

Proof of Evidence of Ben Pycroft re: Housing Land Supply  
For Gladman Developments Limited | 24-465

The erection of up to 90 dwellings at land off Scamps Hill, Lindfield  
PINS ref: APP/D3830/W/24/3350075

**Project:** 24-465  
**Site Address:** Land off Scamps Hill, Lindfield  
**Client:** Gladman Developments Limited  
**Date:** 18 November 2024  
**Author:** Ben Pycroft

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# 1. Introduction and summary

- 1.1 This proof of evidence is submitted on behalf of Gladman Developments Limited (i.e. “the Appellant”) in support of its appeal against the failure of Mid Sussex District Council to give notice within the relevant timescales of its decision on an outline planning application for:

“The erection of up to 90 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access”.

at land off Scamps Hill, Lindfield, West Sussex (LPA ref: DM/24/0446, PINS ref: APP/D3830/W/24/3350075).

- 1.2 This proof of evidence addresses matters relating to the Council’s five year housing land supply (5YHLS). It should be read alongside the proof of evidence of John MacKenzie, which addresses all other planning matters in relation to this case.

## Qualifications

- 1.3 I am Benjamin Michael Pycroft. I have a B.A. (Hons) and postgraduate diploma in Town Planning from the University of Newcastle-upon-Tyne and am a member of the Royal Town Planning Institute. I am a Director of Emery Planning, based in Macclesfield, Cheshire.
- 1.4 I have extensive experience in dealing with housing supply matters and have prepared and presented evidence relating to five year housing land supply calculations at several Local Plan examinations and over 70 public inquiries across the country.
- 1.5 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.
- 1.6 I provide this proof of evidence, a summary proof of evidence and a set of appendices. I also refer to several core documents and the Statement of Common Ground in relation to housing land supply.



## Relevant background

### Proposed changes to the National Planning Policy Framework and the standard method for calculating Local Housing Need

1.7 From the outset, my proof of evidence has been prepared in the context of the current version of the National Planning Policy Framework (the Framework), which was published on 20<sup>th</sup> December 2023. However, between 30<sup>th</sup> July and 24<sup>th</sup> September 2024, the Government consulted on a proposed revised Framework and a proposed revised standard method for calculating local housing need. The consultation documents explained:

“The Government will respond to this consultation and publish NPPF revisions before the end of the year, so that policy changes can take effect as soon as possible.”

1.8 More recently, the Government’s Budget document published on 30<sup>th</sup> October 2024 explained that the Government would respond to the consultation on the proposed revised Framework:

“before the end of the year to confirm pro-growth reforms to the planning system”.

1.9 The proposed revised Framework and proposed revised standard method would have the following significant implications for calculating 5YHLS in Mid Sussex:

- Firstly, whilst Mid Sussex’s 5YHLS is measured against Local Housing Need (LHN) calculated using the current version of the standard method, in her Written Ministerial Statement of 30<sup>th</sup> July 2024: “Building the homes we need”, the Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government stated that the current standard method “is not up to the job. It relies on decade-old population projections, an arbitrary ‘urban uplift’ that focuses too heavily on London and it lacks ambition across large parts of the country”. The Government therefore consulted on a proposed revised standard method. The outcome of the proposed revised standard method for Mid Sussex is that the LHN would be 1,276 dwellings per annum rather than 1,039 dwellings per annum (i.e. an increase of 237 dwellings per annum);
- Secondly, the consultation documents explain that the Government intends to reverse the changes made in the December 2023 version of the Framework, which were “detrimental to housing supply”. The changes made in the December 2023 version of the Framework included (amongst other things):
  - Removing the 5% buffer from the 5YHLS calculation. The Government now proposes to re-instate the 5% buffer. The consultation document explains that: “This will be added to all 5-year housing land supply calculations in decision making and plan making, and provide an important buffer of sites, ensuring choice and competition in the market”. The 5% buffer would therefore be applied to the 5YHLS calculation in Mid Sussex; and



- Allowing certain local planning authorities to only need to demonstrate a four year housing land supply (against a 5 year housing requirement) as set out in paragraph 226 of the Framework. The Government now proposes to re-instate the requirement for all local authorities to demonstrate a 5-year housing land supply at all times. It proposes to delete the wording of paragraph 226 of the December 2023 Framework. Mid Sussex would therefore need to demonstrate a 5YHLS.

1.10 The outcome of these proposed changes means that Mid Sussex would not be able to demonstrate a 5YHLS at 1<sup>st</sup> April 2024 by a significant margin even on its own supply figure. The Council considers the deliverable supply at 1<sup>st</sup> April 2024 to be 4,890 dwellings. Against the proposed revised standard method figure of 1,276 dwellings per annum and a 5% buffer, this equates to just **3.65 years** (a shortfall against the 5YHLS including a 5% buffer of 1,809 dwellings). My supply figure of 3,377 dwellings would equate to **2.52** years and a shortfall in the 5YHLS of 3,322 dwellings.

### The Council's latest position on 5YHLS

1.11 At the time the appeal was submitted, the Council's latest 5YHLS position was set out in the "Housing Land Supply Position Statement 1 April 2023 – October update"<sup>1</sup>. It was originally published over a year ago in July 2023 and updated in October 2023. This document explains that at 1<sup>st</sup> April 2023, the Council considered the deliverable supply at 1<sup>st</sup> April 2023 to be 5,770 dwellings, which against the local housing need (at 1<sup>st</sup> April 2023 of 1,090 dwellings per annum) and a 5% buffer equates to 5.04 years. As above, the December 2023 version of the Framework removed the 5% buffer and without this, the Council's position at 1<sup>st</sup> April 2023 equates to 5.29 years.

1.12 The start date for this appeal is 29<sup>th</sup> August 2024. On 17<sup>th</sup> September 2024, I wrote to the Council<sup>2</sup> to ask for (amongst other things) the following:

- Confirmation that the base date for calculating the 5YHLS at this appeal would be 1<sup>st</sup> April 2023 or alternatively when the revised position (e.g. with a base date of 1<sup>st</sup> April 2024) would be provided to the Appellant; and
- The "clear evidence" the Council relies on for the inclusion of sites which fall within category b) of the definition of deliverable as set out in the Annex on page 69 of the Framework.

1.13 On 26<sup>th</sup> September 2024, the Council responded by stating:

"The Council's most recently published formal housing supply position comes from the Albourne Inquiry in 2023 and our case for this appeal will be made clear in the SoC".

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<sup>1</sup> Core document **6.1**

<sup>2</sup> Appendix **EP2**



1.14 The Council's Statement of Case (SoC) was received on 3<sup>rd</sup> October 2024. Paragraph 3.20 on page 9 of the Council's SoC states:

"The Council's most recently published land supply position was established through an appeal at Henfield Road, Albourne (PINS reference APP/D380/W/23/3319542) which determined in October 2023 that the Council can demonstrate 5.04 years' worth of housing land supply as-at April 2023. The Council has not yet calculated its position as-at April 2024 which will be published in the normal manner in the Authority Monitoring Report towards the end of the year."

1.15 On the same day, I e-mailed the Council to ask for confirmation when the publication of the Authority Monitoring Report (AMR) would be and when a draft of the 5YHLS position at 1<sup>st</sup> April 2024 and all the supporting information would be made available to the Appellant as requested in my letter of 17<sup>th</sup> September.

1.16 On 4<sup>th</sup> October 2024, the Council's 5YHLS witness responded to state that the Council did not yet have a date for the publication of the AMR but was currently working on the April 2024 5YHLS material building on the land supply data already published for the Local Plan Examination. A link was provided to the "Housing Supply and Trajectory Topic Paper" (July 2024)<sup>3</sup>. The response from the Council also stated that it would make sense for the base date for the purpose of calculating the 5YHLS for this appeal to be 1<sup>st</sup> April 2024 on the assumption the Council would produce its position ahead of the exchange of evidence. The Council suggested that the Topic Paper be used as a starting point.

1.17 The Topic Paper explains that the Council considers it can demonstrate a deliverable supply of 5,770 dwellings at 1<sup>st</sup> April 2023, which equates to a 5.04 year supply (paragraph 5.2 and table 6, page 14). It also explains that the Council considers it can demonstrate a deliverable supply at 1<sup>st</sup> April 2024 of 6,063 dwellings, which equates to between 5.3 and 5.84 years depending on whether the requirement is based on the local housing need of 1,039 or 1,090 dwellings per annum and if a 5% buffer is applied (paragraph 5.9 and tables 7, 8, 9 and 10, page 15).

