



Updated Proof of Evidence of Ben Pycroft BA(Hons), Dip TP, MRTPI in relation to Housing Land Supply

Mixed use development, including up to 625 new homes –
Land North of Viaduct, adjoining Orchard Business Park,
Ledbury, Herefordshire, HR8 2QY

for Bloor Homes Western

Emery Planning project number: 20-021

PINS ref: APP/W1850/W/20/3244410

LPA ref: 171532

Project : 20-021
Site address : Land North of Viaduct
adjoining, Orchard
Business Park, Ledbury,
Herefordshire, HR8 2QY
Client : Bloor Homes Western
Date : 15 September 2020
Author : Ben Pycroft

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Contents:

1. Introduction	1
2. Planning policy context	4
3. Herefordshire Council's Five Year Housing Land Supply Position	6
4. Housing Delivery Test	14
5. Assessment of the Council's housing supply	16
6. Stage 1: Agreeing the base date and five year period	17
7. Stage 2: Identifying the housing requirement	19
8. Stage 3: Identifying the past shortfall or over-supply	23
9. Stage 4: Identifying the method of addressing the past shortfall	24
10. Stage 5: Applying the appropriate buffer	26
11. Stage 6: Identifying a Realistic and Deliverable Supply	28
12. Sites with full planning permission for major development	51
13. Sites with outline planning permission for major development	53
14. Sites with a resolution to grant planning permission	66
15. Strategic Urban Extension Sites	68
16. Neighbourhood Plan Allocations	73
17. Small sites windfall allowance	77
18. Summary of discounts	80
19. Summary and conclusions	81
20. Appendices	82



1. Introduction

- 1.1 This proof of evidence is submitted on behalf of Bloor Homes Western (i.e. the Appellant) in support of its appeal against the decision of Herefordshire Council to refuse to grant outline planning permission for a mixed use development including the erection of up to 625 dwellings at land north of the viaduct, adjoining Orchard Business Park, Ledbury, Herefordshire (LPA ref: 171532).
- 1.2 This proof of evidence specifically addresses matters relating to housing land supply. It is an updated version of my previous proof of evidence, which was submitted on 5th June 2020 to address the Council's latest position statement in relation to housing land supply (base date 1st April 2020). It should be read alongside the proofs of evidence prepared by Mr Stacey, which addresses affordable housing and Mr Wakefield, which deals with all other planning matters in relation to the appeal.

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 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 a separate summary to this proof of evidence and set of appendices. I also refer to several core documents.

Executive summary

Five year housing land supply

- 1.7 From the outset, Herefordshire Council accepts that it cannot demonstrate a five year housing land supply against its adopted housing requirement and a 20% buffer. At 1st April 2020, the Council claims that it has a deliverable five year supply of 5,430 dwellings, which against its adopted housing requirement plus 20% buffer equates to **3.69 years**.
- 1.8 On the requirement side, the Herefordshire Local Plan Core Strategy (adopted 16th October 2015) is just less than five years old. Therefore, in accordance with paragraph 73 of the Framework, the five year housing land supply should be measured against the housing requirement set out in policy SS2. The housing requirement is 'stepped' with 850 dwellings per annum to be delivered in 2020/21 and 900 dwellings per annum to be delivered in 2021/22 to 2024/25. This means that the 'base' five year requirement is 4,450 dwellings.
- 1.9 The Council has failed to deliver against its housing requirement in previous years. At 1st April 2020, the shortfall against the stepped requirement is 1,675 dwellings. This should be addressed in full in the five year period (i.e. the 'Sedgefield' method). The five year requirement at 1st April 2020 is therefore 6,125 dwellings (i.e. 4,450 plus 1,675 dwellings).
- 1.10 In addition, the supply to be demonstrated should include an additional buffer. Paragraph 73 and footnote 39 of the Framework explain that the 20% buffer will apply where the Housing Delivery Test (HDT) result indicates that delivery was below 85% of the requirement. The latest (2019) HDT result was 80%, which means that the 20% buffer applies. The five year supply to be demonstrated is therefore 7,350 dwellings (i.e. 6,125 dwellings plus 20%).
- 1.11 On the supply side, as above, the Council claims that the deliverable supply is 5,430 dwellings.
- 1.12 I have assessed the supply and conclude that 1,312 dwellings should be removed from the Council's supply of 5,430 dwellings for the following reasons:
 - **150 dwellings** should be removed from a site with full planning permission at Barons Cross Camp because there is clear evidence the full planning permission will not be implemented. Whilst a further reserved matters application has been made, it cannot currently be determined because the site is within the River Lugg catchment area. No evidence has been provided to demonstrate how this issue will be addressed. Therefore there is not clear evidence that housing completions will begin on this site within five years.

- **401 dwellings** should be removed from sites with outline planning permission for major development because the Council has not produced clear evidence that housing completions will begin on these sites within five years;
- **61 dwellings** should be removed from sites with a resolution to grant planning permission at the base date because the Council has not produced clear evidence that housing completions will begin on these sites within five years.
- **171 dwellings** should be removed from the strategic allocated sites because the Council has not produced clear evidence that housing completions will begin on these sites within five years;
- **329 dwellings** should be removed from the sites allocated in the Neighbourhood Plans because the Council has not produced clear evidence that housing completions will begin on these sites within five years; and
- **200 dwellings** should be removed from the windfall allowance because the Council has not provided compelling evidence that completions on windfall sites will exceed past trends despite the issues surrounding development in the River Lugg catchment area.

1.13 This means that the deliverable supply is **4,118** dwellings. Against the housing requirement and a 20% buffer, this equates to **2.8 years**. This includes 136 dwellings at the appeal site, which are included in the Council's five year supply. If the appeal site is excluded, the deliverable supply would reduce to 3,982 dwellings, which would equate to **2.71 years**.

1.14 The implications of this are addressed by Mr Wakefield.

2. Planning policy context

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

Development Plan Context

2.2 The development plan comprises of the Herefordshire Local Plan Core Strategy (adopted 16th October 2015)¹ and the Ledbury Neighbourhood Plan (‘made’ in October 2018)². The appeal site is allocated for development in both the Local Plan (policy LB2) and the Neighbourhood Plan.

2.3 Mr Wakefield addresses the conformity of the appeal proposals with the development plan in his proof of evidence. However, of relevance to my proof of evidence is policy SS2 of the Local Plan Core Strategy: “*Delivering new homes*”, which explains that the adopted housing requirement is 16,500 dwellings over the period 2011 to 2031.

National planning policy and guidance

The National Planning Policy Framework (“the Framework”)

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

Planning Practice Guidance (PPG)

2.5 The PPG was first published in March 2014 and has been updated since. It contains guidance on “*Housing and economic needs assessment*” at section 2a³, “*Housing and economic land availability assessments*” at section 3⁴, and “*Housing supply and delivery*” at section 68⁵, which

¹ Core Document **CD1.2**

² Core Document **CD1.7**

³ Core Document **CD1.17**

⁴ Core Document **CD1.18**

⁵ Core Document **CD1.19**

were all updated on 22nd and 23rd July 2019. I refer to paragraphs within these sections of the PPG in my proof of evidence.

Other material considerations

Herefordshire Council's Annual Monitoring Report (AMR)

- 2.6 Appendix B of the AMR includes the Council's Five Year Housing Land Supply Annual Position Statement at 1st April 2019. It is dated July 2019. It contains a report⁶ and a schedule of sites⁷. It explains that at 1st April 2019, the Council had a deliverable five year supply of 5,966 dwellings, which against its adopted housing requirement plus 20% buffer equates to **4.05 years**.
- 2.7 The Council has since updated its housing land supply position as I discuss below.

Five Year Housing Land Supply (2020 – 2025) Annual Position Statement at 1st April 2020 (September 2020)

- 2.8 The Council provided the Appellant with its latest position statement (base date 1st April 2020)⁸ and appendices⁹ on 7th September 2020. For the avoidance of doubt, whilst it is entitled "Annual Position Statement", it has not been prepared and examined within the context of paragraph 74 of the Framework and the associated guidance.
- 2.9 The position statement explains that at 1st April 2020 the Council has a deliverable supply of 5,430 dwellings, which against which against its adopted housing requirement plus 20% buffer equates to **3.69 years**. I discuss the position statement in section 3 of my proof of evidence below.

Herefordshire Housing Delivery Test Action Plan 2019

- 2.10 As the Council's 2018 Housing Delivery Test result was below 95% (it was 74%), in accordance with paragraph 75 of the Framework, the Council had to prepare and publish a Housing Delivery Test Action Plan in line with national planning guidance, to: "*assess the causes of under-delivery and identify actions to increase delivery in future years*". The Action Plan¹⁰ is included as section 7 of the AMR.

⁶ Core Document **CD1.14**

⁷ Core Document **CD1.15**

⁸ Inquiry Document **ID28**

⁹ Inquiry Document **ID28**

¹⁰ Core Document **CD1.16**

3. Herefordshire Council's Five Year Housing Land Supply Position

Previous positions

- 3.1 The Herefordshire Local Plan Core Strategy was submitted for examination on 23rd September 2014. The Local Plan Inspector's report was issued on 29th September 2015¹¹. The Local Plan Inspector considered the Council's housing land supply position at 1st April 2014. At that time, the Council claimed it had a five year supply of 6,201 dwellings, which against its requirement and a 20% buffer would equate to 5.24 years. The Local Plan Inspector agreed and considered that the five year housing land supply at that time was "*marginal but realistic*"¹².
- 3.2 In January 2016 (i.e. three months after the Local Plan Core Strategy had been adopted), the Council published a new position statement, which claimed that at 1st April 2015 it could demonstrate a 5.01 year supply. However, that position was considered in February 2016 by Inspector Jennifer Vyse at a public inquiry in relation to an appeal made by Gladman Developments Limited against the decision of the Council to refuse outline planning permission for up to 321 dwellings at land south of Leadon Way, Ledbury¹³. In allowing the appeal, Inspector Vyse concluded that the Council could not demonstrate a five year housing land supply at 1st April 2015. The decision notice for that appeal was originally issued on 4th April 2016 (i.e. less than 6 months after the Local Plan Core Strategy was adopted). A corrected version of the decision notice was issued on 3rd June 2016.
- 3.3 In July 2016, the Council then published its housing land supply position at 1st April 2016 and in doing so accepted that it could not demonstrate a five year housing land supply. The following four position statements with base dates of 1st April 2017, 2018, 2019 and 2020 all then confirmed that the Council cannot demonstrate a five year housing land supply.
- 3.4 The Council's previous positions are shown in the following table and chart.

¹¹ Core Document **CD1.5**

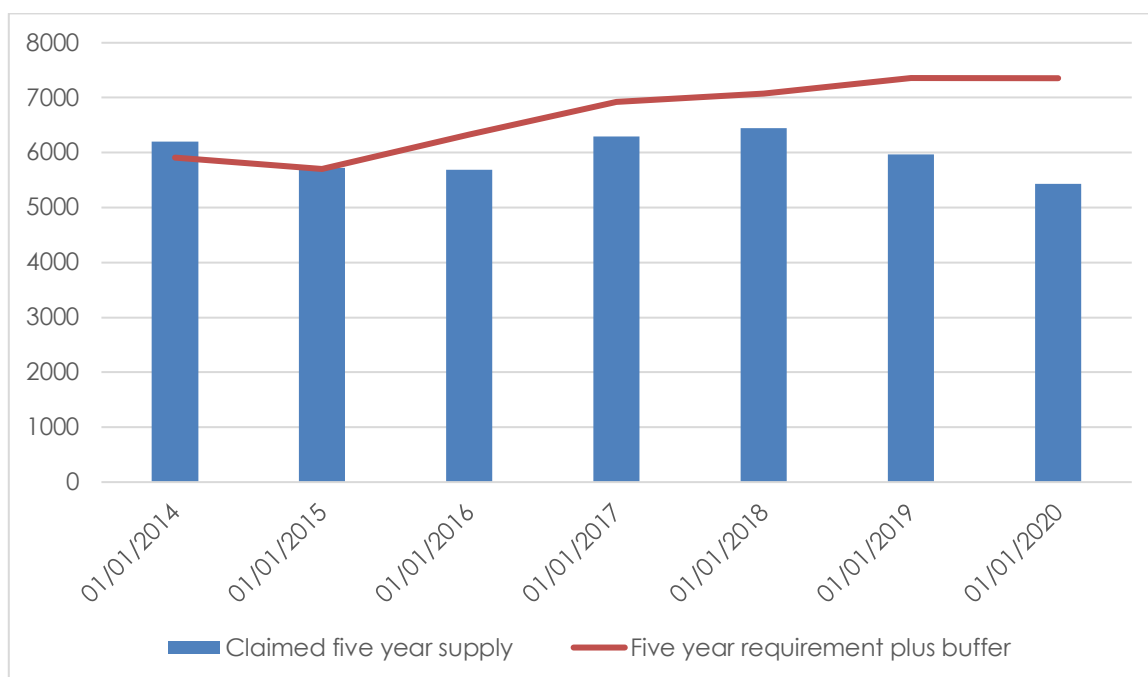
¹² Core Document **CD1.5** – paragraph 51, page 14

