmet need but the Council sought to include the sites that were proposed allocations in the Local Plan to meet some of Luton's unmet need.
- 6.35 In a decision relating to an appeal at land off Mill Road, Cranfield¹⁴ (PINS ref: 3181269 – 20th March 2018), the Inspector explained that Central Bedfordshire's approach of excluding Luton's unmet need from the requirement side of the calculation but including sites within Central Bedfordshire to meet Luton's unmet need produces a skewed result. Paragraph 56 of the appeal decision states:

"The Council's action in excluding the unmet needs of Luton from the demand side of the equation is unquestionably correct, since an OAHN is meant to be objective, excluding any elements of adjustment through policy decisions such as accommodating the unmet needs of another authority. However, a supply side of the equation which is not then adjusted to take account of land releases exceptionally justified as a matter of policy by the unmet needs of Luton as are some components of the Central Bedfordshire supply produces a skewed result. I fully accept that such exceptional releases of land are not and cannot be reserved for Luton residents and are as available to meet the needs of Central Bedfordshire residents as any other but an equation which compares a "policy off" objective assessment of need against a "policy on" supply is an unbalanced assessment"

- 6.36 Paragraph 62 of the appeal decision then explains that about 700 dwellings should be removed from Central Bedfordshire's 5YHLS as a result.

Tewkesbury

- 6.37 The Tewkesbury, Gloucester and Cheltenham Core Strategy allocates sites in Tewkesbury on the basis of their contribution to the supply of either Gloucester City or Cheltenham Borough. The Core Strategy became five years old in December 2022 and therefore Tewkesbury's 5YHLS was to be measured against the local housing need. However, Tewkesbury Council sought to include within the deliverable supply the

¹⁴ PINS ref: 3181269 – core document **CD10.10**



sites that were allocated to meet Gloucester's unmet need. The position was considered in the following appeals:

- 6.38 In a decision dated 24th March 2023 relating to land at Hill End Road, Twynning, Gloucestershire, GL20 6JD (PINS ref: 3284820)¹⁵, the Inspector identified the issue described above in paragraph 39 of the appeal decision as follows:

"The parties disagree on whether the Council can demonstrate a 5-year supply of housing. Disputes relate to the attribution of units from strategic housing sites on the periphery of the Tewkesbury district which are part of the strategic allocations within the JCS to serve Gloucester City, and the way those units are accounted for now that the JCS is more than five years old and the housing requirement is to be calculated by the SM. At its core, the issue is whether, on a geographical basis, the dwellings arising from the strategic allocations which lie within Tewkesbury's administrative area should now be included in the supply figures for Tewkesbury. The difference between the two positions is substantial with the appellant arguing a figure of 2.23 years supply and the Council 6.61 years supply"

- 6.39 The Inspector concluded that the sites allocated in Tewkesbury to meet Gloucester's unmet need should not be counted in Tewkesbury's deliverable supply as it was calculated against the local housing need.
- 6.40 Similarly, in a decision dated 26th June 2023 regarding land east of St Margaret's Drive, Alderton, Tewkesbury (PINS ref: 3310117)¹⁶, the Inspector concluded that the sites to meet Gloucester's unmet need should not contribute towards meeting Tewkesbury's local housing need. Paragraphs 21 to 24 of the appeal decision state:

"21. However, the main parties disagree about the supply of housing land for the next 5 years. The differential between TBC and the appellant has been presented as a range of scenarios. The difference is significant, ranging from the appellant's position of 2.27 years (a shortfall of 1,660 homes) to TBC's position of 6.68 years (a surplus of 1,021 homes). The main reason for this difference is centred around whether TBC should include within its supply the units from specific donor sites within its jurisdiction which are allocated in the JCS to serve the needs of Gloucester and Cheltenham. This specific matter was the subject of a recent Decision6 ("the Twynning Decision").

22. Policy SP2 of the JCS confirms that, regardless of the fact that the majority of the land is within Tewkesbury Borough, specific urban extensions are identified to meet the unmet needs of Gloucester or Cheltenham. Therefore, dwellings being delivered on urban extensions to Gloucester or Cheltenham will contribute solely to the needs of their land supply calculations.

¹⁵ PINS ref: 3284820 - core document **CD10.11**

¹⁶ PINS ref: 3310117 - core document **CD10.12**



23. This gives clear recognition of the commitment by the 3 authorities to a joint approach identifying sites in Tewkesbury to meet the needs arising from the urban areas in Gloucester City and Cheltenham. There is nothing before me to confirm commitment to a different accounting methodology for housing delivery. Neither has any agreement between the JCS authorities been evidenced regarding a different approach to the identification of the supply components in response to the change in circumstance arising in the absence of a review of the JCS.

24. The main parties agree that neither the Framework nor Planning Practice Guidance (“the PPG”) provides express guidance on the approach to be taken to accounting the supply in this particular instance. The SM relates to housing need purely on administrative boundaries. Paragraph 74 of the Framework is very clear regarding the approach to calculating the need input for the housing land supply calculation in these circumstances. However, crucially, neither the Framework, the PPG nor the SM indicate that the method by which housing supply is to be identified should also change.”

6.41 Paragraphs 27 and 28 of the appeal decision state:

“27. Throughout the Inquiry TBC maintained that Policy SP2 is not out of date nor inapplicable other than in respect of the quantitative elements of housing numbers. The LHN figure relates to housing need and provides an up-to-date position to that set out in Policies SP1 and SP2 of the JCS. However, significantly, TBC’s current approach to identifying its supply requires a fundamental departure from the JCS spatial strategy, including the attribution of strategic sites upon which the JCS was found sound. My acceptance of this approach would ignore the clear provisions of an up-to-date spatial strategy of the adopted development plan. TBC failed to justify this approach through its evidence and during cross-examination. In addition, TBC’s inclusion of 500 units at Mitton, being located within neighbouring Wychavon District, contradicts its approach to supply.