1.18 Table 11 (page 16) and Appendix 3 of the Topic Paper explain how the 6,063 dwelling supply figure has been calculated. It is of note that 1,942 of the 6,063 dwellings included sites allocated in the development plan, and of these 198 dwellings were on sites where a planning application had not been submitted at 1<sup>st</sup> April 2024 and 997 dwellings were on draft allocations in the emerging Local Plan.

1.19 On 4<sup>th</sup> October 2024, I responded to the Council by e-mail to request:

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<sup>3</sup> Core document **6.2**



- All the “clear evidence” the Council relies on for the inclusion of the sites within the trajectory paper which fall within category b) of the definition of “deliverable” and those which do not fall in category a) or b) i.e. the draft allocated sites; and
- A list of completions on a site by site basis with planning application references for the period 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2024 (I note the build rate on some of the larger sites is included in the trajectory paper).

1.20 The Case Management Conference (CMC) took place on 14<sup>th</sup> October 2024. At the CMC, the Council explained that its current 5YHLS position was that set out at 1<sup>st</sup> April 2023 but it was working on a new position statement (base date 1<sup>st</sup> April 2024).

1.21 On 28<sup>th</sup> October 2024, I sent the Council a list of the disputed sites at 1<sup>st</sup> April 2023 as part of a draft Statement of Common Ground (SoCG) on 5YHLS (at that time at a base date of 1<sup>st</sup> April 2023) and again requested the completions data I had requested in my e-mail of 4<sup>th</sup> October 2024 and the “clear evidence” I had requested in my letter of 17<sup>th</sup> September and e-mail of 4<sup>th</sup> October 2024.

1.22 On 4<sup>th</sup> November 2024, the Council sent me the list of completions for 2023/24<sup>4</sup> and a list of commitments at 1<sup>st</sup> April 2024<sup>5</sup>. On 6<sup>th</sup> November 2024, the Council responded with its comments on the list of disputed sites at 1<sup>st</sup> April 2023<sup>6</sup>.

1.23 On 7<sup>th</sup> November 2024 (i.e. 12 days before the exchange of evidence), the Council provided me with its 5YHLS position at 1<sup>st</sup> April 2024<sup>7</sup>. It also confirmed that the base date for calculating the 5YHLS for this appeal is 1<sup>st</sup> April 2024. Finally, the Council’s 5YHLS witness responded to the request for the two items listed in my e-mail on 4<sup>th</sup> October 2024 as follows:

“I think these items are largely sorted by the four docs shared this week (Commitments, Completions, Disputed Schedule and 5HLS Table attached).”

1.24 On 11<sup>th</sup> November 2024, the Council provided me with a document called “Site Evidence for Disputed Sites”<sup>8</sup>.

1.25 I summarise the list of sites set out in the 5YHLS Table, which the Council provided on 7<sup>th</sup> November 2023 (appendix **EP6**) as follows:

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<sup>4</sup> Appendix **EP3**

<sup>5</sup> Appendix **EP4**

<sup>6</sup> Appendix **EP5**

<sup>7</sup> Appendix **EP6**

<sup>8</sup> Appendix **EP7**





**Table 1.1 – Breakdown of Mid Sussex Council’s Claimed 5YHLS at 1<sup>st</sup> April 2024**

Source of supply	No. of sites	5YHLS	Category a) or b) or windfall allowance	Percentage of claimed supply
Small sites with planning permission (capacity 1 to 4 dwellings)	Not listed <sup>9</sup>	158	Category a)	3.23
Small sites with planning permission (capacity 5-9)	18	127	Category a)	2.60
Major sites (capacity 10+) with planning permission under construction	27	2,228	Category a)	45.56
Major sites (capacity 10+) with planning permission but not yet commenced	14	706	Category a)	14.44
Major sites (capacity 10+) with outline planning permission	4	744	Category b)	15.21
Major allocated sites (capacity 10+) with planning application submitted at the base date	9	747	Category b)	15.28
Major allocated sites (capacity 10+) without a planning application submitted at the base date	1	22	Category b)	0.45
Windfall allowance	-	158	Windfall allowance	3.23
<b>Total</b>		<b>4,890</b>		

1.26 The Council’s supply figure of 4,890 dwellings equates to 4.71 years against a local housing need (at 1<sup>st</sup> April 2024) of 1,039 dwellings (i.e.  $4,890 / 1,039 = 4.71$ ). The 4,890 figure is 734 dwellings more than the 4 year supply that currently needs to be demonstrated in accordance with paragraphs 77 and 226 of the December 2023 version of the Framework.

1.27 I note that the Council’s claimed deliverable supply of 4,890 dwellings at 1<sup>st</sup> April 2024 is 880 dwellings (16%) less than its claimed deliverable supply at 1<sup>st</sup> April 2023 of 5,770 dwellings. I also note that the Council’s figure of 4,890 dwellings is 1,173 dwellings (19%) less than its claimed deliverable supply at 1<sup>st</sup>

<sup>9</sup> The Council has since provided me with a list of sites (capacity 1-4 dwellings) with planning permission at 1<sup>st</sup> April 2024 – please see appendix EP8



April 2024 of 6,063 dwellings as set out in the Topic Paper referred to above. The draft allocations in the emerging Local Plan are not included in the 4,980 figure.

1.28 As shown in table 1.1 above, 1,513 dwellings (31% of the claimed supply) are on 14 category b) sites as set out in the definition of deliverable in the Annex on page 69 of the Framework. For these sites, the onus is on the Council to provide “clear evidence” for their inclusion on the 5YHLS. As I have set out above, I have asked the Council on several occasions to provide the clear evidence it relies on for the inclusion of these sites. As I also set out above, the Council considers the clear evidence it relies on to be included in the documents I append at **EP3** to **EP7**. The Council also relies on the Albourne appeal decision<sup>10</sup>. However, despite my requests for the clear evidence to be provided in advance of the exchange of evidence, should the Council produce additional evidence to support the inclusion of category b) sites in the deliverable supply, then the Appellant will need to address it in rebuttal evidence.

## Summary

1.29 The Council now accepts that it cannot demonstrate a 5YHLS but claims that it can demonstrate a four year housing land supply against its local housing need as it is currently required to by paragraphs 77 and 226 and footnote 42 of the Framework. The Council’s latest position is that it has a deliverable supply at 1<sup>st</sup> April 2024 of 4,890 dwellings, which against the local housing need calculated against the current standard method of 1,039 dwellings per annum equates to **4.71 years** (a surplus over a requirement to demonstrate a four year housing land supply of 734 dwellings).

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

- The relevant base date for assessing the 5YHLS the purpose of this appeal is 1<sup>st</sup> April 2024 and the relevant 5YHLS period is to 31<sup>st</sup> March 2029;
- The 5YHLS should be measured against the local housing need calculated using the standard method set out in the Planning Practice Guidance (PPG). This is currently 1,039 dwellings per annum;
- A buffer does not currently apply to the 5YHLS calculation; and
- The Council is only currently required to demonstrate a 4 year housing land supply.

1.31 The extent of the deliverable supply is not agreed. As above, the Council considers that it can demonstrate a deliverable supply of 4,890 dwellings.

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<sup>10</sup> Core document **5.1**



1.32 For the reasons set out in my proof of evidence and in appendix EP1 of my proof of evidence, I conclude that the Council has not provided clear evidence for the inclusion of the category b) sites. This means 1,513 dwellings on the following disputed sites should be removed from the Council's 5YHLS.