¹³ PINS ref: 3009456 – Core Document **CD11.3**

Table 3.1: Herefordshire Council's Claimed Five Year Housing Land Supply Position 2014 – 2020

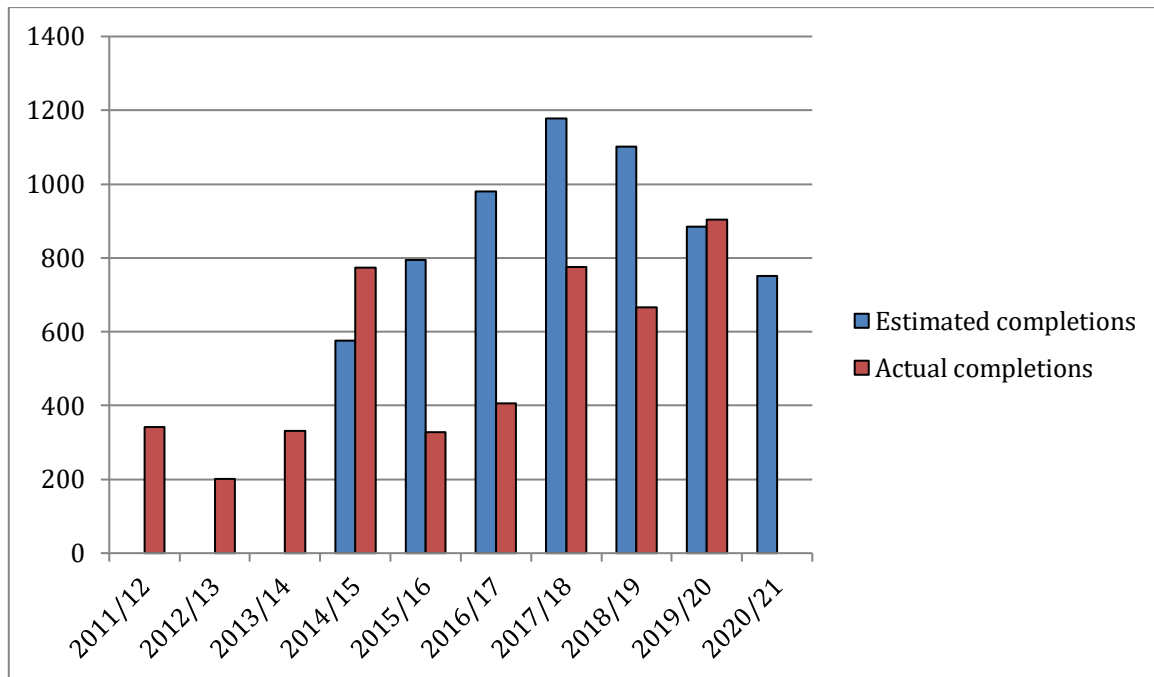
	01/04/14	01/04/15	01/04/16	01/04/17	01/04/18	01/04/19	01/04/20
Five year housing requirement plus buffer (dwellings)	5,912 (1,182 p.a.)	5,702 (1,140 p.a.)	6,331 (1,266 p.a.)	6,925 (1,385 p.a.)	7,074 (1,415 p.a.)	7,358 (1,472 p.a.)	7,350 (1,470 p.a.)
Claimed five year supply (dwellings)	6,201	5,722	5,692	6,299	6,449	5,966	5,430
Claimed supply (years)	5.24	5.01	4.49	4.54	4.55	4.05	3.69

Chart 3.1: Herefordshire Council's Claimed Five Year Housing Land Supply Position against the adopted housing requirement 2014 – 2020



3.5 The housing trajectory set out in the Herefordshire Local Plan Core Strategy¹⁴ considered that 6,346 dwellings would have been delivered between 1st April 2011 and 31st March 2020. However, only 4,725 dwellings had been delivered in the same period. The following chart shows that the number of dwellings completed has been lower than the number the Council estimated would be completed by 31st March 2020.

Chart 3.2 – Herefordshire Council’s Housing Trajectory of Estimated Dwelling Completions at 1st April 2015 compared to actual delivery



3.6 The Council has continued to overestimate delivery in each of the trajectories appended to its Authority Monitoring Reports as I show in the following charts and tables.

¹⁴ Core Document **CD1.4**

Table 3.2 – Herefordshire’s Housing Trajectory of Estimated Dwelling Completions at 1st April 2016 compared to actual delivery

	2016/17	2017/18	2018/19	2019/20	2020/21	Total
Total Estimated	655	996	1,208	1,361	1,443	5,663
Actual	405	776	666	904		
Difference (dwellings)	-250	-220	-542	-457		

Chart 3.3 – Herefordshire’s Housing Trajectory of Estimated Dwelling Completions at 1st April 2016 compared to actual delivery

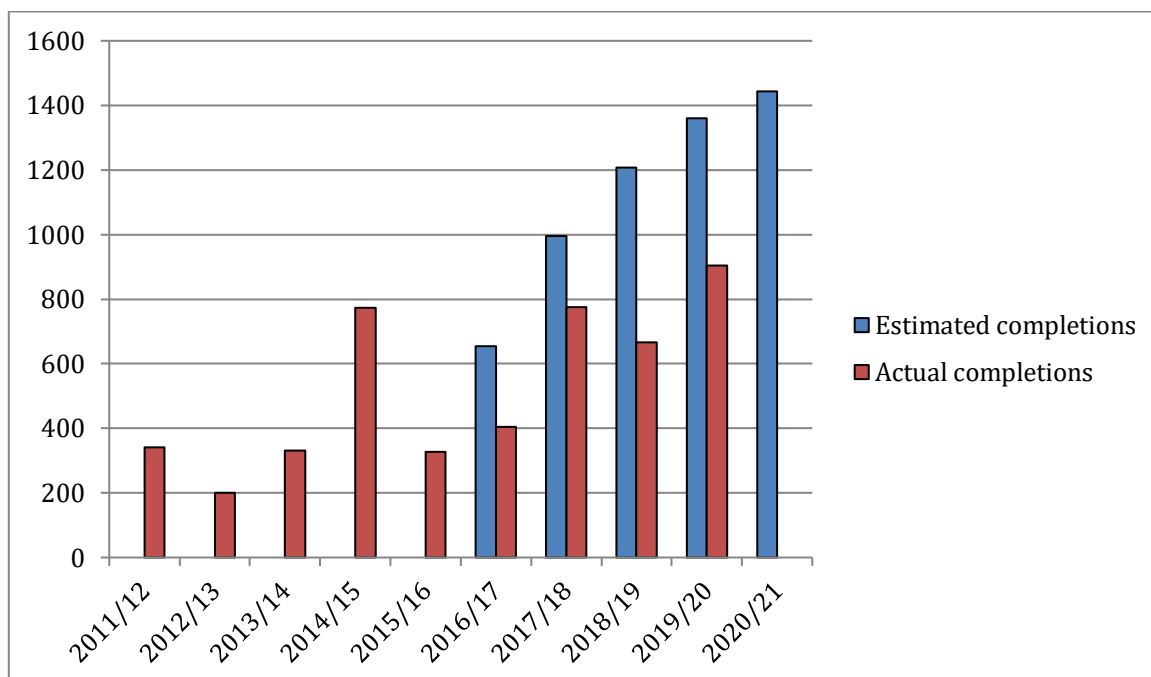


Table 3.3 – Herefordshire’s Housing Trajectory of Estimated Dwelling Completions at 1st April 2017 compared to actual delivery

	2017/18	2018/19	2019/20	2020/21	2021/22	Total
Total Estimated	781	1,035	1,144	1,581	1,758	6,299
Actual	776	666	904			
Difference (dwellings)	-5	-369	-240			

Chart 3.4 – Herefordshire’s Housing Trajectory of Estimated Dwelling Completions at 1st April 2017 compared to actual delivery

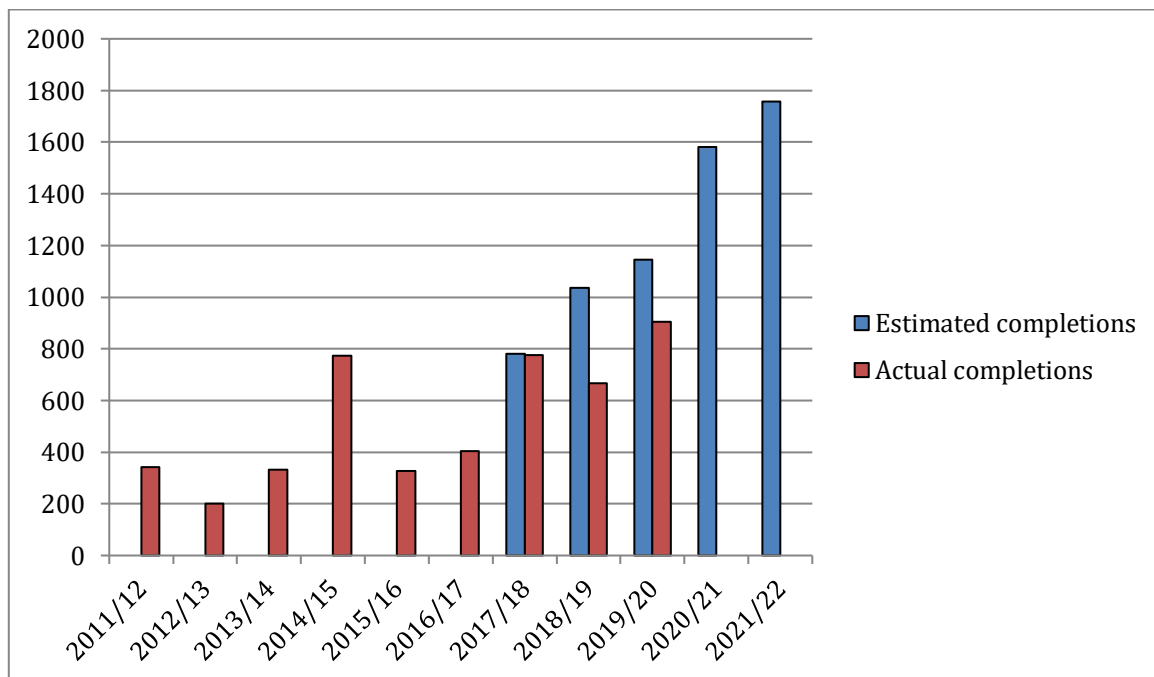
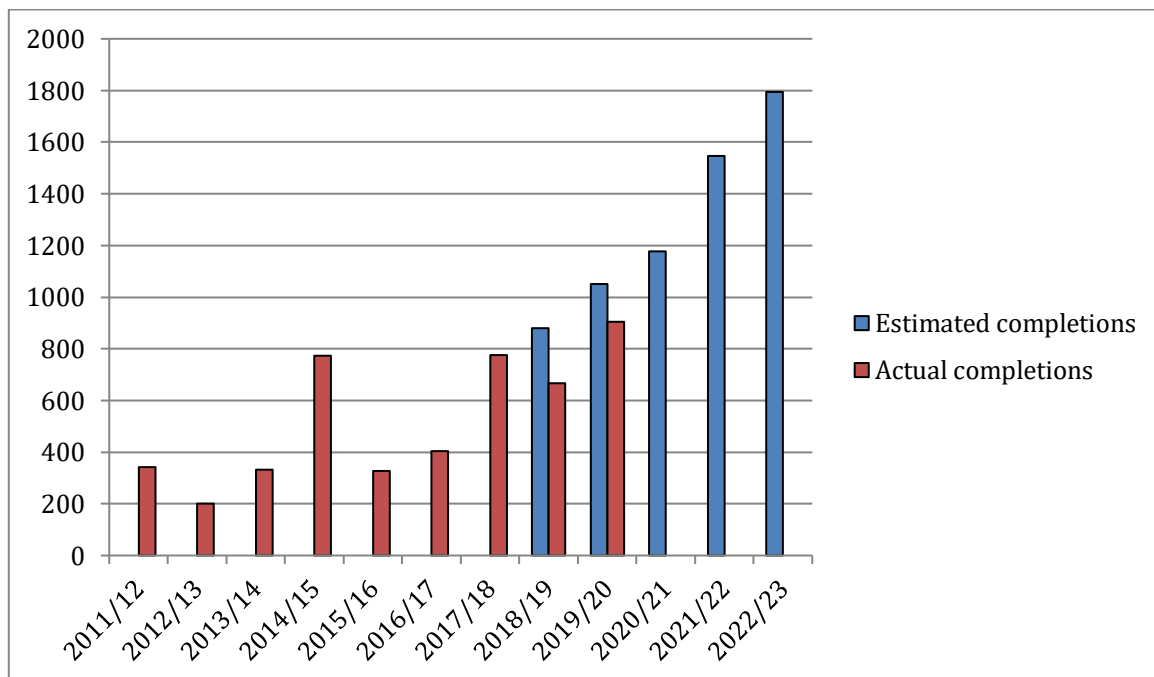


Table 3.4 – Herefordshire’s Housing Trajectory of Estimated Dwelling Completions at 1st April 2018 compared to actual delivery

	2018/19	2019/20	2020/21	2021/22	2022/23	Total
Total Estimated	880	1,050	1,178	1,547	1,794	6,449
Actual	666	904				
Difference (dwellings)	-214	-146				

Chart 3.5 – Herefordshire’s Housing Trajectory of Estimated Dwelling Completions at 1st April 2018 compared to actual delivery



3.7 As can be seen from the above tables and charts, the actual completions have been substantially below what the Council has estimated would be completed in each of the above trajectories. That is important since those trajectories have been central to the Council's calculation of its five year housing land supply.