28. In summary therefore, there is no persuasive evidence or good reason before me which confirms any commitment or support to TBC’s approach to these donor sites in supply terms other than in accordance with Policy SP2 of the JCS. There is nothing in the Framework or the PPG which indicates that supply must be calculated only by reference to deliverable sites in the local authority area in circumstances where LHN is being used to determine the housing need in the context of the JCS. In this particular case the content of Policy SP2 in respect of the donor sites within this Borough and their contribution to supply is very specific. I have also identified inconsistencies in TBC’s approach to this matter.”

6.42 In a third decision an appeal at Truman’s Farm, Manor Lane, Gotherington (PINS ref: 3314936)¹⁷, the Inspector explained that Tewkesbury’s adopted strategic policies were more than five years old and

¹⁷ PINS ref: 3314936 – core document **CD10.13**



therefore the 5YHLS was to be measured against the local housing need of 578 dwellings per annum (607 dwellings per annum with a 5% buffer). The Inspector explains that Tewkesbury Council sought to rely on “donor sites” i.e. sites that were located within Tewkesbury to meet Gloucester’s unmet need in its 5YHLS against the local housing need for Tewkesbury. However, the Inspector again concluded that the donor sites should not be included in the 5YHLS calculation, removed them and concluded there was a shortfall in Tewkesbury’s 5YHLS.

Malvern Hills

6.43 The South Worcestershire Development Plan (SWDP) covers Malvern Hills, Worcester and Wychavon. It was adopted in 2016. It sets out three sub areas:

- the Wider Worcester Area (WWA) – comprising Worcester City plus the urban extensions directly abutting the administrative area of the City (located within Malvern Hills and Wychavon);
- the Malvern Hills (Excluding WWA) Sub Area – comprising that part of Malvern Hills district outside of the Wider Worcester Area; and
- the Wychavon (Excluding WWA) Sub Area – comprising that part of Wychavon district outside of the Wider Worcester Area.

6.44 Before the SWDP became 5 years old, 5YHLS was measured on a sub area basis. Once the SWDP became more than five years old, the local housing need was used instead of the housing requirement and how 5YHLS was to be calculated was considered at appeal.

6.45 An appeal relating to land south of Post Office Lane, Kempsey (Malvern Hills)¹⁸ was considered by way of a public inquiry in April and May 2023. It considered how 5YHLS should be calculated in South Worcestershire. In the decision, the Inspector considered five different approaches to calculating 5YHLS in Malvern Hills:

- Approach (i) – 5YHLS is measured on an individual authority basis using the local housing need for each area calculated using the standard method and the supply within each authority (regardless as to whether it was to meet that authority’s need or the unmet need from Worcester). This was Malvern Hills Council’s approach as set out in its position statement (December 2022) and addendum (April 2023);
- Approach (ii) – 5YHLS is measured on individual authority basis using the local housing need for the whole of Malvern Hills but the supply excludes the land allocated in the Wider Worcester Area within Malvern Hills. This was the Appellant’s preferred approach;

¹⁸ PINS ref: 3313440 – core document **CD10.14**



- Approach (iii) – 5YHLS is measured on an individual authority basis using an alternative to the standard method to calculate local housing need within the sub-area of Malvern Hills (excluding the WWA) and the supply also excludes the land allocated in the WWA within Malvern Hills;
- Approach (iv) – 5YHLS is measured against the local housing need calculated using the standard method for Malvern Hills and the supply is that within the Malvern Hills (excluding WWA) sub-area, the supply within Wychavon (excluding the WWA) intended to meet the needs of Malvern Hills and part of the supply within the WWA (Malvern Hills) to meet the needs of Malvern Hills; and
- Approach (v) – 5YHLS is measured on a joint planning area as was previously set out in the September 2021 position statement discussed above.

6.46 In paragraph 33 of the decision, the Inspector explains that he agrees with the Council and the Appellant that 5YHLS should not be calculated on a joint planning area because this has not been established through the plan-making process. Within this context, reference is made to paragraph 68-028 of the PPG¹⁹, which states:

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

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

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

6.49 Paragraph 35 of the appeal decision explains why the approach (i) proposed by Malvern Hills Council was rejected. It states:

“35. The need to be met in suggested approach (i) is the local housing need for the whole of the Malvern Hills District, calculated using the standard method, consistent with the Framework. However, the supply takes account of the supply within the whole of the District including that proportion of the allocated land within the WWA (Malvern Hills) intended to meet the housing needs of Worcester City. To my mind, this has the effect of boosting the Council’s housing land supply position, potentially reducing the

¹⁹ Paragraph: 028 Reference ID: 68-028-20190722: “How will areas with joint plans be monitored for the purposes of a 5 year land supply?”



need for it to identify more sites in the Malvern Hills (Excluding WWA) part of its District, whilst constricting the housing land supply position of WCC, which it may well be unable to mitigate due to the constrained nature of its administrative area. Overall, this may well unduly suppress housing supply. I consider that this is an inappropriate, unreasonable approach and is contrary to the SWDP spatial development strategy, with particular reference to the function to be fulfilled by WWA (Malvern Hills). My view in this regard is consistent with the findings in a number of the previous appeal decisions drawn to my attention, such as appeal decision Ref. APP/G1630/W/21/3284820, and, it appears, the positions taken by some local planning authorities, such as Cherwell District Council.”

6.50 The appeal decision referred to ref: 3284820 is the Twynning decision I have referred to above.

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

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

54. I consider that, of those five suggested to me, approach (iv) provides the best fit with regard to local and national policy and a reasonable basis for the assessment of the five-year housing land supply position. Using approach (iv), the supply of deliverable housing sites appears to me to amount to around 3.7 years.”



6.52 In this case however, the Rugby Local Plan does not make specific allocations or differentiate any part of its supply to meet Coventry's unmet need. A similar position occurs in Warwick and Coventry's unmet needs. The position in Warwick was considered in a decision dated 24th May 2024 relating to an appeal made by Cala Homes against the decision of Warwick Council to refuse to grant outline planning permission for up to 83 no. dwellings at land at Warwickshire Police Headquarters, Woodcote Lane, Leek Wootton (PINS ref: 3319752)²⁰. In that case, it was agreed that the adopted strategic policies of the Warwick Local Plan were more than five years old and the 5YHLS should be measured against the local housing need. However, the disagreement at the inquiry related to the inclusion of individual sites was whether there should be a "discount" to reflect the Warwick Local Plan's commitment to partially meeting Coventry's needs.