**Table 1.2 – Disputed sites in the Council's 5YHLS at 1<sup>st</sup> April 2024**

Ref:	Address	Status at 1 <sup>st</sup> April 2024	No. of dwellings in Council's 5YHLS on category b) sites
1125	Brookleigh, care element, Hill, 1C	Outline pp	60
493	Brookleigh, Burgess Hill (remainder)	Outline pp	635
832	Land west of Selsfield Road, Ardingly	Outline pp	35
1113	Linden House, Southdowns Park, Haywards Heath	Outline pp	14
470	Wealden House, Lewes Road, Ashurst Wood	No planning permission Full planning application pending determination	50
827	Land south of 96 Folders Lane, Burgess Hill (SA12)	No planning permission Full planning application pending determination	40
840	Woodfield House, Isaacs Lane, Burgess Hill (SA17)	No planning permission Full planning application pending determination	30
479	Land at Hanlye Lane, east of Ardingly Road, Cuckfield (SA23)	No planning permission Full planning application pending determination	55
196	Land south of Crawley Down Road, Felbridge	No planning permission Full planning application pending determination	170
770	Land south and west of Imberhorne Upper School, East Grinstead (SA20)	No planning permission Hybrid planning application pending determination	150
246	Hurst Farm, Hurstwood Lane, Haywards Heath	No planning permission	215



Ref:	Address	Status at 1 <sup>st</sup> April 2024	No. of dwellings in Council's 5YHLS on category b) sites
		Resolution to grant outline planning permission	
807	Land south of the Old Police House, Birchgrove Road, Horsted Keynes (SA28)	No planning permission Resolution to grant full planning permission	25
477	Land adjacent to Cookhams, south of Top Road, Sharpthorne	No planning permission Resolution to grant full planning permission	13
847	Former East Grinstead Police Station, East Grinstead (SA18)	No planning permission or application	22
	<b>Total</b>		<b>1,513</b>

1.33 I therefore conclude that the 5YHLS at 1<sup>st</sup> April 2024 is 3,377 dwellings (i.e. 4,890 – 1,513 = 3,377). Against the current Local Housing Need, this equates to 3.25 years as shown in the following table:

**Table 1.3 – Mid Sussex's 5YHLS at 1<sup>st</sup> April 2024 (against the current local housing need)**

		Council	Appellant
	<b>Requirement</b>		
A	Annual housing requirement	1,039	
B	Five year housing requirement (A X 5 years)	5,195	
	<b>Supply</b>		
C	5YHLS at 1 <sup>st</sup> April 2024	4,890	3,377
D	Supply in years (C / A)	<b>4.71</b>	<b>3.25</b>
E	Surplus / shortfall in 5YHLS (C – B)	<b>-305</b>	<b>-1,818</b>
F	Surplus / shortfall against 4 year requirement	<b>734</b>	<b>-779</b>

1.34 The policy implication of this is addressed by John MacKenzie.



1.35 Against the proposed revised local housing need and a 5% buffer, the supply would be 2.52 years as shown in the following table.

**Table 1.4 – Mid Sussex’s 5YHLS at 1<sup>st</sup> April 2024 (against the proposed revised local housing need and a 5% buffer)**

		Council	Appellant
	<b>Requirement</b>		
A	Annual housing requirement	1,276	
B	Five year housing requirement (A X 5 years)	6,380	
C	Five year housing requirement + 5% buffer (B +5%)	6,699	
D	Annual 5YHLS requirement + 5% buffer (C / 5)	1,340	
	<b>Supply</b>		
E	5YHLS at 1 <sup>st</sup> April 2024	4,890	3,377
F	Supply in years (E / D)	<b>3.65</b>	<b>2.52</b>
G	Shortfall in 5YHLS (E – C)	<b>-1,809</b>	<b>-3,322</b>



## 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 the consequences of failing to demonstrate a 5YHLS (or in some cases currently the failure to demonstrate a 4 year housing land supply against a 5 year requirement).

### Development plan context

2.2 The existing development plan comprises the Mid Sussex District Plan 2014 - 2031 (adopted March 2018), the Site Allocations Development Plan Document (adopted June 2022) and saved policies of the Mid Sussex Local Plan (adopted May 2004).

2.3 The conformity of the appeal proposals with the policies in the development plan, whether the most important policies for determining the appeal are up to date and the weight to be given to those policies are addressed by John MacKenzie.

2.4 Of relevance to my proof of evidence is policy DP4 of the Mid Sussex District Local Plan 2014 - 2031: "Housing". This policy explains that the minimum District Housing requirement is 16,390 dwellings between 2014 – 2031. It explains that the plan will deliver an average of 876 dwellings per annum until 2023/24 and thereafter an average of 1,090 dwellings per annum between 2024/25 and 2030/31. Policy DP4 also states:

"The Council commits to commencing preparation of a Site Allocations DPD in 2017 to be adopted in 2020. The DPD will identify further sites which have capacity of 5 or more residential units. The Council will review the District Plan, starting in 2021, with submission to the Secretary of State in 2023".

2.5 The Site Allocations DPD was not adopted until 2022. The District Plan Review was not submitted for examination until July 2024.

2.6 Policy DP4 of the Local Plan has not been reviewed and found to be up to date. Therefore, in accordance with paragraph 77 and footnote 42 of the Framework, the 5YHLS should be measured against the local housing need calculated using the standard method set out in the Planning Practice Guidance (PPG). This is currently 1,039 dwellings per annum at 1<sup>st</sup> April 2024. Should the Government adopt its proposed revised standard method then this would be 1,276 dwellings per annum.



- 2.7 Appendix A on page 111 of the Mid Sussex District Plan 2014 – 2031 provides a housing trajectory.
- 2.8 Some of the disputed sites set out in my appendix **EP1** are allocated in the Site Allocations DPD. Appendix C on page 114 of the Site Allocations DPD provides a housing trajectory.

## Other material considerations

### Emerging development plan

- 2.9 The Council is preparing a new Local Plan called the “Mid Sussex District Plan 2021 – 2039”.
- 2.10 The Submission version of the Plan was published for Regulation 19 consultation between January and February 2024. The Plan was submitted for examination in July 2024 and the first examination hearing sessions (known as “Stage 1”) took place in October 2024. The stage 1 hearing sessions related to fundamental issues which needed testing, such as legal compliance matters including the Duty to Cooperate; the appropriateness of the overall development strategy of the Plan; flood risk; housing need and transport matters.
- 2.11 The Stage 2 hearing sessions will consider the policies of the Plan in more detail but the details of when they will commence is yet to be confirmed.
- 2.12 As the Council has submitted a Local Plan for examination which includes both a policies map and proposed allocations to address housing need, the Council is only currently required to demonstrate a 4 year housing land supply in accordance with paragraph 77 and 226 of the current (December 2023) version of the Framework. However, as I explained in the introduction to my proof of evidence, the new Government considers that the 4 year housing land supply provision is detrimental to housing land supply and is proposing to remove it, which would then require the Council to demonstrate a 5YHLS at all times.
- 2.13 As set out in section 1 of my proof of evidence, I refer to the “Housing Supply and Trajectory Topic Paper”<sup>11</sup> in my proof of evidence.

### Mid Sussex Housing Land Supply Position (July 2023 and updated October 2023)

- 2.14 The Mid Sussex Housing Land Supply Position (July 2023 and updated October 2023)<sup>12</sup> sets out the Council’s 5YHLS at 1<sup>st</sup> April 2023. As set out in the introduction to my proof of evidence, the published

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<sup>11</sup> Core document **6.2**

<sup>12</sup> Core document **6.1**



statement claims that the deliverable 5YHLS is 5,770 dwellings, which against the local housing need (at 1<sup>st</sup> April 2023 of 1,090 dwellings per annum) and a 5% buffer equates to 5.04 years.

### Land south of Henfield Road, Albourne appeal decision – 5<sup>th</sup> October 2023

2.15 The Council’s 5YHLS position at 1<sup>st</sup> April 2023 was considered at a public inquiry which was held between 15<sup>th</sup> and 22<sup>nd</sup> August 2023 in relation to an appeal made by Croudace Homes Ltd against the decision of the Council to refuse to grant outline planning permission for up to 120 dwellings at land south of Henfield Road, Albourne<sup>13</sup>. In dismissing the appeal, the Inspector concluded that the Council could demonstrate a 5YHLS at 1<sup>st</sup> April 2023. I discuss this appeal decision in my appendix **EP1** in relation to the disputed sites for this appeal. I also append the evidence the Council submitted in relation to 5YHLS at that appeal at appendix **EP9**. This is because it contains the “clear evidence” the Council continues to rely on for the inclusion of some of the disputed sites in this appeal.

### Council’s 5YHLS position at 1<sup>st</sup> April 2024

2.16 As I set out in the introduction to my proof of evidence, the Council has recently updated its 5YHLS position to a base date of 1<sup>st</sup> April 2024 and this is appended to my proof of evidence at appendix **EP6**. The Council now claims it has a deliverable supply at 1<sup>st</sup> April 2024 of 4,980 dwellings, which against a local housing need of 1,039 dwellings equates to 4.79 years. I have addressed this position in my evidence.