Current position

3.8 The Council's current position statement claims that it can demonstrate a 3.69 year supply at 1st April 2020 based on the following:

- A base date of 1st April 2020 and a five year period to 31st March 2025;
- The housing requirement of 850 dwellings per annum to be delivered in 2020/21 and 900 dwellings per annum to be delivered in 2021/22 to 2024/25;
- A past shortfall of 1,675 dwellings, which the Council considers should be addressed in full in the five year period to 2025 (i.e. the 'Sedgefield' method);
- A total five year requirement of 6,125 dwellings;
- The application of a 20% buffer; and
- A "deliverable" supply of 5,430 dwellings.

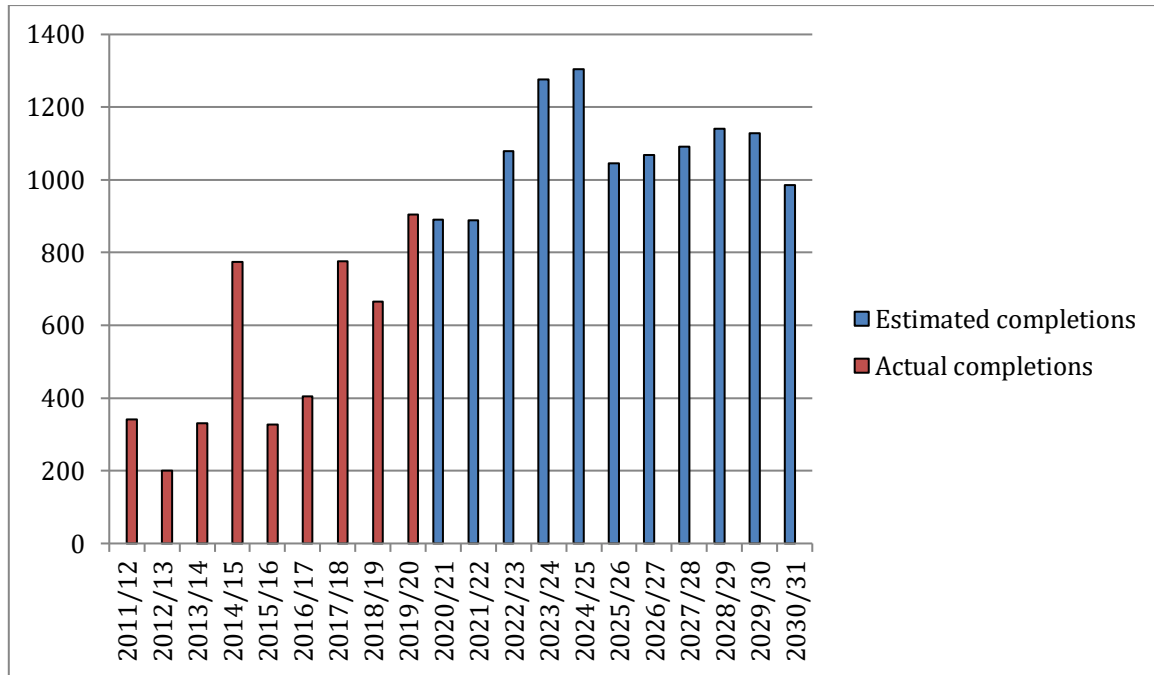
3.9 The position is summarised in the following table

Table 3.5 – Herefordshire's claimed Five Year Housing Land Supply at 1st April 2020

	Requirement	
A	Five year requirement at 1 st April 2020	4,450
B	Past shortfall at 1 st April 2020	1,675
C	Amount of past shortfall to be addressed in the five year period	1,675
D	Total five year requirement (A + B)	6,125
E	Requirement plus 20% buffer (D + 20%)	7,350
F	Annual requirement plus buffer (E / 5 years)	1,470
	Supply	
G	Claimed five year supply 1 st April 2020 to 31 st March 2025	5,430
H	Years supply (G / F)	3.69

3.10 The Council's five year housing trajectory is shown in the following chart:

Chart 3.6 – Herefordshire Council's Five Year Housing Trajectory at 1st April 2020



4. Housing Delivery Test

4.1 The definition of the Housing Delivery Test (HDT) is provided in the Glossary to the Framework on page 67 as follows:

“Housing Delivery Test: Measures net additional dwellings provided in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England every November”

- 4.2 The HDT is measured as a percentage each year. The following implications apply where delivery falls below specific thresholds.
- 4.3 Firstly, as explained in footnote 7 of the Framework, the tilted balance to the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework applies where the HDT indicates that the delivery of housing was “substantially below” the housing requirement over the previous years. The transitional arrangements set out in Annex 1 of the Framework explain that “substantially below” means for the 2018 HDT results below 25%, for the 2019 HDT results below 45% and for the 2020 HDT and beyond below 75%.
- 4.4 Secondly, paragraph 73 and footnote 39 of the Framework explain that where the HDT result is below 85%, the 20% buffer will apply for purposes of calculating the five year housing land supply.
- 4.5 Thirdly, Paragraph 75 of the Framework explains that where the HDT result is below 95%, the local planning authority should prepare an action plan to assess the causes of under delivery and identify actions to increase delivery in future years.
- 4.6 The HDT Measurement Rule Book (July 2018)¹⁵ explains that HDT is calculated as a percentage of net homes delivered against the “number of homes required”. However, it then explains that even where the latest adopted housing requirement figure is less than five years old (as is currently the case in Herefordshire), “the number of homes required” means the lower of either the adopted housing requirement or the annual local housing need figure. The transitional arrangements set out in paragraph 21 of the HDT Measurement Rule Book then explain that for the financial years 2015/16, 2016/17 and 2017/18, the minimum annual local housing need figure is replaced by household projections.

¹⁵ Core Document **CD1.20**

4.7 The HDT results for 2018 were published on 19th February 2019. The 2018 result for Herefordshire is summarised in the table below:

Table 4.1 – Summary of the 2018 Housing Delivery Test Result for Herefordshire

	2015-16	2016-17	2017-18	Total
Number of homes required	600	710	678	1,987
Number of homes delivered	374	260	836	1,470
HDT measurement				74%

4.8 As can be seen from the above, Herefordshire delivered 1,470 new homes over the three year period 2015-18 against a “requirement” based on household projections only over the same period of 1,987 dwellings. This resulted in a HDT measurement of 74% and meant that the Council has failed the HDT. This meant that the 20% buffer applied and the Council had to produce a Housing Delivery Action Plan¹⁶.

4.9 The HDT results for 2019 were published on 13th February 2020. The 2019 result for Herefordshire is summarised in the table below:

Table 4.2 – Summary of the 2019 Housing Delivery Test Result for Herefordshire

	2016-17	2017-18	2018-19	Total
Number of homes required	710	678	850	2,237
Number of homes delivered	260	836	702	1,798
HDT measurement				80%

4.10 As can be seen from the above, Herefordshire delivered 1,798 new homes over the three year period 2016-19 against a “requirement” based on household projections for 2016/17 and 2017/18 and the adopted housing requirement of 850 dwellings in 2018/19. This results in a HDT measurement of 80% and means that the Council has again failed the HDT. This means that the 20% buffer continues to apply and the Council must produce another Housing Delivery Action Plan.

¹⁶ Core Document **CD1.16**

5. Assessment of the Council's housing supply

5.1 My assessment of the Council's five year housing land supply is based on six key stages:

1. Agreeing the base date and five year period;
2. Identifying the housing requirement;
3. Identifying the past shortfall or over-supply;
4. Identifying the method of addressing the past shortfall or over-supply;
5. Applying the appropriate buffer; and
6. Identifying a realistic and deliverable Supply.

5.2 Each stage is addressed below.

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

- 6.1 The base date is the start date for the five year period for which both the requirement and supply should relate.
- 6.2 The current housing land supply position statement has a base date of 1st April 2020 and a five year period of 1st April 2020 to 31st March 2025. I have assessed the supply at 1st April 2020 as that is the most up to date position.

The base date as a “cut-off date”

- 6.3 The Council should not attempt to include any new sites, which did not meet the definition of “deliverable” at 1st April 2020. This would effectively mean changing the base date to beyond 1st April 2020. Within this context, there have been several appeal decisions, which have found such an approach to be inappropriate.
- 6.4 For example, Inspector Harold Stephens discussed this issue in the Woolpit appeal decision¹⁷. Paragraph 67 of the appeal decision states:

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

- 6.5 Similarly, in allowing an appeal for up to 150 dwellings at a site on Bath Road, Corsham, Inspector Prentis stated at paragraph 53 of the appeal decision¹⁸:

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

¹⁷ PINS ref: 3194926 – Core document **CD11.7**

¹⁸ PINS ref: 2222641 – core document **CD11.2**

6.6 Furthermore, in an appeal decision regarding land to the rear of former Dylon International Premises, Station Approach, Lower Sydenham, London¹⁹, the Inspector noted the following in paragraphs 17 and 18:

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

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

¹⁹ PINS ref: 3144248 – core document **CD11.4**

7. Stage 2: Identifying the housing requirement

National planning policy and guidance

7.1 Paragraph 73 of the Framework states:

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

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

7.3 Paragraph 68-002 of the PPG²⁰ states:

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

7.4 Paragraph 68-003 of the PPG²¹ explains:

“The purpose of the 5 year housing land supply is to provide an indication of whether there are sufficient sites available to meet the housing requirement set out in adopted strategic policies for the next 5 years. Where strategic policies are more than 5 years old, or have been reviewed and found in need of updating, local housing need calculated using the standard method should be used in place of the housing requirement.”

7.5 Paragraph 68-005 of the PPG²² states:

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

²⁰ Paragraph: 002 Reference ID: 68-002-20190722: “What is a 5 year land supply?”

²¹ Paragraph: 003 Reference ID: 68-003-20190722: “What is the purpose of the 5 year housing land supply?”

²² Paragraph: 005 Reference ID: 68-005-20190722: “What housing requirement figure should authorities use when calculating their 5 year housing land supply?”

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

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

7.6 Paragraph 68-026 of the PPG²³ explains that where the housing requirement is stepped:

"Five year land supply is measured across the plan period against the specific stepped requirements for the particular 5 year period."

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

Assessment

7.8 The Herefordshire Local Plan Core Strategy (adopted 16th October 2015) is just less than five years old. Therefore, in accordance with paragraph 73 of the Framework, the five year housing land supply should be measured against the housing requirement set out in policy SS2: "Delivering new homes", which states:

"A supply of deliverable and developable land will be identified to secure the delivery of a minimum of 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need."

7.9 The housing requirement equates to an annual average of 825 dwellings per annum (i.e. 16,500 / 20 years = 825 dwellings per annum). However, paragraph 3.41 of the Core Strategy Local Plan explains that the housing requirement is "stepped". It states:

"The delivery and supply of new housing will be monitored on a regular basis and through the annual monitoring process in particular. Appendix 4 sets out an indicative trajectory for total housing completions, which will provide a basis for monitoring completions over the plan period. In the event that the monitoring process demonstrates that the rate of completions have fallen below targets, an early assessment will be made as to the most appropriate mechanism to boost housing delivery depending upon the scale and nature of the issue. The stepped target of 600 dpa for the first five years of the plan (2011-

²³ Paragraph: 026 Reference ID: 68-026-20190722: "How is 5 year housing land supply measured where authorities have stepped rather than annual average requirements?"

2016), 850 dpa for years 6-10 (2016-2021), 900 dpa for years 11-15 (2021-2026) and 950 dpa for years 16-20 (2026-2031) would be the basis for monitoring and assessing land supply (including the five year housing land supply) throughout the plan period. For calculation of the five year housing land supply, due to persistent under delivery a buffer of 20% is considered appropriate.” (my emphasis).