6.53 In paragraph 102 of the appeal decision, the Inspector explained that the provision to meet Coventry's housing need was around 45% of the overall housing requirement in the Local Plan. Paragraph 103 of the decision then states:

"The Framework and Planning Practice Guidance (PPG) are silent on how to take account of the needs of neighbouring authorities in the supply calculation when using the standard methodology. There is no guidance either way therefore on how this should be addressed. However, the 'standard methodology' only deals with the requirement side of the equation. Several appeals have been drawn to my attention where Inspectors have considered the supply side of the issue."

6.54 The footnote to the paragraph explains that the appeal decisions referred to included ones in Central Bedfordshire, Tewkesbury and Malvern Hills, referred to above.

6.55 Paragraphs 107-109 of the appeal decision state:

107. The WDLP does not make specific allocations or differentiate any parts of its supply to meet Coventry's needs. Rather, it subsumes them within the overall requirement. It has been suggested that due to this it is not possible to determine how much of what has been delivered thus far, or will be delivered in the next 5 years, might be meeting Coventry's needs. This pre-supposes some kind of geographic distribution within the Plan where specific sites could be attributed to meeting the needs of each district. However, this is not how the Plan is written. There is nothing to suggest that any allocations, or other deliverable sites, have been specifically earmarked to meet Coventry's needs. Moreover, the Council do not differentiate between meeting Warwick's and Coventry's needs in their annual monitoring of delivery. As such, the only logical way to consider the issue is based on a proportionate approach as set out in the plan.

²⁰ PINS ref: 3319752 – core document **CD10.15**



108. It was also put to me that the other appeal decisions can be differentiated from that before me as the plans in those cases identified ‘doner’ sites for the neighbouring authorities. This might make a more clear-cut case for disaggregation and/or may make the calculations more straight forward or nuanced. However, the underlying premise remains largely the same; that the development plan establishes a strategy to deliver a certain number of dwellings to meet a neighbouring authority’s needs, that the use of the standard methodology does not alter that strategy and that the 5-year supply figures should therefore reflect that strategy. In principle, I see no particular difference between removing specific sites from a supply figure because they are intended to meet another district’s needs and using a proportionate approach. It is still a case of the supply reflecting the intentions of the Plan.

109. The strategy set out in the WDLP is to deliver housing to meet Coventry’s needs. There is nothing to suggest this strategy is out-of-date or should be set aside. As was concluded in the Malvern Hills appeal, to ignore this could artificially inflate the Council’s 5-year supply position. This approach could mean the Council no longer considering it needs to deliver the additional housing to meet Coventry’s needs and or the requirements of the WDLP. Consequently, the overall longer-term effect could be to suppress housing land supply in the district. This would be inappropriate. On this basis, I prefer the approach suggested by the appellant and the decisions made by my colleagues in Malvern Hills, Tewkesbury and Central Bedfordshire.” (my emphasis added)

6.56 On this basis, the Inspector removed 45% of the deliverable supply and on this basis found Warwick could demonstrate a 4.01 year supply. Paragraphs 110 and 111 of the appeal decision state:

“110. While using the 45% figure as a ‘discount’ may be a somewhat blunt instrument, it is the only logical way to ensure the spatial strategy of the plan is properly reflected in the supply figure. I do not consider this to be a departure from how other Inspectors have dealt with the issue in principle. This is particularly the case in Malvern Hills where, though the specifics differ, a proportionate approach was also taken.

111. I therefore find the overall deliverable supply, excluding the appeal site, to be around 4,914 dwellings. Taking the 45% Coventry figure into account, this would equate to a supply of 4.01 years or a shortfall of some 665 dwellings. As such, irrespective of any other issues relating to policy, paragraph 11d of the Framework is activated.”

6.57 Since this appeal decision, Warwick has adopted this approach in its latest 5YHLS position statement (base date 31st March 2024). Warwick’s 5YHLS calculation removes 45% of the supply to meet Coventry’s unmet needs. This is shown in the extract from Warwick’s latest 5YHLS statement below:



5YHLS Calculations 1st April 2024		
	REQUIREMENT CALCULATIONS	
A	Total requirement over the next 5 years (1/4/24 to 31/3/29) based on the Dec 2024 Standard Method annual requirement figure for WDC of 1062 dwellings per annum	5310
B	Buffer – either a 5% buffer to ensure choice and competition or 20% buffer where there is a significant under-delivery over the 3 previous years (5% applied for 2024 update)	266
C	Total 5 year requirement (A+B)	5576
D	Annual 5 year requirement (C/5)	1115

	SUPPLY CALCULATIONS	
E	Commitments - Planning Permissions	3717
F	Commitments - Residential Institutions (@1.9 residents per dwelling)	43
G	Commitments - Students and HMOs (@2.4 students per dwelling)	108
H	Small Urban SHLAA Sites	0
I	Windfalls	505
J	Consolidated employment land (Canalside and Employment areas tab)	0
K	Local Plan Allocations without permission	393
L	Total 5 YEAR SUPPLY (1/4/24 to 31/3/29) (E + F + G+ H + I + J + K)	4766
M	Contribution towards meeting Coventry unmet need (i.e. 5,976 dwellings over the period 2017/18 to 2028/29 as a proportion of the 13,176 dwellings total for those years = 45.36% of the total supply) (L x 0.4536)	2162
N	Total WDC Five Year Supply (1/4/24 to 31/3/29) (i.e. 7,200 dwellings over the period 2017/2018 to 2028/29 as a proportion of the 13,176 dwellings total = 54.64% of the total supply) (L x 0.5464)	2604
O	Surplus/Deficit	-2971
P	Number of years' supply (N / D)	2.34 years

- 6.58 As can be seen from the above, row L calculates the deliverable supply, row M identifies the contribution to meet Coventry's unmet need and row N identifies the deliverable supply once the contribution towards Coventry's unmet need has been removed. The result is that Warwick concludes it has a 2.34 year supply.
- 6.59 As set out above, Policy DS1 of the Rugby Local Plan sets out that 12,400 additional homes including 2,800 dwellings to contribute to Coventry's unmet needs will be planned for and provided within Rugby Borough between 2011 and 2031. This means that 23% of the overall requirement relates to Coventry's unmet needs.