### National Planning Policy and Guidance

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

2.17 The Framework was published in March 2012. It was revised in July 2018, February 2019, July 2021, September 2023, 19<sup>th</sup> December 2023 and most recently on 20<sup>th</sup> December 2023. The relevant sections of the December 2023 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 4YHLS if applicable as set out in paragraph 226 or b) where the Housing Delivery Test result is less than 75%;
- Section 5: Delivering a sufficient supply of homes, including:
  - Paragraph 60, which refers to the Government’s objective of significantly boosting the supply of homes;

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<sup>13</sup> PINS ref: 3319542 – 5<sup>th</sup> October 2023 – core document **5.1**





- Paragraph 61, which explains that the minimum number of homes needed should be informed by a local housing need calculated using the standard method set out in the PPG. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area;
  - Paragraph 72, in relation to an allowance for windfall sites;
  - Paragraph 75, which states that strategic policies should include a trajectory illustrating the expected rate of delivery over the plan period. It states that local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies;
  - Paragraph 76, which states that local planning authorities are not required to demonstrate a 5YHLS where a) the adopted plan is less than five years old and the adopted plan identified a 5YHLS of specific, deliverable sites at the time the examination concluded. Transitional arrangements set out in footnotes 40 and 79 explain that this should only be taken into account as a material consideration when dealing with applications made on or after 20<sup>th</sup> December 2023;
  - Paragraph 77, which explains that the requirement to demonstrate a 5YHLS (or in some circumstances a 4YHLS) is a minimum requirement and explains that the supply should be measured against either the housing requirement set out in adopted strategic policies, or the local housing need where the strategic policies are more than five years old. Footnote 42 explains that if the adopted housing requirement has been reviewed and found not to require updating, it should still be used. Footnote 42 also explains that where the local housing need is used it should be calculated using the standard method set out in the PPG. Paragraph 77 and footnote 43 also explain that a 20% buffer should apply where the latest HDT result is less than 85%. Finally, paragraph 77 of the Framework states that the PPG provides further information on calculating housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed;
  - Paragraph 78, which explains the circumstances in which a 5YHLS can be confirmed through an annual position statement; and
  - Paragraph 79, in relation to Housing Delivery Test Action Plans and the policy consequences for failing the HDT.
- Annex 1: Implementation, including:
    - Paragraph 224, which explains that the policies in the Framework are material considerations which should be taken into account when dealing with applications from 20<sup>th</sup> December 2023. As above, footnote 79 explains that as an exception to this, paragraph 76 and the related reference in footnote 8 should only be taken into account as a material consideration when dealing with applications made on or after 20<sup>th</sup> December 2023; and
    - Paragraph 226, which explains the circumstances when a local planning authority only has to demonstrate a 4YHLS i.e. where an authority has an emerging local plan that has



either been submitted for examination or has reached regulation 18 or 19 stage and includes both a policies map and proposed allocations towards meeting housing need. Paragraph 226 of the Framework explains that this does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76.

- Annex 2: Glossary, including:
  - The definition of “deliverable” on page 69. I discuss the definition of deliverable in the Framework in section 3 of my proof of evidence; and
  - The definition of “windfall sites” on page 76.

2.18 As I explained in section 1 of my proof of evidence, between 30<sup>th</sup> July and 24<sup>th</sup> September 2024, the Government consulted on a revised Framework and a revised standard method for calculating local housing need. The Government has explained it will respond to the consultation by the end of the year. As I explained in paragraph 1.10 of my proof of evidence above, the proposed revisions to the standard method and the Framework have significant implications for Mid Sussex Council because if they were adopted then the Council would not be able to demonstrate a 5YHLS by a significant margin.

### **Planning Practice Guidance (PPG)**

2.19 The PPG was first published in March 2014 and has been updated since. 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. Some paragraphs within this chapter were most recently updated on 5<sup>th</sup> February 2024.

2.20 The PPG will need to be updated should a revised Framework and / or standard method be adopted.



### 3. What constitutes a deliverable site?

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

##### 3.1 Footnote 11 of the 2012 Framework stated:

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

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

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

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

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

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

##### 3.4 The Government consulted on a 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 69 of the Framework (December 2023). For the avoidance of doubt, the Government is not proposing to change it in the draft revised Framework (July – September 2024). 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 5<sup>th</sup> February 2024. Paragraph 68-007 of the PPG<sup>14</sup> provides some examples of the types of evidence, which could be provided to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission. It states:

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

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

Such evidence, to demonstrate deliverability, may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;
- 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 2023 Framework is clear that only sites with

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<sup>14</sup> Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”



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

3.11 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.

### Mid Sussex’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 1,513 dwellings (31%) of the Council’s claimed deliverable supply of 4,980 dwellings are on sites that were within category b) of the definition of deliverable at the base date (1<sup>st</sup> April 2024) as shown in the following table:

**Table 3.1 – Sites in Mid Sussex’s 5YHLS at 1<sup>st</sup> April 2024 on category b) sites**

Ref:	Address	Status at 1 <sup>st</sup> April 2024	No. of dwellings in Council’s 5YHLS on category b) sites
1125	Brookleigh, care element, Hill, 1C	Outline pp	60
493	Brookleigh, Burgess Hill (remainder)	Outline pp	635
832	Land west of Selsfield Road, Ardingly	Outline pp	35
1113	Linden House, Southdowns Park, Haywards Heath	Outline pp	14
470	Wealden House, Lewes Road, Ashurst Wood	No planning permission Full planning application pending determination	50
827	Land south of 96 Folders Lane, Burgess Hill (SA12)	No planning permission Full planning application pending determination	40
840	Woodfield House, Isaacs Lane, Burgess Hill (SA17)	No planning permission Full planning application pending determination	30



Ref:	Address	Status at 1 <sup>st</sup> April 2024	No. of dwellings in Council's 5YHLS on category b) sites
479	Land at Hanlye Lane, east of Ardingly Road, Cuckfield (SA23)	No planning permission Full planning application pending determination	55
196	Land south of Crawley Down Road, Felbridge	No planning permission Full planning application pending determination	170
770	Land south and west of Imberhorne Upper School, East Grinstead (SA20)	No planning permission Hybrid planning application pending determination	150
246	Hurst Farm, Hurstwood Lane, Haywards Heath	No planning permission Resolution to grant outline planning permission	215
807	Land south of the Old Police House, Birchgrove Road, Horsted Keynes (SA28)	No planning permission Resolution to grant full planning permission	25
477	Land adjacent to Cookhams, south of Top Road, Sharpthorne	No planning permission Resolution to grant full planning permission	13
847	Former East Grinstead Police Station, East Grinstead (SA18)	No planning permission or application	22
	<b>Total</b>		<b>1,513</b>

3.13 In the absence of clear evidence of deliverability, these 1,513 dwellings should be removed from the Council's 5YHLS.

3.14 The significant reliance of 1,513 dwellings on category b) sites is also relevant in the context of a "headroom" of just 734 dwellings above a four year supply.

3.15 The onus is on the Council to provide clear evidence of deliverability for category b) sites. This was confirmed in a decision dated 28<sup>th</sup> 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, Woolpit<sup>15</sup>. 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)

3.16 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 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)

3.17 As I set out in the introduction to my proof of evidence, I have asked the Council to provide the “clear evidence” it relies on to support the inclusion of category b) sites. This has been provided as set out in my appendices **EP3** to **EP7**. Where reference has been made to the Albourne appeal decision and evidence relied on in that case, this is appended at **EP9**. I refer to this evidence in my appendix **EP1**.

3.18 However, I make the following general points with reference to relevant appeal decisions and annual position statements where the definition of “deliverable” and “clear evidence” have been considered.

## Annual position statements

3.19 Annual position statements are defined in the Glossary on page 68 of the December 2023 Framework as follows:

“A document setting out the 5 year housing land supply position on 1<sup>st</sup> April each year, prepared by the local planning authority in consultation with developers and others who have an impact on delivery.”

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<sup>15</sup> PINS ref: 3194926 – 28<sup>th</sup> September 2018 – core document **5.6**





3.20 Paragraph 78 of the December 2023 Framework states:

“Where the criteria in paragraph 76 are not met, a local planning authority may confirm the existence of a five-year supply of deliverable housing sites (with a 20% buffer if applicable) through an annual position statement which:

- a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and
- b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process”

3.21 Paragraph 68-013 of the PPG answers the question: “How will an annual position statement be assessed?” as follows:

“When assessing an annual position statement, the Planning Inspectorate will carry out a 2 stage assessment:

- first, they will consider whether satisfactory stakeholder engagement has been carried out
- second, they will look at whether the evidence is sufficient to demonstrate a 5 year supply of deliverable housing sites (with the appropriate buffer), using 1 April as the base date in the relevant year. In doing so, they will consider whether the sites identified in the assessment are ‘deliverable’ within the next five years, in line with the definition in Annex 2 of the Framework.

The Planning Inspector’s assessment will be made on the basis of the written material provided by the authority, and the Inspector will not refer back to the local planning authority or other stakeholders to seek further information or to discuss particular sites. It is therefore important that the authority has carried out a robust stakeholder engagement process and that adequate information is provided about disputed sites.”