- 7.10 This means that the base five year requirement is 4,450 dwellings (i.e. 850 dwellings per annum to be delivered in 2020/21 and 900 dwellings per annum to be delivered in 2021/22 to 2024/25).
- 7.11 Once the plan becomes five years old, the five year housing land supply may be measured against the local housing need figure unless the policies in the plan have been reviewed and found not to require updating.
- 7.12 Paragraph 2a-004 of the PPG²⁴ explains how local housing need is calculated. There are three steps. The first step calculates the average annual household growth over a 10 year period using the 2014-based household projections. The second step then makes an adjustment to take account of affordability. The third step provides a cap of 40% above the projected household growth in step one.
- 7.13 The standard method results in a local housing need figures of 846 dwellings per annum in Herefordshire as set out in the following table:

Table 7.1 – Local housing need using the current standard method

	Step 1	Step 2	Step 3	
	Projected annual average household growth 2020-30	Adjustment factor	Should the cap be applied?	Local housing need
Herefordshire	635.5	1.33	No	846.41

- 7.14 The Government is committed to revising the standard method so that it results in a national figure of 300,000 dwellings per year. On 6th August 2020, consultation began on “Changes to the current planning system”. The Government's proposed approach sets out two steps:

²⁴ Paragraph: 004 Reference ID: 2a-004-20190220: “What is the standard method for assessing local housing need?”

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

7.15 The Government's proposed approach results in a local housing need of 1,116 dwellings per annum for Herefordshire as set out in the following table:

Table 7.2 – Local housing need using the revised standard method

	Step 1		Step 2	
	0.5% of existing stock	Projected annual average household growth 2020-30	Adjustment factor	Local housing need
Herefordshire	429.98	780.5	1.49	1,116.36

7.16 The consultation on the revised standard method closes on 1st October 2020. Following the outcome of the consultation, the Government will update the planning practice guidance with the revised standard method for assessing local housing need.

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

8.1 The third part of paragraph 68-031 of the PPG²⁵ states:

“The level of deficit or shortfall will need to be calculated from the base date of the adopted plan”

8.2 The base date of the Herefordshire Local Plan is 1st April 2011. Against the stepped housing requirement since the start of the plan there is a past shortfall of 1,675 dwellings as set out in the table below.

Table 8.1: Summary of net completions in Herefordshire 2011 to 2020

Year	Requirement (dwellings p.a.)	Completions (net)	Over / under provision	Cumulative over / under provision
2011/12	600	341	-259	-259
2012/13	600	201	-399	-658
2013/14	600	331	-269	-927
2014/15	600	774	174	-753
2015/16	600	327	-273	-1,026
2016/17	850	405	-445	-1,471
2017/18	850	776	-74	-1,545
2018/19	850	666	-184	-1,729
2019/20	850	904	54	-1,675
Total	6,400	4,725	-1,675	

8.3 As can be seen from the table above, the under delivery of housing against the adopted housing requirement continued well after the Local Plan Core Strategy was adopted in October 2015.

8.4 The past shortfall is significant and represents over two years' worth of housing need against the annual average requirement (i.e. $1,675 / 825 = 2.03$ years).

²⁵ Paragraph: 031 Reference ID: 68-031-20190722: “How can past shortfalls in housing completions against planned requirements be addressed?”

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

9.1 The Council seeks to address the past shortfall in full in the five year period. This is known as the 'Sedgefield' method.

9.2 At the Local Plan Core Strategy examination, the Council sought to spread the shortfall over the plan period. However, the Local Plan Inspector concluded that in addition to a stepped target this would further delay the provision of new homes. Paragraph 49 of the Inspector's Report²⁶ states:

"The Council's preferred option is to spread the shortfall over the plan period which would, in addition to a stepped target, add a further delay to the provision of homes and would not be a proactive approach. Therefore, I conclude that for the CS to be positively prepared and for the five year housing land supply to be effective, the shortfall should be spread across the five year period. This approach would be consistent with the advice in the PPG."

9.3 The Framework does not specifically state how the backlog should be addressed; however it does set out the Government's objective of "significantly boosting the supply of homes" (paragraph 59). Addressing the backlog as soon as possible would be consistent with this paragraph.

9.4 Paragraph 68-031 of the PPG²⁷: "How can past shortfalls in housing completions against planned requirements be addressed?" states:

"Where shortfalls in housing completions have been identified against planned requirements, strategic policy-making authorities may consider what factors might have led to this and whether there are any measures that the authority can take, either alone or jointly with other authorities, which may counter the trend. Where the standard method for assessing local housing need is used as the starting point in forming the planned requirement for housing, Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure. Under-delivery may need to be considered where the plan being prepared is part way through its proposed plan period, and delivery falls below the housing requirement level set out in the emerging relevant strategic policies for housing."

²⁶ Core document **CD1.5**

²⁷ Paragraph: 031 Reference ID: 68-031-20190722: "How can past shortfalls in housing completions against planned requirements be addressed?"

Where relevant, strategic policy-makers will need to consider the recommendations from the local authority's action plan prepared as a result of past under-delivery, as confirmed by the Housing Delivery Test.

The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period (the Sedgefield approach), then the appropriate buffer should be applied. If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal.

Where strategic policy-making authorities are unable to address past shortfalls over a 5 year period due to their scale, they may need to reconsider their approach to bringing land forward and the assumptions which they make. For example, by considering developers' past performance on delivery; reducing the length of time a permission is valid; re-prioritising reserve sites which are 'ready to go'; delivering development directly or through arms' length organisations; or sub-dividing major sites where appropriate, and where it can be demonstrated that this would not be detrimental to the quality or deliverability of a scheme."

- 9.5 Therefore, the guidance is clear that the past shortfall should be addressed within the five year period. I therefore agree that the 'Sedgefield' method should be applied.

10. Stage 5: Applying the appropriate buffer

10.1 Paragraph 73 of the Framework states:

“The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

- *5% to ensure choice and competition in the market for land; or*
- *10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or*
- *20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.”*

10.2 Footnote 39 of the Framework explains that from November 2018 “significant under delivery” of housing will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement.

10.3 Paragraph 68-022 of the PPG²⁸ states:

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

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

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

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

²⁸ Paragraph: 022 Reference ID: 68-022-20190722: “How should buffers be added to the 5 year housing land supply requirement?”

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

- 10.4 As set out in section 4 of my proof of evidence above, the Council failed both the 2018 and 2019 Housing Delivery Tests and therefore it is agreed that the 20% buffer applies in Herefordshire. A summary of the housing requirement is set out in the following table:

Table 10.1: Summary in relation to the housing requirement

	Requirement	
A	Five year requirement at 1 st April 2020	4,450
B	Past shortfall at 1 st April 2020	1,675
C	Amount of past shortfall to be addressed in the five year period	1,675
D	Total five year requirement (A + B)	6,125
E	Requirement plus 20% buffer (D + 20%)	7,350
F	Annual requirement plus buffer (E / 5 years)	1,470

11. Stage 6: Identifying a Realistic and Deliverable Supply

11.1 The Council's latest five year supply trajectory claims that it has a deliverable supply at 1st April 2020 of 5,430 dwellings.

What constitutes a deliverable site?

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

11.2 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."

11.3 Paragraph 3-031 of the previous PPG (dated 6th March 2014): "What constitutes a 'deliverable site' in the context of housing policy?" stated:

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

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

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

11.4 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. This was the policy and guidance which the Local Plan Inspector considered the Council could demonstrate a five year housing land supply in 2015.

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

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

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

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

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

Government’s response to the draft revised Framework consultation

11.8 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)

11.9 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)

Revised Framework (July 2018)

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

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

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

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

Technical consultation on updates to national planning policy and guidance

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

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

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

“The new Framework published in July this year set out a revised definition of ‘deliverable’ (contained in the glossary at Annex 2 of the Framework). Early experience of applying this definition has suggested that it would benefit from some clarification of the wording. In particular, the existing text could be clearer that sites that are not major development, and which have only an outline

planning consent, are in principle considered to be deliverable. The relationship between the first sentence of the definition (which sets out general considerations in terms of deliverability), and the remainder that explains how particular circumstances should be approached, also needs to be clear. The specific circumstances cited in the definition are intended to indicate how the general considerations in the first sentence apply to the types of development referred to in the text that follows.

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

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

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

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

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

Government’s response to the technical consultation

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

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

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

• Many respondents across the groups suggested that sites with outline planning permission and / or sites that are included within local plans should be included in the definition of deliverable. Many respondents also suggested that

the proposal would result in developers using specialist knowledge and resources to influence planning decisions in their favour, as well as complaints concerning land banking” (my emphasis)

11.18 The Government’s response states:

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

Revised Framework (February 2019)

11.19 The definition of “deliverable” is set out on page 66 of the 2019 Framework states:

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

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

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.” (my emphasis)

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

Updated Planning Practice Guidance (PPG, September 2018)

11.21 The PPG was originally updated on 13th September 2018. Paragraph 3-036 of the PPG²⁹ stated:

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

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

For example:

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

Further Updated Planning Practice Guidance (PPG, July 2019)

11.22 The PPG was more recently updated on 22nd July 2019. Paragraph 68-007 of the PPG³⁰ 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;*

²⁹ Paragraph: 036 Reference ID: 3-036-20180913: ““What constitutes a ‘deliverable site’ in the context of housing policy?”

³⁰ Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”

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

Such evidence, to demonstrate deliverability, may include:

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

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

Assessment

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

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

11.24 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition is clear that only sites with detailed consent for major development should be considered deliverable and those with outline planning permission should only be considered deliverable where there is clear evidence that housing completions will begin in five years.

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

11.26 As above, the PPG has been updated to provide the type of evidence required to be able to consider that sites with outline planning permission for major development, allocated sites and sites identified on a brownfield register are deliverable. Whatever form the “clear evidence” takes, this must be published.

Relevant appeal decisions

11.27 Within this context, I refer to the following appeal decisions.

Land to the south of Cox Green Road, Rudgwick, Surrey³¹

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

11.29 The Inspector concluded that the supply should be reduced by 928 dwellings and therefore that Waverley Council could only demonstrate a “deliverable” supply of 4.3 years. The reasons why the Inspector considered the supply should be reduced are set out in paragraphs 10 to 27 of the appeal decision. I note the following points:

- Firstly, whilst Waverley Council's assumptions of delivery on a site at Dunsfold Park relied on estimated numbers of delivery from a pro-forma returned by the site's lead developer, the Inspector considered that the details contained within it were “scant”. There was no explanation as to how the timings of delivery could be achieved including the intended timescales for submitting and approving reserved matters, applications of discharge of conditions, site preparation and installing infrastructure.
- Secondly, 24 sites without full planning permission were removed for the reason set out in paragraphs 21 to 24. Paragraph 23 of the appeal decision states:

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

³¹ PINS ref: 3227970 – **CD11.12**

Land off Popes Lane, Sturry, Kent³²

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

11.31 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)

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

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

Land east of Gleneagles Way, Hatfield Peverel, Braintree³³

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

³² PINS ref: 3216104 – **CD11.11**

³³ PINS ref: 3180729 – **CD11.5**

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

11.34 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”

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

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

11.37 A copy of the evidence that Braintree Council provided is appended at **EP4**. I summarise the evidence provided in the following table.

Table 11.1 – Sites the Secretary of State removed from Braintree’s Housing Land Supply

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

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

Green Road, Woolpit, Suffolk³⁴

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

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

Entech House, London Road, Woolmer Green³⁵

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

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

³⁴ PINS ref: 3194926 – **CD11.7**

³⁵ PINS ref: 3190821 – **CD11.6**

Land off Colchester Road, Bures Hamlet, Essex³⁶

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

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

Land to the rear of the former Dylon International Premises, Station Approach, Lower Sydenham, London³⁷

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

Land south of Kislingbury Road, Rothersthorpe³⁸

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

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

³⁶ PINS ref: 3207509 – **CD11.10**

³⁷ PINS ref: 3206569 – **CD11.9**

³⁸ PINS ref: 3206346 – **CD11.12**

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

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

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

11.45 Whilst these e-mails, proformas and statements of common ground were not considered sufficient, it is of note that Herefordshire Council has not provided even this type of evidence to support the inclusion of sites with outline planning permission and allocated sites without planning permission. The only evidence Herefordshire Council has produced is the few comments included within the "progress" column of the housing land position statement.

Wyre Annual Position Statement

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

11.47 The Wyre Inspector's Report is dated 15th January 2020 and was published on 16th January 2020³⁹. The Inspector recommended to Wyre Council that the five year housing land supply should be reduced by 313 dwellings (9%) leaving a supply of 3,207 dwellings, which against the housing requirement and 10% buffer would equate to 5.18 years. In doing so, the Inspector referred to the definition of "deliverable" as set out on page 66 of the 2019 Framework.

³⁹ Appendix EP1

11.48 The Inspector noted that 39 sites remained in dispute. Of these, the Inspector agreed with the Council that 1 site should not be included (at land south of Prospect Farm) and concluded that nine sites should be removed from Wyre Council's supply and the contribution to the supply from one site should be reduced. The reasons why the Inspector removed the nine sites was because the Inspector did not consider that Wyre Council had provided the "clear evidence" required by the Framework for their inclusion. I summarise this position at appendix **EP2**.