- 6.60 Because specific sites are not identified in the Rugby Local Plan to meet Coventry's unmet need, and in any case Rugby and Coventry (along with North Warwickshire, Nuneaton & Bedworth, Stratford-on-Avon and Warwick) are all one HMA, a percentage reduction to the supply should be applied. This is consistent with the approach taken in Warwick (as set out in paragraph 108 of the appeal decision referred to above).
- 6.61 To not make any deduction does not reflect the strategy set out in the Local Plan in meeting some of Coventry's unmet need and artificially inflates Rugby's supply. It suggests that the Council no longer considers it needs to deliver additional housing to meet Coventry's unmet needs.
- 6.62 For these reasons, I conclude that a further deduction of 23% should be applied to Rugby's supply to account for the portion of the supply intended to meet some of Coventry's unmet needs. This equates to 407 dwellings.



7. Conclusions

- 7.1 I conclude that the deliverable supply at 1st April 2025 is 1,363 dwellings. This is the Council's supply figure of 2,797 dwellings minus 1,027 dwellings due to lack of clear evidence and then minus 23%. This equates to 2.04 years as shown in the table below.

Table 7.1 – Rugby's 5YHLS at 1st April 2025

	Requirement	Council	EP
A	Annual local housing need figure	636	636
B	Five year requirement	3,180	3,180
C	5% buffer	159	159
D	Total five year requirement including 5% buffer	3,339	3,339
E	Annual housing requirement including 5% buffer	668	668
	Supply		
F	Deliverable supply at 1 st April 2025	2,797	1,363
G	Supply in years (F / E)	4.19	2.04
H	Under/oversupply against the five year requirement (F – D)	-542	-1,976

- 7.2 The policy implications of this is addressed by Debbie Farrington.



8. Appendix EP1 – relevant appeal decisions

8.1 In this appendix, I list relevant appeal decisions where the definition of “deliverable” has been considered.

The absence of any written evidence

8.2 In the following appeal decisions, the Inspectors and the Secretary of State removed sites where the local planning authorities had not provided any written evidence to support their inclusion:

- In an appeal decision regarding land off Audlem Road, Stapeley, Nantwich and land off Peter De Stapeleigh Way, Nantwich²¹, the Secretary of State removed 301 dwellings from Cheshire East Council’s supply from sites including: *“sites with outline planning permission which had no reserved matters applications and no evidence of a written agreement”* (paragraph 21 of the decision letter dated 15th July 2020);
- In an appeal decision regarding land to the south of Cox Green Road, Surrey²² an Inspector removed 563 dwellings on 24 sites from Waverley Council’s supply because the Council had not provided any evidence for their inclusion (paragraphs 22 to 24 of the appeal decision dated 16th September 2019);
- In an appeal decision regarding land at Station Road, Stalbridge, North Dorset²³ an Inspector removed 2 large sites from North Dorset’s supply (references A02 and A04) because the Council had not provided any up to date information from the developers for these sites and applications for reserved matters had not been made (paragraphs 53 and 57);
- In an appeal decision regarding land within the Westhampnett / North East Strategic Development Location, North of Madgwick Lane, Chichester²⁴, an Inspector removed the second phase of a wider site that is under construction on the basis that an application for reserved matters had not been made for phase 2 and the fact that a major housebuilder was progressing phase 1 was not in itself clear evidence (paragraph 82); and
- In a decision relating to an appeal regarding land at Weddington Road, Weddington, Nuneaton²⁵, the Inspector concluded that Nuneaton and Bedworth could not demonstrate a 4 year housing land supply. The Inspector found that the deliverable supply was closer to my figure on behalf of the Appellant of 2.74 years. In doing so, the Inspector removed (amongst other sites) a site with outline planning permission at Hospital Lane where there was no clear evidence of firm progress being made towards site assessment work or the submission of a reserved matters application (paragraphs 172 and 173) and a site at Phoenix Way / Wilsons

²¹ PINS refs: 2197532 and 2197529

²² PINS ref: 3227970

²³ PINS ref: 3284485

²⁴ PINS ref: 3270721

²⁵ PINS ref: 3330615 – 26th July 2024



Lane which had outline planning permission but no written agreement with a developer to confirm the timescales put forward by the Council.

The most up to date evidence

- 8.3 In an appeal regarding land on the east side of Green Road, Woolpit²⁶, the Inspector found Mid Suffolk Council's approach in publishing its AMR and then retrospectively seeking evidence to justify its position "wholly inadequate" (paragraph 70).
- 8.4 However, evidence can post date the base date to support the sites in the deliverable supply and not seek to introduce new sites. In an appeal regarding land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands (Milton Keynes)²⁷, the Secretary of State agreed with Inspector Gilbert-Woolridge that the latest available evidence should be used when considering deliverability (DL paragraph 12).
- 8.5 Similarly, in a decision regarding land off Darnhall School Lane, Winsford²⁸, the Secretary of State agreed with Inspector Middleton that it is appropriate to take into account information received after the base date if it affects sites included in the deliverable supply²⁹.
- 8.6 This means that where sites have not progressed as the Council's trajectory claimed at the time the position statement was published, the supply should be reduced. In the Audlem Road appeal³⁰, the Secretary of State removed from Cheshire East Council's supply;

"a site where there is no application and the written agreement indicates an application submission date of August 2019 which has not been forthcoming, with no other evidence of progress". (paragraph 21 of the Decision Letter dated 15th July 2020)

- 8.7 Cheshire East Council's Housing Monitoring Update (HMU) had a base date of 31st March 2019 and was published in November 2019. Representations by both parties on the HMU were received with the final comments received on 12th February 2020 (DL paragraph 7). Therefore, whilst the written evidence for this site explained a planning application would be made on this site in August 2019 because the application was not forthcoming by the time the decision was made and no other evidence of progress had been provided, the Secretary of State removed the site from the supply.

²⁶ PINS ref: 3194926

²⁷ PINS ref: 3169314

²⁸ PINS ref: 2212671

²⁹ Paragraph 344 of the Inspector's Report and paragraph 15 of the Decision Letter.

