

## Housing Land Supply Update

### Briefing Note No. 24 - 18

**Service:** Planning

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#### BRIEFING NOTE - HOUSING LAND SUPPLY UPDATE

##### Overview

1. Paragraph 77 of the National Planning Policy Framework (NPPF) requires local planning authorities to be able to demonstrate there exists a deliverable supply of housing. This must be sufficient to meet five years 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) or a minimum of four years' worth of housing if the provisions in paragraph 226 apply<sup>1</sup>. As Wiltshire meets the provisions of paragraph 226 it is required to demonstrate a four year housing land supply.
2. As the council's adopted strategic policies in the Wiltshire Core Strategy (WCS) became five years old on 20 January 2020, the housing requirement used in the housing land supply calculation is the Local Housing Need (established using the standard methodology set out in the Planning Practice Guidance). The housing requirement in the calculation should also include a 20% buffer if the council's Housing Delivery Test results indicate under-delivery of 85% or lower against the housing requirement – this is not the case in Wiltshire.
3. In July 2024 the council contested an appeal for a proposal for residential development at Land off Storridge Road, Westbury. As part of the inquiry, the NPPF requirements on housing land supply position were challenged. In the appeal decision (issued 31 August 2024) the Inspector considered that only a **3.85 years** housing land supply could be demonstrated.

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<sup>1</sup> Paragraph 226 provisions state that where the council has an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This concession applies until December 2025.

4. As a result, the council has accepted that there is an inability to demonstrate the requisite 4-year housing land supply. The current position to be used in determining planning applications is **3.85 years** supply.

## **Implications for determining planning applications**

5. Paragraph 11 (d) and footnote 8 of the NPPF state that where a four-year housing land supply cannot be demonstrated, for applications including housing provision, the policies that are most important for determining the application should be considered out-of-date. As a result, the presumption in favour of sustainable development (often referred to as the 'tilted balance') should be applied and permission should be granted unless protection policies set out in footnote 7 of the NPPF apply, or the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
6. Principles set out in planning case law are pertinent in this situation:
  - i) Policies that are considered to be out-of-date as a result of a shortage in the five-year (four-year) housing land supply are still capable of carrying weight in the planning balance. The weight to be attributed to those policies is a matter for the decision-maker (*Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates & Ors v Cheshire East Council* [2017] UKSC 37).
  - ii) The extent of any shortfall in the housing land supply is capable of being a material consideration (*Hallam Land Management v SoS DCLG* [2018] EWCA Civ 1808).
7. The implications of the housing land supply position, and in particular the weight to be attributed to the development plan policies, must be taken into account when determining applications. The extent of the housing land supply shortfall and how it has arisen, the actions being taken to recover the shortfall, and the potential for the proposal to deliver housing in the forthcoming five-year period to help remedy the current shortfall should also be taken into account in the balancing exercise.
8. The presumption in favour of sustainable development does not mean that all applications for housing should be permitted. However, it does mean that the most important policies, including Core Policy 2 of the Wiltshire Core Strategy in relation to settlement boundaries and housing requirements, and the relevant Community Area Strategy policy (Core Policies 4 - 33), should not have full weight applied to them in the decision-making exercise. The weight

to be attributed to such policies is a matter of judgement for the planning case officer or planning committee.<sup>2</sup>

9. Applications where adverse impacts would significantly and demonstrably outweigh the benefits can, and should, still be refused<sup>3</sup>. However, where applications are being considered for sites at settlements but outside the defined settlement boundaries there may be the opportunity to improve housing supply by favourably considering proposals.
10. Whether a proposal is appropriate would depend on the officer's judgement of the planning balance. Factors to consider may include limited impacts and benefits to local communities that arise from the proposal. Similarly, existing provision in the current plan period (completions and existing commitments shown in Appendix 6 of the Housing Land Supply Statement) may show whether indicative requirements at a particular settlement have already been met, and what effect additional supply would have on the sustainable distribution of development across the county set out in Core Policy 2.

## Summary

11. While there is an inability to demonstrate a four year housing land supply, planning officers and planning committees will need to give careful consideration to decisions on housing proposals. This means balancing the need to boost housing supply against any adverse impacts of the proposal, considered against the development plan as whole, and any material considerations on a case-by-case basis. This will need to include consideration of what weight to assign to the most important policies.
12. Decision-takers (planning officers and planning committees) should note that the housing land supply position that is in effect at the point of decision-making should be used in their assessment. This position may change as and when the required annual updates to the housing land supply are published.

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<sup>2</sup> For example, in the Land off Storridge Road appeal decision, see Inspector's discussion at paragraphs 19-25 and 126 (<https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3340811>)

<sup>3</sup> Note the balancing exercise in the Land off Storridge Road decision: see Inspector's considerations at paragraphs 131 to 135.