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

11.50 In terms of the sites with outline planning permission, the Wyre Inspector included the sites with outline planning permission and a reserved matters application pending determination and sites with an outline planning permission where a masterplan was being prepared. However, the Wyre Inspector removed three sites with outline planning permission where a reserved matters application had not been made and a masterplan was not being progressed. Wyre Council provided the evidence appended at **EP3** to support the inclusion of these three sites.

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

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

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

"This is an allocated site in the Local Plan with outline planning permission for 66 dwellings. Although a masterplan is being progressed for the site, this remains in draft form. Furthermore, although the site is being actively marketed, there remains no developer in place and no RM application submitted, albeit that a masterplan would be likely to guide any such proposal. The Council considers that a contribution of 20 units within the five year period would be appropriate, having lowered the figure from 50 due to the reduced progress made. However, for the above reasons, although that contribution would be fairly low,

there is not sufficiently clear evidence that even those will be built within the 5 year HLS period."

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

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

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

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

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

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

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

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

"This is an allocated site for development in the Local Plan with no planning permission in place. An outline application for 30 dwellings has been submitted by a land promoter who the Council highlights has a track record of bringing sites forward. Despite that, in light of there being no planning permission in

place and no developer on board, there is not clear evidence that housing completions will occur within the 5 year HLS period”

11.58 As I discuss later in my proof of evidence, the position on these sites is comparable to many of the sites with outline planning permission for major development and allocated sites without planning permission that Herefordshire Council claims should be included in its “deliverable” supply. However, without a detailed planning application pending determination, the Inspector examining Wyre’s APS concluded that there is not clear evidence that there will be any housing completions within the five year period on these sites.

11.59 The change to the definition of deliverable is significant in relation to Herefordshire’s housing land supply because only 3,517 dwellings (65%) of the Council’s claimed supply falls within the category a) as shown in the following table.

Table 11.2 – Breakdown of Herefordshire’s claimed supply by category

Description	Category a) Should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered in 5 years	Category b) Should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5 years	Sites outside of category a) and b)	Compelling evidence required	Total
(A) Sites with full planning permission and small sites with outline planning permission	3,517				3,517
(B) Large sites with outline planning permission		849			849
(C) Strategic Urban Extensions		466			466
(D) Sites allocated in Neighbourhood Plans without planning permission		337			337
(E) Sites with planning permission subject to S106			61		61
(F) Windfall allowance				200	
Total	3,517	1,652	61	200	5,430
Percentage of supply	64.7%	30.4%	1.1%	3.7%	

River Lugg catchment area

11.60 The River Lugg is a tributary of the River Wye and forms part of the designated site covering the north of the Herefordshire administrative area. It is currently failing its conservation targets of phosphate levels because of water pollution from both sewage outlets and agricultural run-off.

11.61 As the competent authority under the Habitats Regulations, the Council must carry out an Appropriate Assessment on any relevant planning applications within the catchment area and

must be able to determine, with scientific certainty, that there would be no 'Likely Significant Effect' (LSE) on the designated site, from the proposal, either alone or in combination with other plans and projects, in order for the planning application to be granted.

11.62 The latest position is that following the judgment in the case of *Cooperatie Mobilisatie* (the Dutch Case), which was handed down in November 2018 by the Court of Justice of the European Union (CJEU), where a site is failing its water quality objectives, and is therefore classed as an unfavourable condition, there is limited scope for the approval of additional damaging effects and that the future benefit of measures cannot be relied upon at Appropriate Assessment, where those benefits are uncertain at the time of the assessment.

11.63 Natural England have advised that for any proposals with a significant effect (on phosphate levels in the River Lugg) and which require Appropriate Assessment, the effects are currently uncertain, as in their opinion there remains reasonable scientific doubt as to whether the Nutrient Management Plan (NMP) can provide appropriate mitigation (based on how much certainty this currently demonstrates). The Council has sought its own legal opinion, which is not available at the time of writing. The Council's published position is appended at **EP5**. This has led to significant delays in the determination of planning applications in the catchment area.

11.64 The Council's position statement addresses this issue in paragraphs 3.1 to 3.9 on pages 7 to 9. Paragraph 3.6 of the position statement states:

"As part of this work, the council are actively looking to develop solutions with plans for the creation of a series of integrated wetlands in the Lugg catchment area. A Memorandum of Understanding entitled 'River Wye Special Area of Conservation, Phosphate Neutral Development¹³ - Interim Measures' is being developed with key partners, including to reach agreement on the steps to be taken. The council is also preparing to commission an 'Interim Plan' which will demonstrate how the council will proceed with the design, planning applications, land acquisition and development of Integrated wetlands to ensure new development can be demonstrated to be phosphate neutral or provide betterment, therefore allowing development to come forward".

11.65 The intention is that the wetlands will absorb the phosphates produced from new housing developments and provide a betterment for all sites in the Lugg catchment area rather than being specific to individual sites. Whilst some funding (£2 million) has been identified by the Council through the New Homes Bonus, the outcome of a bid for a further £1 million funding from MHCLG is not known.

11.66 The specific areas (up to 8 in total) for the wetlands have not yet been identified. A report to the Council's Infrastructure and Transport Cabinet Member on 10th August 2020 stated:

“An outline feasibility study has identified a number of potential sites with the potential to deliver significant phosphate reduction. The proposal is to engage a wetland specialist in order to undertake detailed feasibility and design. The council will then seek to procure and develop up to 8 sites through negotiations with landowners by means of purchase, leasehold or land stewardship agreements.

Detailed design proposals of the wetlands will be commissioned from the wetland specialist and planning permission sought. At this point in time the council will hold sufficient information to calculate both the phosphate load of proposed growth, as well as the potential offsetting capacity of the wetlands and can therefore seek confirmation from Natural England, the statutory body for the regulation of European designated sites, that sufficient scientific certainty is now in place to meet the Habitat Regulations and allow development to proceed.

11.67 As set out above, there is a significant amount of work required before the wetlands can be relied on to provide an interim solution to the issue. Once the wetlands have been identified, they will need to be acquired and then sufficiently advanced. The position statement only states that it is “anticipated” that these measures will provide sufficient certainty to allow new housing developments to proceed. The Council has assumed that this process will take 2 years.

11.68 In relation to the definition of “deliverable”, any site with outline planning permission for major development or allocated site without planning permission requires clear evidence that housing completions will begin on the site within the next five years. If the site is located in the catchment area, then the clear evidence must include an appropriate assessment, which demonstrates there would be no likely significant effect on the designated site. Unless this has been provided, then the site cannot meet the definition of deliverable. Whilst I note that the Council is working on a proposal to enable the release of housing development it has not progressed to a stage to provide the necessary clear evidence that housing completions will begin on any of the housing sites.

The impact of Covid-19 on housing land supply

11.69 The Covid-19 pandemic in the UK will have an impact in terms of housing land supply. Firstly, build rates in 2020/21 will be lower than those predicted before the pandemic. This is because following the Prime Minister's announcement of the 'lockdown' in the UK on 23rd March 2020 construction on many sites ceased. Construction did not re-commence on those sites which had closed until

late April / early May 2020. Therefore, there was at least 5 weeks when work was not being undertaken on many housing sites. Even though construction has now resumed on many sites, build rates will still be reduced due to social distancing on site and the supply of trade and materials. Build rates could be reduced further in 2020/21 because of the economic recession and reduced consumer confidence.

11.70 Within this context, I refer to a recent decision dated 9th April 2020 regarding an appeal made by Welbeck Strategic Land against the decision of Wokingham Borough Council to refuse to grant outline planning permission for up to 118 dwellings at land north of Nine Mile Ride, Finchampstead, Berkshire⁴⁰. The public inquiry into the appeal took place in February 2020. Following the close of the inquiry, Inspector Christina Downes asked the main parties whether they wished to comment on any implications that the Covid-19 pandemic may have in terms of their evidence on housing delivery. The Appellant and Wokingham Council responded. Paragraphs 109-111 of the appeal decision state:

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

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

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

11.71 Secondly, in terms of the definition of “deliverable”, any “clear evidence” provided by the Council to support the deliverability of sites cannot be relied on unless it has taken into account the impact that the Covid-19 will have on build rates for those sites with detailed planning

⁴⁰ PINS ref: 3238048 – **CD11.16**

permission and on viability for those sites with outline planning permission for major development or allocated site without planning permission.

11.72 I now assess the Council's supply with regard to the revised definition of "deliverable" as set out in the 2019 Framework.

12. Sites with full planning permission for major development

12.1 The Council includes 293 dwellings on 4 identified large sites which had full planning permission for major development at the base date. These sites are set out in the table at pages 28-30 of Appendix 2 of the housing land supply position statement as summarised in the following table:

Table 12.1 – Sites with full planning permission for major development at 1st April 2020

EP ref:	Site Address	Capacity	Council's 5YHLS
A01	Land to the east of the A49, Holmer	41	41
A02	Land at Deacon's Yard, 36 Victoria Road, Kington	10	9
A03	Land to the rear of the Full Pitcher, New Street, Ledbury	100	93
A04	Barons Cross Camp, Cholstry, Leominster	414	150
		Total	293

12.2 In accordance with the definition of deliverable set out on page 66 of the Framework, these sites should be considered "deliverable" 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).

12.3 Within this context, I make deductions from one site in this category:

Site A04: Barons Cross Camp, Cholstrey, Leominster

Capacity = 414 dwellings, Council's 5YHLS = 150 dwellings

- 12.4 The site has a long planning history. Outline planning permission was originally granted 14 years ago in 2006 (LPA ref: DCNC2005/0917/O). A reserved matters approval was then issued in 2008 (LPA ref: DCNC2007/0916/RM). A subsequent permission in 2017 then extended the period for implementation (LAP ref: 120887). A reserved matters application was made by Keepmoat Homes in June 2017 for 414 dwellings. That was approved on 6th February 2018 (LPA ref: 172135/RM).
- 12.5 In September 2018, Keepmoat Homes announced that it had withdrawn its interest in the site because it was no longer commercially viable. Therefore, at the base date, the site had detailed consent but there was clear evidence that the permission would not be implemented.
- 12.6 A further reserved matters application was made by Persimmon Homes for 370 dwellings in October 2019 (LPA ref: 193754/RM). It is pending determination 11 months later. The position statement states the following:
- “Positive response from agent. Site is subject to the phosphate issue in the River Wye SAC (Lugg catchment). This issue is anticipated to have been resolved enabling the site to commence delivery in year 3. The supply is based on a build out rate of 50 dwellings per annum.”*
- 12.7 As the site lies within the River Lugg Catchment area, it is not known whether the current reserved matters application can be progressed. Even if a wetland area is to be identified, it is not clear where this wetland is or whether it will be sufficiently advanced within the five year period and on that basis, there is not clear evidence that housing completions will begin on site within five years. In addition, the Council has not provided clear evidence that the site is viable. This is important given that Keepmoat withdrew its interest due to viability issues before the Covid-19 pandemic outbreak and the subsequent impact this will have on viability.
- 12.8 The site does not meet the definition of “deliverable” and therefore should be excluded from the supply. This results in a deduction of **150 dwellings**.

13. Sites with outline planning permission for major development

13.1 The Council includes 849 dwellings on 19 sites which had outline planning permission for major development at the base date. These sites are set out in the table at pages 36-43 of Appendix 2 of the position statement as summarised in the following table:

Table 13.1 – Sites with outline planning permission for major development at 1st April 2020

EP ref:	Site Address	Capacity	Council's 5YHLS
B01	Land to the north of the village hall, Ashperton	10	10
B02	Land at Stonehouse Farm, Bromyard	10	10
B03	Land adjacent to Bredstone House, Burghill	10	10
B04	Land off Madley Road, Clehonger	90	90
B05	Land at Orchard House, Credenhill, Hereford	69	69
B06	Land at Old Potato Store, Mill Lane, Fownhope	10	10
B07	Land at Holmer Trading Estate, College Road, Hereford	120	120
B08	Land at the Paddocks, Roman Road	50	50
B09	Land east of Canon Pyon Road, Hereford	95	95
B10	Land at Holmer House Farm, Holmer	83	83
B11	Land off Rosemary Lane, Leintwardine	45	45
B12	Land at west winds, Cholstrey Road, Leominster	23	23
B13	Land adjacent to Faraday House, Madley	27	27
B14	Land adjacent to New House Farm, Marden	90	45
B15	Land at Tump Lane, Hereford	20	20
B16	Land adjacent to Ploughfields, Preston on Wye	10	10
B17	Land at Hildersley, Ross on Wye	212	112
B18	Land adjacent to Stoke Lacy Village Hall, Stoke Lacy	10	10
B19	Land at the Lakes, Swainhill, Hereford	10	10
		Total	849

13.2 I make the following deductions for the reasons set out below.

Site B01: Land to the north of the village hall, Ashperton

Capacity = 10 dwellings, Council's 5YHLS = 10 dwellings

13.3 This site has outline planning permission for 10 dwellings (LPA ref: 152041). Whilst a reserved matters application has been made, it is pending determination (LPA ref: 191013), the site is located within the catchment area of the River Lugg and therefore there are issues in relation to phosphates.