³⁰ PINS refs: 2197532 and 2197529



The form and value of the evidence

- 8.8 The evidential value of any written evidence provided is dependent on its content. The Secretary of State and Inspectors have concluded that it is simply not sufficient for Councils to provide agreement from landowners and promoters that their intention is to bring sites forward. The evidence needs to provide a realistic prospect that housing will be delivered on the site within five years.
- 8.9 For example, in allowing an appeal for 120 dwellings at land east of Gleneagles Way, Hatfield Peverel³¹, the Secretary of State found Braintree Council could not demonstrate a five year housing land supply.
- 8.10 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”
- 8.11 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.
- 8.12 The proformas relied on by Braintree are similar to the evidence relied on by Central Bedfordshire. However, the Secretary of State found the evidence provided by Braintree was not clear evidence.
- 8.13 Other examples are as follows:
- In an appeal for up to 140 no. dwellings at land off Popes Lane, Sturry³², the Inspector removed 28% of Canterbury City Council’s claimed supply on the basis that insufficient evidence had been provided. Canterbury Council had provided statements of common ground, however the Inspector considered that these recorded the landowner’s intentions

³¹ PINS ref: 3180729

³² PINS ref: 3216104



and did not explain how infrastructure was to be put in place or other obstacles would be overcome (paragraph 23);

- In a decision relating to an appeal at for up to 53 dwellings at land to the south of Cox Green Road, Rudgwick³³, the Inspector removed 928 dwellings from the 5YHLS on the basis that insufficient evidence had been provided. The 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. However, 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. The Inspector therefore did not include the site.
- In an appeal decision regarding Little Sparrows, Sonning Common³⁴, the Inspector concluded that the Council could only demonstrate a 4.21 year supply. The Inspector considered paragraph 68-007 of the PPG and then stated at paragraph 21 of the decision:

21. Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute 'clear evidence'. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward. (emphasis added)

The Inspector then considered the submitted emails from those promoting sites. However, the Inspector in that case found that such emails were not clear evidence.

- In an appeal decision regarding Land west of Wroslyn Road, Freeland (West Oxfordshire)³⁵, the Council had provided emails and proformas to support the inclusion of sites. However, the Inspector concluded that this was not "clear evidence" and removed the sites from the deliverable supply.

The fact an application has been submitted may not mean there is clear evidence of deliverability

8.14 Even where a planning application or reserved matters application has been made, Inspectors have found this does not in itself provide clear evidence of deliverability for example where those applications are

³³ PINS ref: 3227970

³⁴ PINS ref: 3265861 – 25th June 2021

³⁵ PINS ref: 3301202 – 18th January 2023



subject to outstanding objections or there is no written agreement from the developer. Examples are set out below:

- In a decision dated 25th August 2022 regarding an appeal made by Salter Property Investments Ltd against the decision of Exeter City Council to refuse to grant outline planning permission for up to 93 dwellings at land off Spruce Close, Exeter³⁶, the Inspector found that even where reserved matters applications had been made, where those applications are subject to outstanding objections and there is no written agreement with the developer, the sites should not be included because no clear evidence had been provided (paragraphs 42 and 43);
- In the Freeland appeal decision referred to above³⁷, the Inspector removed sites from the Council's supply despite the fact that planning applications had been made on the basis that there was no officer report, recommendation or even a confirmed committee date, there was no clear evidence to include sites where the planning applications had been pending for some time (paragraph 56); and
- In a decision dated 10th April 2024 relating to an appeal made by Gladman Developments Ltd against the decision of East Hampshire Council to refuse to grant outline planning permission for up to 60 dwellings at 46 Lymington Bottom, Four Marks³⁸, the Inspector removed a site from the deliverable supply because whilst a reserved matters application had been made but there were objections from Environmental Health and design offices and the Highways Authority (paragraph 54).

³⁶ PINS ref: 3292721

³⁷ PINS ref: 3301202

³⁸ PINS ref: 3329928



9. Appendix EP2 – assessment of disputed sites

R11/0699 – Remainder of Houlton allocation

Capacity = 3,873 dwellings, Council's 5YHLS = 680 dwellings

- 9.1 Policy DS3: 'Residential Allocations' of the Rugby Local Plan allocates the Rugby Radion Station site for around 6,200 dwellings. The Remainder of Houlton allocation site forms part of this allocation.
- 9.2 At the base date, the site had outline approval only.
- 9.3 Aside from the 'R25/0549 – Key Phase Four - Parcel E (Miller Homes)' site (separate entry in the trajectory which has a reserved matters application pending determination) and the 'R11/0699 – Remainder of Houlton allocation' site, the Council includes 4 other sites in its HLS that are part of the overall Rugby Radio Station allocation. In addition, the 'Land at Wharf Farm (Bellway/David Wilson Homes)' site is also part of the overall Rugby Radio Station allocation and development on this site is complete. Key details of these sites are set out in the table below.

Table 11.2 – Other sites in the overall Rugby Radio Station allocation

Site	Completions						Projections		
	19 / 20	20 / 21	21 / 22	22 / 23	23 / 24	24 / 25	25 / 26	26 / 27	27 / 28
Already completed									
Land at Wharf Farm (Bellway/David Wilson Homes)	8	114	68	163	26	3	-	-	-
Partially complete									
Key Phase Two - Parcel A (Francis Jackson Homes)	-	-	-	5	6	11	9	-	-
Key Phase Three - Parcels A and B (Redrow)	3	69	17	50	45	29	35	-	-



Site	Completions						Projections		
	19 / 20	20 / 21	21 / 22	22 / 23	23 / 24	24 / 25	25 / 26	26 / 27	27 / 28
Key Phase Three – Parcels C and F (William Davis)	-	-	-	9	41	14	40	40	2
Key Phase Three - Parcel D Mulberry Homes)	-	-	-	-	35	30	40	40	2
Total	11	183	85	227	153	87	124	80	4

9.4 The table above shows that of the sites included as part of the overall Rugby Radio Station allocation, between 2019/20 and 2024/25, 746 dwellings were completed, or an average of 124 dwellings per annum.