3.22 Few authorities choose to have their 5YHLS confirmed through the Annual Position Statement (APS) route. South Kesteven has had its 5YHLS confirmed through this process and I consider how Inspectors have assessed whether that Council had sufficient clear evidence of deliverability for the inclusion of sites below.

### South Kesteven – 2022 APS

3.23 South Kesteven submitted its APS for examination in July 2022. It claimed that at 1<sup>st</sup> April it had a deliverable supply of 4,770 dwellings, which equated to 6.1 years. Whilst Inspector John Felgate found the



Council could demonstrate a 5YHLS, he removed 693 dwellings from 10 sites in the Council’s claimed supply and concluded the supply equated to 5.2 years.

3.24 Of the 10 sites, the Inspector reduced the number of dwellings that should be included in the 5YHLS on four sites and concluded that six sites should be removed from South Kesteven’s claimed supply. This was because the Council had not provided clear evidence for their inclusion and therefore these sites did not meet the definition of “deliverable”. Whilst the Council had provided “Housing Deliverability Forms” and emails provided by those promoting sites<sup>16</sup>, which included information such as when applications were going to be made and when a start on site could be expected, the Inspector found it was not clear evidence and removed the sites. The six removed sites were:

- APS007(S) Bridge End Road, Grantham (120 dwellings);
- APS011(S) Grantham Church High School, Queensway (40 dwellings);
- APS041 Main Road (South), Long Bennington (10 dwellings);
- APS043 Thistleton Lane/Mill Lane, South Witham (24 dwellings);
- APS045 Towngate West, Market Deeping (73 dwellings); and
- APS063(S) Land at Brittain Drive, Grantham (16 dwellings).

### South Kesteven – 2023 APS

3.25 South Kesteven then submitted its 2023 draft APS for assessment. It claimed that it had a deliverable supply at 1<sup>st</sup> April 2023 of 4,816 dwellings. Inspector Christina Downes found the Council could demonstrate a 5.01 year supply but concluded that 866 dwellings should be removed from the following 9 sites<sup>17</sup>:

**Table 3.3 – Deductions to South Kesteven’s 5YHLS at 1<sup>st</sup> April 2023**

Reference	Address	APS Inspector deduction	Reference in APS Inspector’s Report (EP4)
APS 017	Land north of Barnack Road, Stamford	110	Paragraphs 29-31, page 7
APS 023	Land north of Towngate East and south of Northfield Road, Market Deeping	120	Paragraph 32, pages 7 and 8

<sup>16</sup> Appendix EP10

<sup>17</sup> Appendix EP11



Reference	Address	APS Inspector deduction	Reference in APS Inspector's Report (EP4)
APS 041	Main Road (South), Long Bennington	39	Paragraphs 38-39, page 9
APS 043	Thistleton Lane and Mill Lane, South Witham	28	Paragraphs 40-42, pages 9-10
APS 045	Towngate West, Market Deeping	73	Paragraphs 43-44, page 10
APS 048	Rectory Farm (Phase 2 North West Quadrant), Grantham	100	Paragraphs 47-49, pages 10-11
APS 049	Prince William of Gloucester Barracks, Grantham	175	Paragraphs 50-52, pages 11-12
APS 054	Folkingham Road, Morton	71	Paragraphs 56-58, pages 12-13
APS 058	Stamford North	150	Paragraphs 59-62, pages 13-14
	<b>Total</b>	<b>866</b>	

3.26 Again, for these sites, South Kesteven provided Site Deliverability Information in the form of completed proformas<sup>18</sup>. However, the Inspector did not find this was clear evidence for the inclusion of 866 dwellings in the claimed 5YHLS.

3.27 This is relevant because the proformas and information provided by South Kesteven in support of its 2022 and 2023 Annual Position Statements are similar to those provided by Mid Sussex in support of some of its category b) sites (as provided in appendix EP9). I respectfully invite the Inspector to compare the evidence which was found not to be clear evidence by Inspectors Felgate and Downes in South Kesteven with the evidence Mid Sussex has provided in support of its trajectory.

## Relevant appeal decisions

3.28 There have been several appeal decisions which have considered the definition of “deliverable” since it was first introduced in the 2018 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

<sup>18</sup> Appendix EP12



basis on the evidence before the decision-maker, several themes have arisen in appeal decisions, which I discuss below.

### The absence of any written evidence

3.29 Where no evidence has been provided for the inclusion of category b) sites, the Secretary of State and Inspectors have concluded that these sites should be removed. For example:

- In an appeal decision regarding land off Audlem Road, Stapeley, Nantwich and land off Peter De Stapeleigh Way, Nantwich<sup>19</sup>, the Secretary of State removed 301 dwellings from Cheshire East Council's supply from sites including: *"sites with outline planning permission which had no reserved matters applications and no evidence of a written agreement"* (paragraph 21 of the decision letter dated 15<sup>th</sup> July 2020);
- In an appeal decision regarding land to the south of Cox Green Road, Surrey<sup>20</sup> an Inspector removed 563 dwellings on 24 sites from Waverley Council's supply because the Council had not provided any evidence for their inclusion (paragraphs 22 to 24 of the appeal decision dated 16<sup>th</sup> September 2019);
- In an appeal decision regarding land at Station Road, Stalbridge, North Dorset<sup>21</sup> an Inspector removed 2 large sites from North Dorset's supply (references A02 and A04) because the Council had not provided any up to date information from the developers for these sites and applications for reserved matters had not been made (paragraphs 53 and 57); and
- In an appeal decision regarding land within the Westhampnett / North East Strategic Development Location, North of Madgwick Lane, Chichester<sup>22</sup>, an Inspector removed the second phase of a wider site that is under construction on the basis that an application for reserved matters had not been made for phase 2 and the fact that a major housebuilder was progressing phase 1 was not in itself clear evidence (paragraph 82).

3.30 In a decision relating to an appeal regarding land at Weddington Road, Weddington, Nuneaton<sup>23</sup>, 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 Discovery Academy where there was no clear evidence of firm progress being made towards the submission of a reserved matters. The Inspector stated: *"The information from the Council does not explain what the application for reserved matters would look like, when it will be made or when applications to discharge the*

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<sup>19</sup> PINS refs: 2197532 and 2197529 – core document **5.2**

<sup>20</sup> PINS ref: 3227970 – core document **5.3**

<sup>21</sup> PINS ref: 3284485 – core document **5.4**

<sup>22</sup> PINS ref: 3270721 – core document **5.5**

<sup>23</sup> PINS ref: 3330615 – 26<sup>th</sup> July 2024 – core document **5.17**



pre- commencement conditions set out in the outline planning permission are to be made. Further decisions on funding are also required in the Summer. To conclude that even with slippage all 58 units could be delivered by 2028 is not borne out in the evidence before me. It should not be considered deliverable at the base date and 58 dwellings should be removed from the supply” (paragraphs 164 and 165);

- 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);
- A site at West of Bulkington which had a resolution to grant full planning permission and the issuing of the planning permission had been “imminent” for some time but the S106 agreement has still not been issued (paragraphs 174 and 174); and
- A site at Phoenix Way / Wilsons Lane which had outline planning permission but “There is no firm progress with the site assessment work to support a reserved matters application, information as to who is going to submit the reserved matters application, what it will be for or when it is going to be determined. None of the timescales have been confirmed in a written agreement with the developer and it is still unknown who the developer will be. There is no clear evidence of deliverability and 73 should be removed from the supply”.

### The most up to date evidence

3.31 In an appeal regarding land on the east side of Green Road, Woolpit<sup>24</sup>, the Inspector found Mid Suffolk Council’s approach in publishing its AMR and then retrospectively seeking evidence to justify its position “wholly inadequate”. Paragraph 70 of the appeal decision states:

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

3.32 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)<sup>25</sup>, the Secretary of State agreed with Inspector Gilbert-Woolridge that the latest available evidence should be used when considering deliverability. Paragraph 12 of the Secretary of State’s decision letter dated 25<sup>th</sup> June 2020 states:

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<sup>24</sup> PINS ref: 3194926 – core document 5.6

<sup>25</sup> PINS ref: 3169314 – core document 5.7



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

3.33 Similarly, in a decision regarding land off Darnhall School Lane, Winsford<sup>26</sup>, the Secretary of State agreed with Inspector Middleton that it is appropriate to take into account information received after the base date if it affects sites included in the deliverable supply<sup>27</sup>.

3.34 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 appeal<sup>28</sup>, the Secretary of State removed from Cheshire East Council’s supply;

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

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

### The form and value of the evidence

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

3.37 For example, in allowing an appeal for 120 dwellings at land east of Gleneagles Way, Hatfield Peverel<sup>29</sup>, the Secretary of State found Braintree Council could not demonstrate a five year housing land supply.