13.4 The Council's position statement states:

"As long as there is a solution after 2 years, it is possible this site could come forward within years 3-5"

13.5 This is not clear evidence that housing completions will begin on this site within five years. No details of how the phosphate issue for this specific site have been provided by the Council and therefore it is unclear as to whether it can progress. The site should be removed. This results in a deduction of **10 dwellings**.

Site B02: Land at Stonehouse Farm, Bromyard

Capacity = 10 dwellings, Council's 5YHLS = 10 dwellings

13.6 This site has outline planning permission for 10 dwellings (LPA ref: 172115). Whilst a reserved matters application has been made, it is pending determination (LPA ref: 201450), the site is located within the catchment area of the River Lugg and therefore there are issues in relation to phosphates.

13.7 As with the site above, the Council's position statement states:

"As long as there is a solution after 2 years, it is possible this site could come forward within years 3-5"

13.8 This is not clear evidence that housing completions will begin on this site within five years. No details of how the phosphate issue for this specific site have been provided by the Council and therefore it is unclear as to whether it can progress. The site should be removed. This results in a deduction of **10 dwellings**.

Site B05: Land at Orchard House, Credenhill, Hereford

Capacity = 69 dwellings, Council's 5YHLS = 69 dwellings

13.9 The site is 2.85 ha in area. It is within the parish of Credenhill to the north west of Hereford City. The site itself lies to the east of the existing settlement, with the military base to the west and its associated housing to the north. The site itself lies to the eastern side of the A480.

Planning history

- 13.10 On 10th January 2019, Mr and Mrs Prosser submitted an outline planning application for up to 69 dwellings at the site (LPA ref: P190089/O). The access was considered at the outline stage and all other matters were reserved.
- 13.11 On 11th October 2019, the Council granted outline planning permission at the site for up to 69 dwellings subject to a S106 agreement and 29 conditions.
- 13.12 An application for reserved matters has not been made to date.

Council's position

- 13.13 The Council includes all 69 dwellings in the five year supply. The comments provided in the position statement to support the inclusion of the site are as follows:

"There is interest on this site from Housebuilders. Reserved Matters anticipated shortly."

Assessment

- 13.14 As set out on page 66 of the 2019 Framework, the onus is on the Council to provide "clear evidence" that housing completions will begin on this site in the next five years. The few comments in the position statement are not clear evidence that housing completions will begin on site within five years.
- 13.15 Paragraph 68-007 of the PPG provides some examples of the types of evidence that could be provided as I discuss below.

Current planning status?

- 13.16 The site has outline planning permission. An application for reserved matters has not been made.

Firm progress being made towards the submission of an application?

- 13.17 There is no evidence that firm progress is being made towards the submission of a reserved matters application. Appendix 2 of the position statement simply states that there is interest in the site and an application for reserved matters is "anticipated shortly".

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

13.18 A written agreement between the LPA and a developer has not been provided. The position statement states that there is interest from housebuilders but a housebuilder has not been named.

Firm progress with site assessment work?

13.19 As above, the outline planning permission was granted subject to 29 conditions, including pre-commencement conditions. No evidence of firm progress with any of the site assessment work required to discharge the conditions has been provided.

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

13.20 The Council has not provided any details in terms of viability, ownership constraints or infrastructure provision. Given the recent Covid-19 pandemic, the Council would need to demonstrate that the site is viable.

Summary

13.21 In summary, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on this site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework. It should be removed. This results in a deduction of **69 dwellings** from the Council's supply.

Site B06: Land at Old Potato Store, Mill Lane, Fownhope

Capacity = 10 dwellings, Council's 5YHLS = 10 dwellings

13.22 On 19th September 2019, outline planning permission was granted for 10 dwellings at the site. A reserved matters application has not been made. The position statement states:

“A remaining two years left on the permission. Discussions with potential purchasers underway. Site is expected to be available in 12 months time.”

13.23 This is not clear evidence that housing completions will begin on this site. The site should be removed. This results in a deduction of **10 dwellings**.

Site B08: Land at the Paddocks, Roman Road, Hereford

Capacity = 50 dwellings, Council's 5YHLS = 50 dwellings

13.24 The site has outline planning permission for up to 50 no. dwellings. A reserved matters application been made but this is for 42 dwellings (LPA ref: P201175/RM). There is no clear evidence that an additional 8 dwellings will be constructed on this site in the five year period. These dwellings should be removed. This results in a deduction of **8 dwellings**.

Site B09: Land east of Canon Pyon Road, Hereford

Capacity = 95 dwellings, Council's 5YHLS = 95 dwellings

13.25 The site is 3.79 ha in area. It is within the parish of Holmer and Shelwick a short distance from Hereford. The site is a field and is flat.

Planning history

13.26 On 17th May 2019, Taylor Wimpey submitted an outline planning application for up to 95 dwellings at the site (LPA ref: P191770/O). The access was considered at the outline stage and all other matters were reserved.

13.27 On 15th November 2019, the Council granted outline planning permission subject to a S106 agreement and 29 conditions.

13.28 An application for reserved matters has not been made to date.

Council's position

13.29 The Council includes all 95 dwellings in the five year supply. The comments provided in the position statement to support the inclusion of the site are as follows:

"The agents are actively progressing towards a Reserved Matters application for the development."

Assessment

13.30 As set out on page 66 of the 2019 Framework, the onus is on the Council to provide "clear evidence" that housing completions will begin on this site in the next five years. The few comments in the position statement are not clear evidence that housing completions will begin on site within five years.

13.31 Paragraph 68-007 of the PPG provides some examples of the types of evidence that could be provided as I discuss below.

Current planning status?

13.32 The site has outline planning permission. An application for reserved matters has not been made.

Firm progress being made towards the submission of an application?

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

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

13.34 A written agreement between the LPA and Taylor Wimpey has not been provided.

Firm progress with site assessment work?

13.35 As above, the outline planning permission was granted subject to conditions, including pre-commencement conditions. No evidence of firm progress with any of the site assessment work required to discharge the conditions has been provided.

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

13.36 The Council has not provided any details in terms of viability, ownership constraints or infrastructure provision. Given the recent Covid-19 pandemic, the Council would need to demonstrate that the site is viable.

Summary

13.37 In summary, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on this site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework. It should be removed. This results in a deduction of **95 dwellings** from the Council's supply.

Site B12: Land at West Winds, Cholstrey Road, Leominster

Capacity = 23 dwellings, Council's 5YHLS = 23 dwellings

13.38 This site has outline planning permission for 23 dwellings (LPA ref: 160812). Whilst a reserved matters application has been made, it is pending determination (LPA ref: 191013), the site is located within the catchment area of the River Lugg and therefore there are issues in relation to phosphates.

13.39 The Council's position statement states:

"As long as there is a solution after 2 years, it is possible this site could come forward within years 3-5"

13.40 This is not clear evidence that housing completions will begin on this site within five years. No details of how the phosphate issue for this specific site have been provided by the Council and therefore it is unclear as to whether it can progress. The site should be removed. This results in a deduction of **23 dwellings**.

Site B14: Land adjacent to New House Farm, Marden, Herefordshire

Capacity = 90 dwellings, Council's 5YHLS = 45 dwellings

Background

13.41 The site is 5.12 ha in area. It is located between Marden Primary School and New House Farm, to the south east of Marden, a village to the north of Hereford within the River Lugg sub-catchment area,

Planning history

13.42 On 29th March 2017, outline planning permission was granted for up to 90 no. dwellings (LPA ref: 150989). In January 2019, Signature New Homes submitted a reserved matters application (LPA ref: 190182). It has not been determined.

Council's position

13.43 The Council's position is that the site will deliver 45 no. dwellings in the five year period. Appendix 2 of the AMR provides the following comments in terms of progress:

"Two valid Reserved Matters applications awaiting decisions. Site is subject to phosphate issues which will unlikely to be a problem for the Reserved Matters"

but the drainage conditions cannot be discharged due to phosphate issues. As long as there is a solution after 2 years, it is possible this site could come forward within years 3 - 5. A partial discount has been made based on the size of the site and reflects anticipated build out rates."

Assessment

13.44 As set out on page 66 of the 2019 Framework, the onus is on the Council to provide "clear evidence" that housing completions will begin on this site in the next five years.

13.45 The comments in the position statement are not clear evidence that housing completions will begin on this site within five years.

13.46 Paragraph 68-007 of the PPG provides some examples of the types of evidence that could be provided as I discuss below.

Current planning status?

13.47 The site has outline planning permission for up to 90 dwellings (approved 29th March 2017). An application for reserved matters was made 20 months ago but has not been determined.

Firm progress being made towards the submission of an application?

13.48 A reserved matters application has been made but it cannot be determined until it can be demonstrated that there will be no harm on the designated nature conservation site with particular regard to the discharge of phosphates into the River Lugg.

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

13.49 A written agreement between the LPA and a developer has not been provided.

Firm progress with site assessment work?

13.50 An application to discharge the pre-commencement conditions has not been made. As above, evidence would need to demonstrate that there will be no harm on the designated nature conservation site.

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

13.51 The Council has not provided any details in terms of viability, ownership constraints or infrastructure provision. Given the recent Covid-19 pandemic, the Council would need to demonstrate that the site is viable.

Summary

13.52 In summary, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on this site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework. It should be removed. This results in a deduction of **45 dwellings** from the Council's supply.

Site B17: Land at Hildersley, Ross on Wye

Capacity = 212 dwellings, Council's 5YHLS = 112 dwellings

13.53 This site is located to the south-east of Ross-on-Wye. It is 10.9 ha in area and comprises of agricultural land, a former playing field and an area of planted woodland.

Planning history

13.54 The site is allocated under policy RW2 of the Local Plan Core Strategy (page 98).

13.55 On 30th March 2015, Hildersley Farm Partnership submitted an outline planning application for up to 250 dwellings at the site (LPA ref: P150930/O). The access was considered at the outline stage and all other matters were reserved. The application was amended and the number of dwellings proposed was reduced to up to 212. The application was considered at planning committee in March 2017 (i.e. 2 years after the application was made).

13.56 On 28th March 2018 (i.e. 3 years after the application was made), the Council granted outline planning permission at the site for up to 212 dwellings subject to a S106 agreement and 19 conditions.

13.57 An application for reserved matters has not been made to date.

Council's position

13.58 The trajectory in the Local Plan Core Strategy considered that 180 dwellings would have been developed on this site by 31st March 2020. Indeed in each of the Council's AMRs, there has been a reliance on this site to deliver around 100-150 dwellings only for that position to be pushed back each time the new AMR is published. This is shown in the following table:

Table 13.2 – Projected build out rates at land at Hildersley

	Projected build out rate							
	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
2015	30	50	50	50	20			
2016	→	→	30	50	50	50	20	
2017			→	50	50	50	50	12
2018				→	50	50	50	50
2019					→	50	50	50

13.59 The current position statement states that this site will deliver 112 dwellings in the five year period.

13.60 The position statement states at paragraph 5.18:

“In March 2018, land at Hildersley in Ross on Wye (150930) achieved outline planning permission for 212 dwellings and is currently for sale. There is housebuilder interest in the site. Due to the land not having a reserved matters permission a cautious approach has been taken as to its potential delivery and this is accounted for in the discounted sites at Appendix 2.”

13.61 Appendix 2 of the position statement then states under the progress column:

“Awaiting cabinet decision on an easement for drainage from the site as this part is in council ownership. Once the decision is made this will enable Keepmoat to make progress with the land purchase and a subsequent Reserved Matters application. A partial discount has been made based on the size of the site and reflects anticipated build out rates.”.

Assessment

13.62 As set out on page 66 of the 2019 Framework, the onus is on the Council to provide “clear evidence” that housing completions will begin on this site in the next five years. The few comments in the AMR are not clear evidence that housing completions will begin on site within five years.

13.63 Paragraph 68-007 of the PPG provides some examples of the types of evidence that could be provided as I discuss below.

Current planning status?

13.64 The site has outline planning permission. An application for reserved matters has not been made.

Firm progress being made towards the submission of an application?

13.65 There is no evidence that firm progress is being made towards the submission of a reserved matters application. Appendix 2 of the position statement refers to a land purchase and a reserved matters application but does not provide any details as to when this will be. Appendix 2 of the previous position statement stated that an application for reserved matters was “expected” in autumn 2019. This did not happen.

13.66 I note that this is similar to the site at Holts Lane in Wyre where a pre-application meeting had been held with a developer and in that case the Wyre Inspector removed the site from the deliverable supply.

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

13.67 A written agreement between the LPA and a developer has not been provided. The position statement states that the site is currently for sale.

Firm progress with site assessment work?

13.68 As above, the outline planning permission was granted subject to 19 conditions, including pre-commencement conditions. No evidence of firm progress with any of the site assessment work required to discharge the conditions has been provided.