9.5 The Council's 5YHLS trajectory for the 'Remainder of Houlton allocation' site is set out in the table below.

Table 11.3 – Council's 5YHLS Trajectory for the Remainder of Houlton allocation site

2025/26	2026/27	2027/28	2028/29	2029/30	Total 5YHLS
0	80	175	225	200	680

9.6 On a site currently without reserved matters approval, or in fact any pending reserved matters application, the Council claims there will be an average completions of 200 dwellings per annum (years 3, 4 and 5) on a site with a track record of average completions of 124 dwellings per annum. Given the empirical evidence relating to this site, this is a clear over-estimation of delivery.

Current planning status?

9.7 The site has outline approval only.

9.8 An outline application for an urban extension to Rugby for a mixed-use development including up to 6,200 dwellings was approved by the Council on 20th May 2017 (ref: R11/0699). The full description of the outline planning permission is:

"Outline application for an urban extension to Rugby for up to 6,200 dwellings together with up to 12,000sq.m retail (A1), up to 3,500sq.m financial services (A2) and



restaurants (A3 - A5), up to 3,500sq.m for a hotel (C1), up to 2,900sq.m of community uses (D1), up to 3,100sq.m assembly and leisure uses (D2), 31 hectares (up to 106,000sq.m) of commercial and employment space (B1, B2 and B8), and ancillary facilities; a mixed use district centre and 3 subsidiary local centres including retention and re-use of the existing buildings known as 'C' Station (Grade II listed), 'A' Station and some existing agricultural buildings; a secondary school and 3 primary schools; public art; green infrastructure including formal and informal open space and amenity space; retention of existing hedgerows, areas of ridge and furrow and grassland; new woodland areas, allotments and areas for food production, wildlife corridors; supporting infrastructure (comprising utilities including gas, electricity, water, sewerage, telecommunications, and diversions as necessary); sustainable drainage systems including ponds, lakes and water courses; a link road connecting the development to Butlers Leap, estate roads and connections to the surrounding highway, cycleway and pedestrian network; ground remodelling; any necessary demolition and any ground works associated with the removal of any residual copper matting, with all matters reserved for future determination except the three highway junctions on the A428, the two junctions on the A5 and the link road junctions at Butlers Leap and Hillmorton Lane.”

- 9.9 A subsequent Section 73 application for minor material amendments to outline planning permission ref: R11/0699 was approved by the Council on 28th June 2017 (ref: R17/0022). Amendments includes changes to the parameter plans and development specification and to vary or remove conditions already discharged. The full description of the revised outline planning permission is:

“Outline application for an urban extension to Rugby for up to 6,200 dwellings together with up to 12,000sq.m retail (A1), up to 3,500sq.m financial services (A2) and restaurants (A3 - A5), up to 3,500sq.m for a hotel (C1), up to 2,900sq.m of community uses (D1), up to 3,100sq.m assembly and leisure uses (D2), 31 hectares (up to 106,000sq.m) of commercial and employment space (B1, B2 and B8), and ancillary facilities; a mixed use district centre and 3 subsidiary local centres including retention and re-use of the existing buildings known as 'C' Station (Grade II listed), 'A' Station and some existing agricultural buildings; a secondary school and 3 primary schools; public art; green infrastructure including formal and informal open space and amenity space; retention of existing hedgerows, areas of ridge and furrow and grassland; new woodland areas, allotments and areas for food production, wildlife corridors; supporting infrastructure (comprising utilities including gas, electricity, water, sewerage, telecommunications, and diversions as necessary); sustainable drainage systems including ponds, lakes and water courses; a link road connecting the development to Butlers Leap, estate roads and connections to the surrounding highway, cycleway and pedestrian network; ground remodelling; any necessary demolition and any ground works associated with the removal of any residual copper matting, with all matters reserved for future determination except the three highway junctions on the A428, the two junctions on the A5 and the link road junctions at Butlers Leap and Hillmorton Lane - Variation of conditions 5,6,7,63 64 and 81 of the



outline planning permission R11/0699 dated 21/05/2014 to cover minor material changes to the approved Parameter Plans and Development Specification and to reflect approvals already granted pursuant to the outline planning permission and the latest land control position; removal of condition 73 and consequent renumbering of conditions 74 - 81 inclusive.”

9.10 This site specifically relates to the remainder of the Houlton allocation.

9.11 The Council’s latest HLS position statement was very recently published in November 2025. It states that there are 3,873 dwellings remaining of the Rugby Radio Station allocation without a reserved matters application having been submitted (at the publication date of November 2025). This was checked on the Council’s online planning register on 1st December 2025.

9.12 Accordingly, no reserved matters applications have been submitted to date on this specific site.

Firm progress being made towards the submission of an application?

9.13 As above, the Council’s position statement states that there are 3,873 dwellings remaining of the Rugby Radion Station allocation without a reserved matters application having been submitted. More specifically, the Council states that:

“At Houlton, the site is underway and progressing swiftly with numerous housebuilders on site. There have been rolling submissions of reserved matters for individual parcels within the defined key phases. Construction began at Houlton in the 2017-18 monitoring year. There have been completions in the past eight monitoring years from 2017-18 to 2024-25 at an average annual rate of 239 dwellings per annum. The delivery rate for the remaining dwellings, outside of existing reserved matters applications, has been supplied by the master developer Urban & Civic.”

9.14 In the Council’s Housing Land Supply Position Statement 2022-2027, the Council anticipated that the delivery of the remainder of the allocation would begin with 63 dwellings in 2023/24, followed by 65 dwellings in 2024/25, 80 dwellings in 2025/26 and 153 dwellings in 2026/27. The housing trajectory for this site was also pushed back in subsequent position statements. The Council now considers that the delivery of the site will not begin until 2026/27 with just 80 dwellings anticipated. There are clearly delays with the delivery of this site.

9.15 There is no clear evidence of firm progress being made towards the submission of a reserved matters application.



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

- 9.16 The Council's notes on its position statement state that the developer provided the housing trajectory for this site. This is the completion of 80 dwellings in year 2 (2026/27), 175 dwellings in year 3 (2027/28), 225 dwellings in year 4 (2028/29) and 200 dwellings in year 5 (2029/30). A further 3,193 dwellings are anticipated to be completed beyond the 5YHLS period (201 dwellings in 2030/31, 201 dwellings in 2031/32 and 2,791 dwellings post 2032).