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<sup>26</sup> PINS ref: 2212671 – core document **5.8**

<sup>27</sup> Paragraph 344 of the Inspector’s Report and paragraph 15 of the Decision Letter.

<sup>28</sup> PINS refs: 2197532 and 2197529 – core document **5.2**

<sup>29</sup> PINS ref: 3180729 – core document **5.9**



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

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

3.39 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<sup>30</sup>. However, the Secretary of State removed these sites because he did not consider they met the definition of “deliverable” as set out in the Framework.

3.40 Again, the proformas relied on by Braintree are similar to the evidence relied on by Mid Sussex. However, the Secretary of State found the evidence provided by Braintree was not clear evidence.

3.41 As part of its case in seeking to defend an appeal against its decision to refuse to grant outline planning permission for up to 140 no. dwellings at land off Popes Lane, Sturry<sup>31</sup>, Canterbury City Council claimed that it could demonstrate a 6.72 year supply. For there to be a shortfall in the supply, Canterbury Council claimed that some 1,654 dwellings (out of 6,455 dwellings) would have to be removed from the “deliverable” supply.

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

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

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<sup>30</sup> Appendix EP13

<sup>31</sup> PINS ref: 3216104 – core document 5.10



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

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

3.44 Similarly, as part of its case in seeking to defend an appeal made by Parkes Ltd against its decision to refuse to grant outline planning permission for up to 53 dwellings at land to the south of Cox Green Road, Rudgwick<sup>32</sup>, Waverley Council claimed it could demonstrate a supply of 5,708 dwellings, which equated to just under 5.2 years against its housing requirement and buffer.

3.45 The Inspector concluded that the supply should be reduced by 928 dwellings and therefore that Waverley Council could only demonstrate a “deliverable” supply of 4.3 years. The reasons why the Inspector considered the supply should be reduced are set out in paragraphs 10 to 27 of the appeal decision. I note that whilst Waverley Council’s assumptions of delivery on a site at Dunsfold Park relied on estimated numbers of delivery from a pro-forma returned by the site’s lead developer, the Inspector however considered that the details contained within it were “scant”. There was no explanation as to how the timings of delivery could be achieved including the intended timescales for submitting and approving reserved matters, applications of discharge of conditions, site preparation and installing infrastructure. The Inspector therefore did not include the site.

3.46 I now refer to two appeal decisions in Oxfordshire and one in Central Bedfordshire where the definition of “deliverable” and “clear evidence” were considered. For these cases I also append the clear evidence the Councils in those cases relied on.

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<sup>32</sup> PINS ref: 3227970 – core document 5.3





## Little Sparrows, Sonning Common (South Oxfordshire) Appeal Decision

- 3.47 At the time the South Oxfordshire Local Plan was examined, the Council's 5YHLS position at 1<sup>st</sup> April 2020 was that it could demonstrate a 5.35 year supply. These claims were tested soon after the Local Plan was examined at an inquiry in relation to an appeal regarding Little Sparrows, Sonning Common<sup>33</sup>. In that case, the Inspector concluded that the Council could only demonstrate a 4.21 year supply.
- 3.48 Paragraph 18 of the appeal decision explains that at the inquiry, the Council's case had fallen to 5.08 years. The Council's case at that time was that it could demonstrate a deliverable 5YHLS of 5,785 dwellings and the Appellant's case was that it could demonstrate a deliverable 5YHLS of 4,789 dwellings. The difference between the two positions was 996 dwellings on 15 sites as set out in table 3 of the SoCG for that case as referred to in paragraph 19 of the appeal decision.
- 3.49 Paragraphs 20 and 21 of the appeal decision then state:

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

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

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

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)

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<sup>33</sup> PINS ref: 3265861 – 25<sup>th</sup> June 2021 – core document 5.12



3.50 This is relevant because in that case the Council had submitted emails from those promoting sites<sup>34</sup>. However, the Inspector in that case found that such emails were not clear evidence as set out in the paragraphs above.

3.51 Paragraph 22 of the appeal decision then stated:

“It is not necessary for me to go through all of the disputed sites in Table 3 of SoCG 5. **In my view, the Council was not able to provide clear evidence of delivery on most of the disputed sites which significantly undermines its position.** For example, the Council suggests that 100 dwellings would be delivered at Site 1561: Land to the south of Newham Manor, Crowmarsh Gifford whereas the Appellant says 100 dwellings should be deducted. The comments set out by the Appellant for this site in Table 3 are compelling. Similarly, at Site 1009: Land to the north east of Didcot, the Council suggests 152 dwellings would be delivered whereas the Appellant says 152 dwellings should be deducted. The Appellant provides cogent evidence to support its case. Furthermore, at Site 1418: Land at Wheatley Campus, the Council agrees a deduction but only of 62 dwellings whereas the Appellant says the deduction should be 230. **There is no clear evidence before me that would suggest that these sites or indeed most of the disputed sites would deliver the completions suggested by the Council in the next five years**” (emphasis added)

3.52 Paragraph 23 of the appeal decision states:

“Overall, I consider that the Appellant’s assessment of supply set out in Table 2 of SoCG 5 is more realistic taking into account the test of deliverability set out in Appendix 2 to the NPPF and the PPG advice published on 22 July 2019. I am satisfied that the Appellant’s approach is consistent with national policy, case law, appeal decisions and informed by current housebuilder sales rates, assessment of the technical complexities of delivering development sites and experience of the housebuilding industry including lead-in times”

3.53 Finally, paragraph 25 of the appeal decision states:

“I consider that the Council’s supply figure should be reduced to reflect the Appellant’s position set out in Table 2 of SoCG 5. The Council’s supply figure of 5,785 dwellings in Table 2 should be reduced to give a more robust total supply figure of 4,789 dwellings for the five year period. Although the Council maintains there is a 5.08 year supply, the evidence that is before me indicates a housing land supply equivalent to 4.21 years. The implications of not having a five-year housing land supply are significant. Not only is there a shortfall, but it also means most important policies for determining the application are automatically out-of-date. The Council accepts that means all the

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<sup>34</sup> Appendix EP14



policies in the SOLP and the SCNP are out-of-date. It also means if the paragraph 172 tests in the NPPF are satisfied then the tilted balance applies.”

#### Land west of Wroslyn Road, Freeland (West Oxfordshire) appeal decision<sup>35</sup>

- 3.54 In this case, West Oxfordshire accepted that it could not demonstrate a deliverable 5YHLS. However, the extent of the shortfall was not agreed. My evidence on behalf of the Appellant in that case was that 1,691 dwellings should be removed from West Oxfordshire’s 5YHLS. The Inspector found that the figure the 5YHLS was closer to my position of 2.5 years rather than the Council’s figure of 4.1 years (paragraph 59).
- 3.55 Paragraphs 50 to 57 of the appeal decision set out the Inspector’s findings on the disputed sites in that case. For the disputed sites, West Oxfordshire had provided emails and proformas to support the inclusion of the sites<sup>36</sup>. However, the Inspector concluded that this was not “clear evidence” and removed the sites from the deliverable supply.

#### Land to the east of Langford Road, Biggleswade and north of Queens Way, and Denny Crescent, Langford, Central Bedfordshire<sup>37</sup>

- 3.56 In this decision, the Inspector removed 416 dwellings from Central Bedfordshire’s 5YHLS from a site at land north of Houghton Regis which had outline planning permission and phases under construction but no known housebuilder for phases 3b and 4 or timescales for the submission of outstanding reserved matters. For this site, Central Bedfordshire had provided a delivery programme from the promoter of the site<sup>38</sup>.
- 3.57 Paragraph 16 of the appeal decision states:

“Land north of Houghton Regis (Site 1) (Ref: HT057) forms part of a large strategic development plan site allocation with outline planning permission. It comprises several phases. A master plan has been approved and a design code has been submitted for Phase 4. Phases 3b and 4 are being marketed as there is no known housebuilder. The timing for the submission of the outstanding reserved matters is unknown. In combination, the evidence provided is not clear that the 416 homes relating to Phase 3b and 4 are deliverable within the relevant 5 year period.”