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

13.69 The Council has not provided any details in terms of viability, ownership constraints or infrastructure provision. Given the recent Covid-19 pandemic, the Council would need to demonstrate that the site is viable.

Summary

13.70 In summary, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on this site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework. It should be removed. This results in a deduction of **112 dwellings** from the Council's supply.

Site B18: Land adjacent to Stoke Lacy Village Hall, Stoke Lacy

Capacity = 10 dwellings, Council's 5YHLS = 10 dwellings

13.71 This site has outline planning permission for 10 dwellings (LPA ref: 172292). Whilst a reserved matters application has been made, it is pending determination (LPA ref: 193756), the site is located within the catchment area of the River Lugg and therefore there are issues in relation to phosphates.

13.72 The Council's position statement states:

"As long as there is a solution after 2 years, it is possible this site could come forward within years 3-5"

13.73 This is not clear evidence that housing completions will begin on this site within five years. No details of how the phosphate issue for this specific site have been provided by the Council and therefore it is unclear as to whether it can progress. The site should be removed. This results in a deduction of **10 dwellings**.

Site B19: Land at the Lakes, Swainshill, Hereford

Capacity = 10 dwellings, Council's 5YHLS = 10 dwellings

13.74 This site has hybrid planning permission; full planning permission for 1 dwelling and outline planning permission for 9 dwellings. The position statement provides no evidence that the outline planning permission will be implemented. Therefore, 1 dwelling should be included and **9 dwellings** should be removed.

Summary in relation to sites with outline planning permission for major development

13.75 The following table summarises the discounts I make to sites in this category.

Table 13.3 – Summary of discounts made to sites with outline planning permission for major development at 31st March 2019

EP ref:	Site Address	Council's 5YHLS	Appellant's 5YHLS	Difference
B01	Land to the north of the village hall, Ashperton	10	0	10
B02	Land at Stonehouse Farm, Bromyard	10	0	10
B03	Land adjacent to Bredstone House, Burghill	10	10	0
B04	Land off Madley Road, Clehonger	90	90	0
B05	Land at Orchard House, Credenhill, Hereford	69	0	69
B06	Land at Old Potato Store, Mill Lane, Fownhope	10	0	10
B07	Land at Holmer Trading Estate, College Road, Hereford	120	120	0
B08	Land at the Paddocks, Roman Road	50	42	8
B09	Land east of Canon Pyon Road, Hereford	95	0	95
B10	Land at Holmer House Farm, Holmer	83	83	0
B11	Land off Rosemary Lane, Leintwardine	45	45	0
B12	Land at west winds, Cholstrey Road, Leominster	23	0	23
B13	Land adjacent to Faraday House, Madley	27	27	0
B14	Land adjacent to New House Farm, Marden	45	0	45
B15	Land at Tump Lane, Hereford	20	20	0
B16	Land adjacent to Ploughfields, Preston on Wye	10	10	0
B17	Land at Hildersley, Ross on Wye	112	0	112
B18	Land adjacent to Stoke Lacy Village Hall, Stoke Lacy	10	0	10
B19	Land at the Lakes, Swainshill, Hereford	10	1	9
	Total	849	448	401

14. Sites with a resolution to grant planning permission

14.1 The Council includes 61 dwellings on 3 sites that had a resolution to grant planning permission at the base date of 1st April 2020. These sites are set out in the table at pages 44-45 of Appendix 2 of the position statement as summarised in the following table:

Table 14.1 – Sites with resolution to grant for major development at 1st April 2020

EP ref:	Site Address	Capacity	Council's 5YHLS
C01	Docklow Pools, Docklow	1	1
C02	Field adjoining A4112 and Chestnut Avenue, Kimbolton	25	25
C03	Land adjacent to Spring Cottage, Headbrook	35	35
		Total	61

Site C01: Docklow Pools, Docklow

14.2 The site has a resolution to grant planning permission for a dwelling to be occupied by the site manager subject to a S106 agreement being signed (LPA ref: 192317). However, due to the phosphate issue, the S106 has not been signed. As it is unknown if this issue will be overcome then there is not "clear evidence" for the inclusion of this site. It should be removed. This results in a deduction of **1 dwelling**.

Site C02: Field adjoining A4112 and Chestnut Avenue, Kimbolton

14.3 This site has detailed consent for 21 dwellings and is already included in the supply (LPA ref: 180323)⁴¹.

14.4 A revised planning application (ref: 181384) for the development of 25 dwellings instead of the 21 approved was submitted on 12th April 2018. The application was recommended for approval subject to the signing of a Section 106 agreement on 22nd August 2018.

14.5 Appendix 2 of the housing land supply position statement explains that the phosphate issue is preventing the sign off of the S106.

⁴¹ Please see Core Document **CD1.15**, page 17

14.6 The site had planning permission at the base date for 21 dwellings and those units are included in the supply (on page 19 of appendix 1 of the position statement). To then include 25 dwellings would be double counting. There is no clear evidence that the 25 dwelling scheme will be implemented, given the delays to the S106 agreement and the fact the phosphate issue needs to be resolved. This results in a deduction of **25 dwellings**.

Site C03: Land adjacent to Spring Cottage, Headbrook

14.7 An outline planning application (ref: 181494) was submitted for 33 dwellings on 23rd April 2018. The application was recommended for refusal at planning committee on 18th December 2018, however members resolved to approve it subject to a S106 agreement no decision has been issued to date.

14.8 Appendix 2 of the housing land supply position statement explains that the phosphate issue is preventing the sign off of the S106. There is no clear evidence for the inclusion of this site. This results in a deduction of **35 dwellings**.

Summary in relation to sites with a resolution to grant permission

14.9 The following table summarises the discounts I make to sites in this category.

Table 14.2 – Summary of discounts to sites with resolution to grant for major development at 31st March 2019

EP ref:	Site Address	Council's 5YHLS	Appellant's 5YHLS	Difference
C01	Docklow Pools, Docklow	1	0	1
C02	Field adjoining A4112 and Chestnut Avenue, Kimbolton	25	0	25
C03	Land adjacent to Spring Cottage, Headbrook	35	0	35
		61	0	61

15. Strategic Urban Extension Sites

15.1 The Council includes 466 dwellings on 4 of 6 strategic urban extension sites. These sites are set out in figure 4 on page 21 of the housing land position statement as summarised in the following table:

Table 15.1 – Strategic Urban Extension Sites

EP ref:	Site Address	Capacity	Council's 5YHLS
D01	Three Elms, Hereford	1,000	110
D02	Lower Bullingham, Hereford	1,000	140
D03	Hereford City Centre Urban Village	800	80
D04	Southern expansion, Leominster	1,500	0
D05	Hardwick Bank, Bromyard	250	0
D06	Land north of the Viaduct, Ledbury	625	136
		Total	466

15.2 I discuss these sites as follows.

Site D01: Hereford western expansion, Three Elms

Capacity = 1,000 dwellings; Council's 5YHLS = 110 dwellings

15.3 This very large site is located to the north west of Hereford. It is currently used for agriculture.

Planning History

15.4 Land at Three Elms is allocated in the Herefordshire Core Strategy for a minimum of 1,000 homes under policy HD5⁴².

15.5 Over 4 years ago on 8th September 2016, an outline planning application for up to 1,200 dwellings along with employment development, a mix of retail uses, health provision, leisure uses, a primary school, open space, landscaping, highways and infrastructure works was submitted by the Church Commissioners of England (reference: 162920). The application remains undetermined. It has not been presented to planning committee.

15.6 The application had been put on hold so that hydrogeological monitoring could take place over a 12 month period between the end of 2017 and the end of 2018 to inform the drainage strategy. Work was again paused in spring 2019 so that the relationship between the application and the then emerging proposals for the Hereford bypass could be considered. However on 9th August 2019, the Member for Infrastructure announced that work on the Hereford bypass would be paused and therefore this work was put in hold.

15.7 In a letter to the Council dated 18th September 2019, the planning agent (Lichfields) stated:

"We are currently reviewing the application in light of the uncertainty regarding the bypass and we hope to be in a position to provide officers with a further update shortly."

15.8 On 30th January 2020, it was announced that due to the uncertainty about whether the bypass would proceed, the Marches Local Enterprise Partnership had withdrawn £27m of funding for a link road, which was the first phase of the bypass. On 3rd February 2020, the Council announced that a review of the Hereford transport strategy would be undertaken. Feedback is due by 31st March 2020 and the review is expected to be completed by 31st July 2020.

⁴² Core Document **CD1.3** – pages 64 and 65

Council's position

15.9 The trajectory in the Local Plan Core Strategy considered that 400 dwellings would have been developed on this site by 31st March 2020. Indeed in each of the Council's AMR, there has been a reliance on this site to deliver around 100-150 dwellings only for that position to be pushed back each time the new AMR is published. This is shown in the following table:

Table 15.2 – Projected housing trajectory at Three Elms

	Projected build out rate							
	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
2015	100	100	100	100	90	90	90	90
2016	→	→	50	100	100	100	100	100
2017			→	→	40	100	100	100
2018					→	20	100	100
2019						→	20	100

15.10 The housing land position statement provides some comments on this site at paragraphs 5.19 to 5.22 on pages 17 and 18.

Assessment

15.11 As set out on page 66 of the 2019 Framework, the onus is on the Council to provide "clear evidence" that housing completions will begin on this site in the next five years.

15.12 The comments in the position statement are not clear evidence that housing completions will begin on site within five years.

15.13 Paragraph 68-007 of the PPG provides some examples of the types of evidence that could be provided as I discuss below.

Current planning status?

15.14 The site does not have planning permission. Whilst an outline planning application was made 4 years ago, it is still pending determination and there is uncertainty about whether it will be determined or if it is to be determined, when that will be.

Firm progress being made towards the submission of an application?

15.15 Due to the uncertainty with the outline planning application, there is no evidence that firm progress is being made towards the submission of an application for reserved matters.

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

15.16 A written agreement between the LPA and a developer has not been provided. The Council's housing land position statement states that Taylor Wimpey have development option on some of the smaller parcels of land to the south of the expansion area, but no evidence has been provided from Taylor Wimpey in terms of their programme.

Firm progress with site assessment work?

15.17 There is uncertainty as to whether the bypass will go ahead and how the site will be developed if it does not. No evidence has been provided about this or any of the other site assessment work.

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

15.18 The Council has not provided any details in terms of viability, ownership constraints or infrastructure provision.

Summary

15.19 In summary, the Council has not provided any "clear evidence" of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on this site within the next five years. The evidence that it has provided is not "clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of "deliverable" as set out on page 66 of the Framework. It should be removed. This results in a deduction of **110 dwellings** from the Council's supply.

Site D03: Hereford City Centre development

Capacity = 800 dwellings; Council's 5YHLS = 80 dwellings

15.20 Hereford City Centre is expected to deliver around 800 new homes in the plan period as set out in policy HD2. The Council includes 80 dwellings from the City Centre in the five year supply.

15.21 The Council's position statement states:

“Based on recent year's performance, the build out has been revised down as it is more reflective of delivery rates in the area over the past nine years. Therefore a rate 40 dwellings per annum for years 4 and 5 is forecast to avoid double counting with current permissions”

15.22 The position statement explains that by 31st March 2020, 372 dwellings had been completed. Therefore, the average number of completions in the City Centre over the first 9 years has been 41.3 dwellings. Based on this rate of delivery, over the next five years, 207 dwellings could be expected to be delivered (i.e. 41.3 X 5 years).

15.23 The housing land position statement explains that at 1st April 2020 there were commitments for 188 dwellings in Hereford. These are listed in the table on page 8 of Appendix 1 of the housing land position statement (86 dwellings have not been started, 106 are under construction and 4 dwellings are expected to be lost through conversion = 188 dwellings in total). These dwellings are not contested. Therefore, based on past build rates, the additional contribution which could be expected in the city centre is 19 dwellings (i.e. 188 + 19 = 207). This means that **61 dwellings** should be removed from the supply.

Site D06: Land north of the viaduct, Ledbury

Capacity = 625 dwellings, Council's Five Year Supply = 136 dwellings

15.24 This is the appeal site. At the base date, the site did not have planning permission. It was an allocated site with an appeal pending determination. I present two supply figures. The first includes 136 dwellings at the appeal site and the second does not.

16. Neighbourhood Plan Allocations

16.1 The Council includes 337 dwellings on sites allocated in “made” Neighbourhood Plans without planning permission at the base date. These are listed in appendix 3 of the Council’s five year position statement. These sites are listed in the following table.