Firm progress with site assessment work?

- 9.17 No clear evidence of any firm progress with site assessment work has been provided.

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

- 9.18 No evidence has been provided.

Summary

- 9.19 The site only has outline planning permission for residential development. No reserved matters applications for the remainder of the Houlton allocation have been submitted to date, nor is there any clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application.
- 9.20 The Council has not provided "clear evidence that housing completions will begin on the site within five years". In the absence of clear evidence, the site fails to meet the definition of "deliverable" as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **680 dwellings** from the Council's supply.



R18/0995 – Cawston Farm 1 (Tritax Symmetry)

Capacity = 275 dwellings, Council's 5YHLS = 100 dwellings

9.21 At the base date, the site did not have planning permission.

Current planning status?

9.22 The site does not have planning permission.

9.23 An outline planning application for up to 275 dwellings was validated by the Council on 16th May 2019 and is still pending determination, 6.5 years later (ref: R18/0995). The applicant is DB Symmetry, now Tritax Big Box. The application was considered at planning committee on 12th February 2025 and the application was resolved to be approved, subject to a S106 Agreement, however, the S106 Agreement has still not been signed, 9 months later.

9.24 Even if the outline planning permission is approved, the site will remain as a category b) site and the Council will need to demonstrate clear evidence for the inclusion of this site in the 5YHLS.

Firm progress being made towards the submission of an application?

9.25 As above, an outline planning application for up to 275 dwellings has been in the planning process for 6.5 years.

9.26 In relation to this site, the Council has said:

"The Tritax Symmetry parcel at Cawston Farm, South West Rugby for 275 units is subject to an outline planning application which was submitted in May 2019 and was reported to planning committee in February 2025 and gained a resolution to grant planning permission subject to a S106 agreement. The trajectory applied by the council assumes two years between the grant of permission in 2025-26 and first completions in 2027-28."

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

9.27 A written agreement between the Council and the developer has not been provided. A named developer has not been identified. It is unclear what information the Council relies on to support its trajectory, which anticipates that 20 dwellings will be completed in year 3 (2027/28), 40 dwellings will be completed in each of years 4 and 5 (2028/29 and 2029/30), a further 40 dwellings will be completed in each of 2030/31 and 2031/32 and 95 dwellings will be completed post 2032.



Firm progress with site assessment work?

- 9.28 As above, an outline planning application for up to 275 dwellings has been in the planning process for 6.5 years. The resolution to grant was subject to 47 no. conditions including 7 no. pre-commencement conditions. The Council has not provided clear evidence in relation to any site assessment work on these pre-commencement conditions.

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

- 9.29 No evidence has been provided.

Summary

- 9.30 The site does not have planning permission. An outline planning application for up to 275 dwellings has been in the planning process for 6.5 years. The application went to planning committee on 12th February 2025 and the application was resolved to be approved, subject to a S106 Agreement, however, the S106 Agreement has still not been signed, 9 months later. Even if the outline planning permission is approved, the site will remain as a category b) site and the Council will need to demonstrate clear evidence for the inclusion of this site in the 5YHLS.
- 9.31 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. The site fails to meet the definition of “deliverable” as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **100 dwellings** from the Council’s supply.



R22/0853 – Cawston Farm 2 (Tritax Symmetry)

Capacity = 350 dwellings, Council's 5YHLS = 80 dwellings

9.32 At the base date, the site did not have planning permission.

Current planning status?

9.33 The site does not have planning permission.

9.34 An outline planning application for up to 350 dwellings was validated by the Council on 26th August 2022 and is still pending determination, over 3 years later (ref: R22/0853).

9.35 On 12th June 2024, National Highways recommended that planning permission is not granted for a specific period due to concerns they have raised. National Highways stated that received no further information in support of this consultation since the application was received on the 26th August 2022. National Highways has issued a further 5 formal responses to the LPA within this timeframe.

9.36 On 20th September 2022, the LLFA recommended refusal of planning permission and objected to the development because the details relating to the surface water drainage are insufficient. On 1st December 2022, the LLFA 1st stated that the application documents as submitted are insufficient for the LLFA to provide a substantive response and that further information is required in relation to the proposed site outfall, discharge location, basin location and exceedance / overland flow routes.

9.37 Even if the outline planning permission is approved, the site will remain as a category b) site and the Council will need to demonstrate clear evidence for the inclusion of this site in the 5YHLS.

Firm progress being made towards the submission of an application?

9.38 As above, an outline planning application for up to 350 dwellings has been in the planning process for over 3 years.

9.39 In relation to this site, the Council's position statement states

"An outline planning application for Cawston Farm 2 (350 units), which is also promoted by Tritax Symmetry, was submitted in August 2022 and is also awaiting determination. This application has not been determined to date as it is intrinsically interlinked with the 275 unit application. Now this scheme has a resolution to grant planning permission the developer is seeking to progress the 350 unit application. First completions on this site are currently projected for 2028-29."



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

- 9.40 A written agreement between the Council and the developer has not been provided. A named developer has not been identified. It is unclear what information the Council relies on to support its trajectory, which anticipates that 40 dwellings will be completed in each of years 4 and 5 (2028/29 and 2029/30), a further 40 dwellings will be completed in each of 2030/31 and 2031/32 and 190 dwellings will be completed post 2032.

Firm progress with site assessment work?

- 9.41 As above, an outline planning application for up to 350 dwellings has been in the planning process for over 3 years.

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

- 9.42 No evidence has been provided.

Summary

- 9.43 The site does not have planning permission. An outline planning application for up to 350 dwellings has been in the planning process for over 3 years. Even if the outline planning permission is approved, the site will remain as a category b) site and the Council will need to demonstrate clear evidence for the inclusion of this site in the 5YHLS.
- 9.44 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. The site fails to meet the definition of “deliverable” as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **80 dwellings** from the Council’s supply.