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<sup>35</sup> PINS ref: 3301202 – 18<sup>th</sup> January 2023 – core document **5.13**

<sup>36</sup> Appendix **EP15**

<sup>37</sup> PINS ref: 3341832 – 11<sup>th</sup> November 2024 – core document **5.14**

<sup>38</sup> Appendix **EP16**



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

3.58 In a decision dated 25<sup>th</sup> August 2022 regarding an appeal made by Salter Property Investments Ltd against the decision of Exeter City Council to refuse to grant outline planning permission for up to 93 dwellings at land off Spruce Close, Exeter<sup>39</sup>, the Inspector found:

- The pro-formas used by Exeter were undated, unsigned and deficient (paragraph 39);
- That 2 sites with outline planning permission and no reserved matters applications pending, and no clear evidence for their inclusion should be removed (paragraphs 40 and 41); and
- That even where reserved matters 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).

3.59 In the Freeland appeal decision referred to above<sup>40</sup>, the Inspector removed sites from the Council's supply despite the fact that planning applications had been made. Paragraph 56 states:

"Applications were submitted in January 2021 for sites EW4 and EW5. The same email referred to above refers to consent being granted at the October planning committee, which, when HLS discussions were had at the Inquiry at the end of November, had not happened. I understand that officer illness has caused delays in progressing the applications to committee. However, without an officer report, a recommendation, or even a confirmed committee date, there is currently no clear evidence to indicate that the dwellings at sites EW4 and EW5 included in the Council's PS should be considered deliverable in 5 years. The 156 and 120 dwellings should not, as yet, be included in HLS figures"

3.60 In a decision dated 10<sup>th</sup> April 2024 relating to an appeal against the decision of East Hampshire Council to refuse to grant outline planning permission for up to 60 dwellings at 46 Lymington Bottom, Four Marks<sup>41</sup>, the Inspector removed a site from the deliverable supply because whilst a reserved matters application had been made, clear evidence had not been demonstrated. Paragraph 54 of the appeal decision states:

"Land east of Horndean has only outline planning permission. The Appellant advised that the Council's Environmental Health Officers are concerned about ventilation, their Policy team have concerns about the design of the scheme and the Highway Authority have objected as well as the Parish Council. A reserved matters scheme has been submitted but is undetermined. Therefore, the submitted evidence does not clearly

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<sup>39</sup> PINS ref: 3292721 – core document **5.15**

<sup>40</sup> PINS ref: 3301202 – core document **5.13**

<sup>41</sup> PINS ref: 3329928 – core document **5.16**



show this is deliverable in the time period and 200 dwellings should be deleted from the supply.”

3.61 In the Central Bedfordshire case referred to above<sup>42</sup>, the Inspector removed:

- An allocated site without planning permission where an outline planning application remained undetermined for a significantly protracted period (paragraph 15); and
- A site with outline planning permission where a reserved matters application had been pending determination for 2 years and was subject to unresolved technical objections (paragraph 17).

3.62 In summary, the above appeal decisions and APS Inspectors 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.

3.63 I respectfully invite the Inspector to compare the evidence Mid Sussex has provided to support the inclusion of the category b) sites with the evidence provided by Braintree, South Oxfordshire, West Oxfordshire, South Kesteven and Central Bedfordshire which was found not to be clear evidence by the Secretary of State and Inspectors in those cases.

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<sup>42</sup> PINS ref: 3341832 – core document **5.14**



## 4. Agreed matters re: 5YHLS

4.1 As set out in the SoCG on 5YHLS, 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 the purposes of this appeal is 1<sup>st</sup> April 2024 and the relevant 5YHLS period is to 31<sup>st</sup> March 2029.

### The figure the 5YHLS should be measured against

4.3 Paragraph 77 of the Framework states that the deliverable housing land supply should be measured against the housing requirement set out in adopted strategic policies or against the local housing need where the strategic policies are more than five years old. Footnote 42 of the Framework explains that the 5YHLS will continue to be measured against the adopted housing requirement where it is over five years old but it has been reviewed and found not to require updating.

4.4 The adopted strategic policies over five years old and have not been reviewed and found to be up to date. Therefore, it is agreed that in accordance with paragraph 77 and footnote 42 of the Framework, the 5YHLS should be measured against the local housing need as calculated by the standard method set out in paragraph 2a-004 of the PPG. It is agreed that the local housing need calculated using the current standard method is 1,039 dwellings per annum.

4.5 As set out in the introduction to my proof of evidence, in her Witten Ministerial Statement of 30<sup>th</sup> July 2024: “Building the homes we need”, the Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government stated that the current standard method “is not up to the job. It relies on decade-old population projections, an arbitrary ‘urban uplift’ that focuses too heavily on London and it lacks ambition across large parts of the country”. The Government therefore consulted on a proposed revised standard method. The outcome of the proposed revised standard method for Mid Sussex is that the LHN would be 1,276 dwellings per annum rather than 1,039 dwellings per annum (i.e. an increase of 237 dwellings per annum).

### The buffer

4.6 The Housing Delivery Test (HDT) results for 2022 were published on 19<sup>th</sup> December 2023. The 2022 result for Mid Sussex is summarised in the table below:



**Table 4.1 – Published 2022 Housing Delivery Test Results**

	Number of homes required				Number of homes delivered				HDT %
	2019-20	2020-21	2021-22	Total	2019-20	2020-21	2021-22	Total	
Mid Sussex	802	583	876	2,261	1,005	1,136	1,199	3,340	148%

4.7 The HDT result means that the 20% buffer does not apply.

4.8 As set out in the introduction to my proof of evidence, the December 2023 Framework removed the 5% buffer. Therefore, a buffer does not apply to the 5YHLS calculation. The Government proposes to re-instate the 5% buffer when it publishes the revised Framework.

### **The Council is only currently required to demonstrate a four year housing land supply**

4.9 The Council cannot demonstrate a 5YHLS even on its own supply figure. However, in accordance with paragraphs 77 and 226 of the December 2023 Framework, the Council is only required to demonstrate a four year housing land supply (against a 5 year requirement). The Government considers the four year housing land supply provision is “detrimental to housing supply” and proposes that the provision is removed.



## 5. Matters not agreed re: 5YHLS - the extent of the deliverable 5YHLS

### The extent of the deliverable 5YHLS

5.1 The extent of the deliverable 5YHLS is not agreed. The Council considers that its deliverable 5YHLS at 1<sup>st</sup> April 2024 equates to 4,890 dwellings<sup>43</sup> comprising of the following sources:

**Table 5.1 – Breakdown of Mid Sussex’s Claimed 5YHLS at 1<sup>st</sup> April 2024**

Source of supply	No. of sites	5YHLS	Category a) or b) or windfall allowance	Percentage of claimed supply
Small sites with planning permission (capacity 1 to 4 dwellings)	Not listed <sup>44</sup>	158	Category a)	3.23
Small sites with planning permission (capacity 5-9)	18	127	Category a)	2.60
Major sites (capacity 10+) with planning permission under construction	27	2,228	Category a)	45.56
Major sites (capacity 10+) with planning permission but not yet commenced	14	706	Category a)	14.44
Major sites (capacity 10+) with outline planning permission	4	744	Category b)	15.21
Major allocated sites (capacity 10+) with planning application submitted at the base date	9	747	Category b)	15.28
Major allocated sites (capacity 10+) without a planning application submitted at the base date	1	22	Category b)	0.45
Windfall allowance	-	158	Windfall allowance	3.23
<b>Total</b>		<b>4,890</b>		

<sup>43</sup> Appendix EP6

<sup>44</sup> The Council has since provided me with a list of sites (capacity 1-4 dwellings) with planning permission at 1<sup>st</sup> April 2024 – please see appendix EP8





5.2 I have assessed the Council’s 5YHLS and conclude that the category b) sites should be removed for the reasons summarised below and as set out in appendix **EP1** of my proof of evidence.

### Major sites with outline planning permission at 1<sup>st</sup> April 2024

5.3 The Council includes 744 dwellings on 4 no. major sites with outline planning permission at 1<sup>st</sup> April 2024 in its 5YHLS as summarised in the following table.

**Table 5.1 – Summary of major sites with outline planning permission at 1<sup>st</sup> April 2024**

Ref:	Address	Status at 1 <sup>st</sup> April 2024	No. of dwellings in Council’s 5YHLS	Status now (November 2024)
1125	Brookleigh, care element, Hill, 1C	Outline pp – no RM submitted	60	Outline pp – no RM submitted
493	Brookleigh, Burgess Hill (remainder)	Outline pp – no RM submitted	635	Outline pp – no RM submitted
832	Land west of Selsfield Road, Ardingly	Outline pp – no RM submitted	35	Outline pp – no RM submitted
1113	Linden House, Southdowns Park, Haywards Heath	Outline pp – no RM submitted Full planning application resolution to grant	14	Outline pp expired Full planning application resolution to grant
	<b>Total</b>		<b>744</b>	

5.4 As shown in the table above, the planning status of each site at the time of writing (November 2024) remains the same as it was over 7 months ago at the base date for the two Brookleigh sites and the Selsfield Road, Ardingly site. Reserved matters applications have still not been made on these sites since the base date.