Table 16.1 – Neighbourhood Plan Allocations

Neighbourhood Plan	Site address	Capacity	LPA 5YHLS
Border Group	Land at Nursery, Lingen	8	8
Eardisley	Land at The Glebe (Policy H4)	15	15
Fownhope	Adj to Medical Centre (Policy FW9 3)	7	7
Goodrich	Land off Springfield Road (GWB15)	9	9
Longtown	Land south of Greyhound Close	8-12	10
Luston Group	Site 136/212	11	11
	Site 136/223	5	5
Lyonshall	Site A: Orchard behind Howe Terrace	49	49
Ocle Pychard	Land east of the Telephone Exchange (Policy OPG4)	15	15
Pembridge	Land to the rear of the Old Surgery Building (Policy PEM4)	3	3
	Land at Townsend	38	38
	Land to the west of Manley Crecent	8	8
Pyons Group	Site D: Adjacent to Brookside rear of Nags Head	20	20
Shobdon	Land at north west of the Grove (S4 iii)	10	10
	Land to the west of Paddocks (S4 v)	8	8
Sutton St Nicholas	Land at The Lane (Policy 2 and 3)	20	20
	Land adjacent to the Linnings	23	23
Wellington	Site 1 adj Graveyard (Policy W2)	12	12
Wigmore Group	Perry Field	49	49
	Land at Ford Street	9	9
Withington Group	Townsend Farm	6	6
Yarpole	Land between Leys Lane and B4362 (YG4)	5	2
		Total	337

16.2 The onus is on the Council to provide the clear evidence that housing completions will begin on these sites in the five year period. However, the position statement provides no evidence for their inclusion or how applications made in those neighbourhood areas in the north of the borough within the River Lugg catchment could be approved. The position is summarised in the following table:

Table 16.2 – Comments on Neighbourhood Plan Allocations

Site address	LPA 5YHLS	Phosphate red zone	Comment
Land at Nursery, Lingen	8	Yes	Planning permission was granted contrary to the officer's recommendation to refuse permission due to the River Lugg issue after the base date.
Land at The Glebe (Policy H4)	15	No	An outline planning application has been made but there is no clear evidence of housing completions in the five year period.
Adj to Medical Centre (Policy FW9 3)	7	No	An outline planning application has been made but there is no clear evidence of housing completions in the five year period.
Land off Springfield Road (GWB15)	9	No	An outline planning application has been made but there is no clear evidence of housing completions in the five year period.
Land south of Greyhound Close	10	No	No permission. No application. The position statement simply states it is "under active consideration" by landowner / housebuilder.
Site 136/212	11	Yes	An application has been made but the site is in the River Lugg catchment area
Site 136/223	5	Yes	No permission. No application. The position statement simply states it is "under active consideration" by landowner / housebuilder.
Site A: Orchard behind Howe Terrace	49	Yes	No permission. No application. The position statement simply states it is "under active consideration" by landowner / housebuilder.
Land east of the Telephone Exchange (Policy OPG4)	15	Yes	An outline application has been made but it is not known if it can be determined because it is in the River Lugg catchment.
Land to the rear of the Old Surgery Building (Policy PEM4)	3	Yes	An application has been made but the site is in the River Lugg catchment area
Land at Townsend	38	Yes	No permission. No application. The position statement simply states it is "under active consideration" by landowner / housebuilder.
Land to the west of Manley Crescent	8	Yes	No permission. No application. The position statement simply states it is

Site address	LPA 5YHLS	Phosphate red zone	Comment
			"under active consideration" by landowner / housebuilder.
Site D: Adjacent to Brookside rear of Nags Head	20	Yes	No permission. No application. The position statement simply states it is "under active consideration" by landowner / housebuilder.
Land at north west of the Grove (S4 iii)	10	Yes	An application has been made but the site is in the River Lugg catchment area
Land to the west of Paddocks (S4 v)	8	Yes	No permission. No application. The position statement simply states it is "under active consideration" by landowner / housebuilder.
Land at The Lane (Policy 2 and 3)	20	Yes	An application has been made but the site is in the River Lugg catchment area
Land adjacent to the Linnings	23	Yes	An application has been made but the site is in the River Lugg catchment area
Site 1 adj Graveyard (Policy W2)	12	Yes	An application has been made but the site is in the River Lugg catchment area
Perry Field	49	No	No permission. No application. The position statement simply states it is "under active consideration" by landowner / housebuilder.
Land at Ford Street	9	No	An outline planning application has been made but there is no clear evidence of housing completions in the five year period.
Townsend Farm	6	Yes	No permission. No application. The position statement simply states it is "under active consideration" by landowner / housebuilder.
Land between Leys Lane and B4362 (YG4)	2	Yes	An application has been made but the site is in the River Lugg catchment area
	337		

16.3 On this basis, I include the one site that has planning permission but conclude that the Council has failed to provide clear evidence that housing completions will begin on the remaining sites. This means **329 dwellings** should be removed.

Ledbury Neighbourhood Plan

16.4 The Ledbury Neighbourhood Plan was made in October 2018. It identifies three residential sites:

- Land north of the Viaduct – 625 dwellings (i.e. the appeal site);
- Land south of Leadon Way – 321 dwellings; and
- Land at the Full Pitcher – 100 dwellings.

16.5 For the avoidance of doubt, all three sites are included in the Council's five year housing land supply trajectory.

17. Small sites windfall allowance

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

17.1 The Council includes a windfall allowance of 200 dwellings in the five year supply (100 dwellings in 2023/24 and 2024/25). The windfall allowance assumes that currently unknown sites with a capacity of 1 to 4 dwellings will become available, secure planning permission and deliver housing in the five year period.

National Planning Policy and Guidance

17.2 Paragraph 70 of the Framework states:

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

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

“Sites not specifically identified in the development plan”.

17.4 Paragraph 3-023 of the PPG⁴³ states:

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

17.5 Whilst it relates to Annual Position Statements, paragraph 68-014 of the PPG⁴⁴ is relevant in terms of the information annual position statements are expected to include in relation to windfall sites. It states (amongst other things) the following needs to be provided:

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

⁴³ Reference ID: 3-023-20190722: “How should a windfall allowance be determined in relation to housing?”

⁴⁴ Reference ID: 68-017-20190722: “What information will annual position statements need to include?”

Compelling evidence

17.6 The Council has not provided compelling evidence to justify a windfall allowance of 200 dwellings in the five year supply for the following reasons.

17.7 Firstly, the only evidence the Council has provided relates to past trends. Since the start of the plan period in 2011 there have been 1,351 dwellings completed on sites with a capacity of 4 or fewer dwellings. The average completion rate on these sites is 169 dwellings per annum (2011 to 2019). This is shown in the following table:

Table 17.1 – Annual completion rates on sites with a capacity of 4 or less

Year	All completions (net)	Completions on sites with a capacity of 4 or less
2011/12	341	89
2012/13	201	57
2013/14	331	95
2014/15	774	303
2015/16	327	122
2016/17	405	128
2017/18	776	319
2018/19	666	238
2019/20	904	188
Total	4,725	1,539
Average	525	171

17.8 Therefore, based on past trends over a five year period, 855 dwellings could be expected to be delivered on small windfall sites (i.e. 171 X 5 years = 855 dwellings).

17.9 However, the Council's supply already includes 995 dwellings on sites of less than 4 dwellings. If all these dwellings were delivered, then this would be in excess of past trends. On this basis, there is no compelling evidence that an additional 200 dwellings will be delivered in the five year period.

17.10 Within this context, I refer to a decision regarding an appeal made by Morris Homes against the decision of Shropshire Council to refuse to grant outline planning permission for the erection of

up to 125 dwellings at land at Longden Road, Shrewsbury, Shropshire⁴⁵. In that appeal, the Inspector commented on Shropshire's windfall allowance in paragraphs 39 to 42 as follows:

"39. Historically small windfall sites have represented an important component of housing land supply in Shropshire. In the 10 year period between 2003/4 and 2012/13 an average of 299 dwellings per annum were completed on small windfall sites.

40. Given the nature of the County, which includes Shrewsbury, 18 other settlements identified as market towns or key centres and a large number of other villages and hamlets, I consider that it is legitimate to assume that small sites will continue to make a significant contribution to housing supply. In the absence of any material to demonstrate that the supply of such sites is reducing it is reasonable to expect that the contribution will be at a similar level to that which has occurred in the recent past. Consequently I believe that the Council's assumption of an average of 299 dwellings per annum being provided on small windfall sites over the next 5 years is not unrealistic. On the basis of this assumption over the 5 year period some 1,495 dwellings would be provided on small windfall sites.

41. The Council does not include any allowance for windfalls on small sites in the first three years of the supply as it is held that such sites will already be included within the supply figures (i.e. recorded as sites with planning permission etc.). Consequently the Council only includes 2 years of windfall supply from small sites, or 598 dwellings, within its supply figures.

42. It is apparent, however, that the Council's housing land supply figures already anticipate 1,232 completions on small sites for the 5 year period. If the Council's suggested windfall figure of 598 dwellings is added in this would increase the supply on small sites to 1,830. This would represent 366 dwellings per annum or 67 dwellings per annum more than the past annual completion rate on windfall sites of 299 dwellings. Consequently I believe that 335 dwellings (i.e. 67 x 5) should be discounted from the windfall allowance, leaving a total of 263 dwellings."

17.11 Secondly, the Council has not provided compelling evidence to demonstrate that the past completion rate on small sites will continue. As I have set out above, applications within the River Lugg catchment area are currently not being determined and this will therefore have an impact on windfall development within this area.

17.12 Therefore, the windfall allowance should not be included and this results in a deduction of **200 dwellings** in the Council's supply.

⁴⁵ PINS ref: 3011886 – **CD11.17**

18. Summary of discounts

18.1 The following table sets out the deductions I make to the Council's supply.

Table 18.1 – Summary of deductions

EP ref:	Site Address	Council's 5YHLS	Appellant's 5YHLS	Difference
A04	Barons Cross Camp, Cholstry, Leominster	150	0	150
B01	Land to the north of the village hall, Ashperton	10	0	10
B02	Land at Stonehouse Farm, Bromyard	10	0	10
B05	Land at Orchard House, Credenhill, Hereford	69	0	69
B06	Land at Old Potato Store, Mill Lane, Fownhope	10	0	10
B08	Land at the Paddocks, Roman Road	50	42	8
B09	Land east of Canon Pyon Road, Hereford	95	0	95
B12	Land at west winds, Cholstrey Road, Leominster	23	0	23
B14	Land adjacent to New House Farm, Marden	45	0	45
B17	Land at Hildersley, Ross on Wye	112	0	112
B18	Land adjacent to Stoke Lacy Village Hall, Stoke Lacy	10	0	10
B19	Land at the Lakes, Swainshill, Hereford	10	1	9
C01	Docklow Pools, Docklow	1	0	1
C02	Field adjoining A4112 and Chestnut Avenue, Kimbolton	25	0	25
C03	Land adjacent to Spring Cottage, Headbrook	35	0	35
D01	Three Elms, Hereford	110	0	110
D03	Hereford City Centre Urban Village	80	19	61
	Neighbourhood Plan Allocations	337	8	329
	Small Sites Windfall Allowance	200	0	200
			Total	1,312

18.2 This means that the deliverable supply is **4,118** dwellings (i.e. 5,430 – 1,312 = 4,118 dwellings).

19. Summary and conclusions

19.1 Against the housing requirement and a 20% buffer, the supply this equates to **2.8 years**. This includes 136 dwellings at the appeal site, which are included in the Council's five year housing land supply. If the appeal site is excluded, the deliverable supply would reduce to 3,982 dwellings, which would equate to **2.71 years**. The position is summarised in the following table:

Table 19.1 – Herefordshire's Five Year Housing Land Supply

	Requirement	With appeal site	Without appeal site
A	Five year requirement at 1 st April 2020	4,450	4,450
B	Past shortfall at 1 st April 2020	1,675	1,675
C	Amount of past shortfall to be addressed in the five year period	1,675	1,675
D	Total five year requirement (A + B)	6,125	6,125
E	Requirement plus 20% buffer (D + 20%)	7,350	7,350
F	Annual requirement plus buffer (E / 5 years)	1,470	1,470
	Supply		
G	Five year supply 1 st April 2020 to 31 st March 2025	4,118	3,982
H	Years supply (G / F)	2.8	2.71

19.2 The implication of this is addressed by Mr Wakefield.

19.3 For the avoidance of doubt, I also conclude that the Council cannot demonstrate a five year housing land supply against its local housing need using the current standard method or the proposed revised standard method as set out in the following table.

Table 19.2 – Herefordshire's Five Year Housing Land Supply against Local Housing Need

	Requirement	Current Standard method	Proposed revised standard figure
A	Annual requirement at 1 st April 2020	846	1,116
B	Five year requirement (A X 5 years)	4,230	5,580
C	Requirement plus 20% buffer (B + 20%)	5,076	6,696
D	Annual requirement plus buffer (C / 5 years)	1,015	1,339
	Supply		
E	Five year supply 1 st April 2020 to 31 st March 2025	4,118	4,118
F	Years supply	4.06	3.08

20. Appendices

- EP1. Wyre APS Inspector's Report
- EP2. Summary of disputed sites in Wyre
- EP3. Evidence provided by Wyre in support of disputed sites
- EP4. Evidence provided by Braintree in support of disputed sites
- EP5. Note from Herefordshire Council in relation to the River Lugg and supporting documents