R25/0487 – Land South West of Cawston Lane (Catesby Estates)

Capacity = 470 dwellings, Council's 5YHLS = 75 dwellings

9.45 The site does not have planning permission.

Current planning status?

9.46 The site does not have planning permission.

9.47 An outline planning application for up to 470 dwellings was validated by the Council on 2nd July 2025 and is still pending determination, 5 months later (ref: R25/0487).

9.48 On 15th September 2025, the Woodland Trust objected to the application due to deterioration of two areas of ancient woodland. The Woodland Trust states that the potential for impacts arising from intensified activity and disturbance is increased when considered in the light of the cumulative impacts arising from nearby developments. Key issues raised are intensified activity, fragmentation, traffic, drainage & SUDS and the impact on veteran trees.

9.49 On 7th August 2025, the LLFA recommended refusal of planning permission and objected to the development because the details relating to the surface water drainage are insufficient. On 13th November 2025, the LLFA recommended refusal of planning permission and maintained its objection because the details relating to the surface water drainage are insufficient.

9.50 Even if the outline planning permission is approved, the site will remain as a category b) site and the Council will need to demonstrate clear evidence for the inclusion of this site in the 5YHLS.

Firm progress being made towards the submission of an application?

9.51 As above, an outline planning application for up to 470 dwellings is pending determination.

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

9.52 The Council's notes on its position statement state that the developer confirmed the housing trajectory for this site. This is the completion of 25 dwellings in year 4 (2028/29) and 50 dwellings in year 5 (2029/30). A further 395 dwellings are anticipated to be completed beyond the 5YHLS period (50 dwellings in each of 2030/31 and 2031/32 and 295 dwellings post 2032).

Firm progress with site assessment work?

9.53 As above, an outline planning application for up to 470 dwellings is pending determination.



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

9.54 No evidence has been provided.

Summary

9.55 The site does not have planning permission. An outline planning application for up to 470 dwellings is pending determination. Even if the outline planning permission is approved, the site will remain as a category b) site and the Council will need to demonstrate clear evidence for the inclusion of this site in the 5YHLS.

9.56 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. The site fails to meet the definition of “deliverable” as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **75 dwellings** from the Council’s supply.



R25/0407 – Land to the North East of Cawston Lane & Land to the East of Alwyn Road (Taylor Wimpey)

Capacity = 800 dwellings, Council's 5YHLS = 72 dwellings

9.57 The site does not have planning permission.

Current planning status?

9.58 The site does not have planning permission.

9.59 An outline planning application for up to 800 dwellings was validated by the Council on 21st July 2025 and is still pending determination (ref: R25/0407).

9.60 On 10th September 2025, Warwickshire County Council's Rights of Way team objected to the application. The reason for this is because the applicant has suggested separating the public bridleways into two distinct routes. This would be unachievable as it would involve either pushing the public bridleway partially off of its legally recorded alignment, or introducing an obstruction to the public bridleway by planting vegetation within its legally recorded width.

9.61 On 30th August 2025, Warwickshire Wildlife Trust objected to the application because:

"Warwickshire wildlife Trust is concerned regarding the impact on surrounding designated 'Local Wildlife Sites' and lack of up-to-date wildlife surveys, specifically bat surveys, surprisingly no badger survey at all, no invertebrates, amphibian or full reptiles surveys. There also doesn't appear to be any mitigation measures for some protected species such as Bats, and GCN development. The proposal would also result in a loss of an important and at risk Warwickshire habitat, of Grassland, particularly important for in decline ground breeding birds."

9.62 On 22nd August 2025, Active Travel England stated that they are not currently in a position to support the application due to issues to do with trip generation assignment & mode shares, masterplanning & permeability and on-site facilities.

9.63 Even if the outline planning permission is approved, the site will remain as a category b) site and the Council will need to demonstrate clear evidence for the inclusion of this site in the 5YHLS.

Firm progress being made towards the submission of an application?

9.64 As above, an outline planning application for up to 800 dwellings is pending determination.



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

- 9.65 The Council's notes on its position statement state that the developer confirmed the housing trajectory for this site with the submitted outline planning application. This is the completion of 20 dwellings in year 4 (2028/29) and 52 dwellings in year 5 (2029/30). A further 728 dwellings are anticipated to be completed beyond the 5YHLS period (68 dwellings in each of 2030/31 and 2031/32 and 592 dwellings post 2032).

Firm progress with site assessment work?

- 9.66 As above, an outline planning application for up to 800 dwellings is pending determination.

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

- 9.67 No evidence has been provided.

Summary

- 9.68 The site does not have planning permission. An outline planning application for up to 800 dwellings is pending determination. Even if the outline planning permission is approved, the site will remain as a category b) site and the Council will need to demonstrate clear evidence for the inclusion of this site in the 5YHLS.
- 9.69 The Council has not provided "clear evidence that housing completions will begin on the site within five years". The site fails to meet the definition of "deliverable" as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **72 dwellings** from the Council's supply.



N/A – Taylor Wimpey remaining land

Capacity = 195 dwellings, Council's 5YHLS = 20 dwellings

9.70 The site does not have planning permission.

Current planning status?

9.71 The site does not have planning permission.

9.72 No planning application has been submitted.

Firm progress being made towards the submission of an application?

9.73 The Council states that:

“Application not yet received however Taylor Wimpey have confirmed they are progressing towards target submission this financial year.”

9.74 This is not “clear evidence that housing completions will begin on the site within five years”.

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

9.75 None provided. It appears that the Council has provided the housing trajectory for this site. It is anticipated that 20 dwellings will be completed in year 5 (2029/30). A further 175 dwellings are anticipated to be completed beyond the 5YHLS period (40 dwellings will be completed in each of 2030/31 and 2031/32 and 95 dwellings will be completed post 2032).

Firm progress with site assessment work?

9.76 No evidence has been provided.

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

9.77 No evidence has been provided.

Summary

9.78 The site does not have planning permission. No planning application has been submitted.

9.79 The Council has not provided “clear evidence that housing completions will begin on the site within five years”. The site fails to meet the definition of “deliverable” as set out on page 72 of the Framework and should be removed from the supply. This results in a reduction of **20 dwellings** from the Council's supply.