5.5 The outline planning permission at Linden House (ref: DM/18/0421) has since expired. The S106 agreement for the full planning application has still not been signed 6 months after the resolution to grant permission was made.



- 5.6 In terms of written agreements with developers, for the Brookleigh site, the Council relies on the SoCG with Homes England that was submitted as part of the Albourne appeal (as set out in my appendix **EP9**). The SoCG is dated 5<sup>th</sup> July 2023 and as is significantly out of date. For example, the SoCG states that a planning application would be submitted on phase 1C in summer / early Autumn 2023 and yet an application has still not been submitted over a year later. The SoCG also states that a reserved matters application on phase 1Da would be submitted in Autumn 2023. Again, that has not happened over a year later.
- 5.7 No written agreement with a developer has been provided for either the Selsfield Road site or the Linden House site.
- 5.8 I discuss these four sites in my appendix **EP1**. However, in summary, with regard to the definition of deliverable in the Framework and the decisions I refer to in section 3 of my proof of evidence above, the Council has not provided clear evidence of deliverability and they should be removed from the 5YHLS. This results in a reduction of **744 dwellings** in the Council's 5YHLS.

### Major allocated sites with applications pending determination

- 5.9 The Council includes 747 dwellings on 9 no. major allocated sites which did not have planning permission at the base date in its 5YHLS as summarised in the following table.

**Table 5.2 – Summary of major sites with planning application submitted at 1<sup>st</sup> April 2024**

Site ref:	Address:	Status at 1 <sup>st</sup> April 2024	No. of dwellings in Council's 5YHLS	Status now (November 2024)
470	Wealden House, Lewes Road, Ashurst Wood	No planning permission Full planning application resolution to grant June 2023	50	No planning permission. S106 still not signed <b><u>17 months</u></b> after resolution to grant.
827	Land south of 96 Folders Lane, Burgess Hill (SA12)	No planning permission Full planning application pending determination	40	No planning permission Full planning application still pending determination <b><u>20 months</u></b> after it was submitted.



Site ref:	Address:	Status at 1 <sup>st</sup> April 2024	No. of dwellings in Council's 5YHLS	Status now (November 2024)
840	Woodfield House, Isaacs Lane, Burgess Hill (SA17)	No planning permission – permission for 30 dwellings had expired in September 2023  New full planning application pending determination	30	No planning permission – permission for 30 dwellings had expired in September 2023  Full planning application still pending determination 8 months after it was submitted.
479	Land at Hanlye Lane, east of Ardingly Road, Cuckfield (SA23)	No planning permission  Full planning application pending determination	55	No planning permission  Full planning application still pending determination <b>13 months</b> after it was submitted
196	Land south of Crawley Down Road, Felbridge	No planning permission  Full planning application pending determination	170	No planning permission  Full planning application resolution to grant September 2024 but the S106 still not signed.
770	Land south and west of Imberhorne Upper School, East Grinstead (SA20)	No planning permission  Hybrid planning application pending determination	150	No planning permission.  Hybrid planning application submitted <b>13 months</b> ago and pending determination
246	Hurst Farm, Hurstwood Lane, Haywards Heath	No planning permission	215	No planning permission.  S106 still not signed <b>15 months</b> after the



Site ref:	Address:	Status at 1 <sup>st</sup> April 2024	No. of dwellings in Council's 5YHLS	Status now (November 2024)
		Resolution to grant outline planning permission		resolution to grant outline planning permission
807	Land south of the Old Police House, Birchgrove Road, Horsted Keynes (SA28)	No planning permission Resolution to grant full planning permission	25	No planning permission. S106 still not signed <b>10 months</b> after the resolution to grant permission
477	Land adjacent to Cookhams, south of Top Road, Sharpthorne	No planning permission Resolution to grant full planning permission	13	No planning permission. S106 still not signed <b>18 months</b> after the resolution to grant permission
	<b>Total</b>		<b>747</b>	

5.10 I discuss these nine sites in my appendix **EP1**. However, in summary, with regard to the definition of deliverable in the Framework and the appeal and APS decisions I refer to in section 3 of my proof of evidence above, the Council has not provided clear evidence of deliverability and they should be removed from the 5YHLS. This results in a reduction of **747 dwellings** in the Council's 5YHLS.

### Major allocated sites without applications pending determination at the base date

5.11 The Council includes one allocated site which did not have a planning application pending determination at the base date. This is the former Police Station in East Grinstead, which the Council includes 22 dwellings in the 5YHLS. A full planning application for 33 dwellings was made in May 2024 and it is still pending determination (LPA ref: DM/24/1340). As I explain in appendix **EP1**, The Council has not provided clear evidence of deliverability for the inclusion of this site in the 5YHLS and therefore **22 dwellings** should be removed from the Council's 5YHLS.



## 6. Conclusions in relation to 5YHLS

6.1 I therefore conclude that the 5YHLS at 1<sup>st</sup> April 2024 is 3,377 dwellings (i.e. 4,890 – 1,513 = 3,377). Against the current Local Housing Need, this equates to 3.25 years as shown in the following table:

**Table 6.1 – Mid Sussex’s 5YHLS at 1<sup>st</sup> April 2024 (against the current local housing need)**

		Council	Appellant
	<b>Requirement</b>		
A	Annual housing requirement	1,039	
B	Five year housing requirement (A X 5 years)	5,195	
	<b>Supply</b>		
C	5YHLS at 1 <sup>st</sup> April 2024	4,890	3,377
D	Supply in years (C / A)	<b>4.71</b>	<b>3.25</b>
E	Surplus / shortfall in 5YHLS (C – B)	<b>-305</b>	<b>-1,818</b>
F	Surplus / shortfall against 4 year requirement	<b>734</b>	<b>-779</b>

6.2 The policy implication of this is addressed by John MacKenzie.

6.3 Against the proposed revised local housing need and a 5% buffer, the supply would be 2.52 years as shown in the following table.



Table 6.2 – Mid Sussex’s 5YHLS at 1<sup>st</sup> April 2024 (against the proposed revised local housing need and a 5% buffer)

		Council	Appellant
	<b>Requirement</b>		
A	Annual housing requirement	1,276	
B	Five year housing requirement (A X 5 years)	6,380	
C	Five year housing requirement + 5% buffer (B +5%)	6,699	
D	Annual 5YHLS requirement + 5% buffer (C / 5)	1,340	
	<b>Supply</b>		
E	5YHLS at 1 <sup>st</sup> April 2024	4,890	3,377
F	Supply in years (E / D)	<b>3.65</b>	<b>2.52</b>
G	Shortfall in 5YHLS (E – C)	<b>-1,809</b>	<b>-3,322</b>



## 7. Appendices

- EP1.** Assessment of disputed sites
- EP2.** Letter to LPA requesting 5YHLS information – 17<sup>th</sup> September 2024
- EP3.** Completions 2023-34 (provided by the Council on 4<sup>th</sup> November 2024)
- EP4.** Commitments at 1<sup>st</sup> April 2024 (provided by the Council on 4<sup>th</sup> November 2024)
- EP5.** Council’s comments on the list of disputed sites at 1<sup>st</sup> April 2023 (provided by the Council on 6<sup>th</sup> November 2024)
- EP6.** Council’s 5YHLS position at 1<sup>st</sup> April 2024 (provided by the Council on 7<sup>th</sup> November 2024)
- EP7.** “Site Evidence for Disputed Sites” (provided by the Council on 11<sup>th</sup> November 2024)
- EP8.** List of small sites (1-5 dwellings) with planning permission at 1<sup>st</sup> April 2024 (provided by the Council on 8<sup>th</sup> November 2024)
- EP9.** Council’s 5YHLS proof of evidence and appendices for the Albourne appeal
- EP10.** South Kesteven – evidence of deliverability for the 2022 APS
- EP11.** South Kesteven 2023 APS Inspector Report
- EP12.** South Kesteven – evidence of deliverability for the 2023 APS
- EP13.** Braintree proformas
- EP14.** South Oxfordshire evidence
- EP15.** West Oxfordshire evidence
- EP16.** Central Bedfordshire evidence
- EP17.** Information in relation to Brookleigh / Northern Arc
- EP18.** Information in relation to land west of Selsfield Road, Ardingly
- EP19.** Information in relation to Linden House
- EP20.** Information in relation to Wealden House
- EP21.** Information in relation to Woodfield House
- EP22.** Information in relation to Hanlye Lane East



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