

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended)**

**APPEAL BY LW DEVELOPMENTS LTD**

**An Appeal Against the refusal of a planning application for:  
Area 1 - New stadium with capacity for up to 2,000 spectators. 53 no. 1 bedroom apartments, 62 no. 2 bedroom apartments, 26 no. 3 bedroom houses and 22 no. 4 bedroom houses, (163 residential dwellings) highway access works, internal roads and supporting infrastructure.**

**Area 2 - Northern block - New facilities for Cheshunt Football Club in use classes D1, D2 and sui generis - matters relating to internal layout and appearance reserved.**

**Area 3 - Western block - New sports, community, leisure and commercial uses in use classes A1, A3, A4, A5, B1, D1 and D2 - matters relating to internal layout reserved.**

**Land at Cheshunt Football Club, Theobold's Lane, Cheshunt, Herts, EN8 8RU**

**PINS REFERENCE: APP/W1905/W/21/3271027  
PLANNING APPLICATION REF: 07/18/0514/F**

**ROLAND BOLTON PROOF OF EVIDENCE:**

**HOUSING FIVE YEAR LAND SUPPLY**

**Prepared by  
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June 2021

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## **1.0 EXPERIENCE**

- 1.1 My name is Roland George Bolton. I have an Honours Degree in Town and Regional Planning and I am a Member of the Royal Town Planning Institute (MRTPI). I am currently a Senior Director of DLP Planning Ltd (DLP) and Head of the Strategic Planning Research Unit (SPRU) which specialises in undertaking bespoke planning research projects, including Objective Assessments of Housing Need and Five-Year Housing Land Supply assessments. DLP Planning Ltd is a national planning consultancy, and I am based in the Sheffield office, working across the whole of England. I have worked in public sector, private practice, and academic roles for over 35 years.
- 1.2 I have a wide range of experience and have held senior positions in both Development management and development plans in local government. I have also represented Councils at both Public Inquiries and Plan Examinations.
- 1.3 As Senior Lecturer in Town Planning at Sheffield Hallam University I provided training for practicing planning professionals including training for Development Plan examinations and Professional Witness at Planning Appeals. During this time, I also acted as a consultant to the current DLP/SPRU practice, providing advice to clients in both the public and private sector on a range of issues including the promotion and delivery of housing at various development plan examinations.
- 1.4 I have been a Director of DLP for over 20 years, setting up the Sheffield office in 1996. During this time, I have advised clients on a wide range of residential developments from the planned expansions of Milton Keynes, Luton and York, through to urban projects like Sheffield University Student Village (3,500 student bed spaces) and Commercial projects such as Midway Park (40-hectare Strategic Employment Allocation at Junction 16 of the M1).
- 1.5 In 2012, I formed the Strategic Planning Research Unit (SPRU) within DLP to bring together the company's expertise to deliver the strategic planning work for a wide range of clients including local authorities, other public sector bodies, landowners, and strategic land promoters as well as national, regional and local housebuilders.
- 1.6 I have had considerable experience of giving evidence as an expert witness at Public Inquiries, attending Local Plan Examinations and previously at Regional Strategy Examinations, including that for the South East.
- 1.7 The evidence I have prepared and provided for this appeal (APP/W1905/W/21/3271027) against the refusal of Outline Planning Permission 07/18/0514/F a new stadium and associated uses including 163 residential dwellings is true and has been prepared and is

given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

## 2.0 SCOPE OF EVIDENCE AND KEY CONCLUSIONS

2.1 The scope of this Proof of Evidence is as follows:

- a) National Policy Planning for Housing
- b) The Local Plan.
- c) Windfall
- d) The Housing Supply
- e) Conclusion

2.2 I note that in the draft Statement of Common Ground returned by the council on the 23<sup>rd</sup> June 2021 the council are referring to a different evidence base to that included in their Annual Monitoring Report 2020. I have prepared my evidence on the understanding from a virtual meeting held with the council that they were relying upon evidence within the AMR 2020. While I have requested the new evidence that the council have referred to briefly in the returned SoCG this was not sent to me although a link to documents was sent to Mr Waller on the 25<sup>th</sup> June 2021 at 17.02. This has not allowed time for me to review this new evidence in this proof so I will deal with this new evidence in a rebuttal if necessary. I do note that the council suggest in the draft of the SoCG that the land supply is now 5.01 years which is extremely marginal.

2.3 My key conclusions are as follows:

- a) The Council have failed the Housing Delivery Test (HDT) at just 74% of the annual requirement and as such the most important policies for the determination of the application are out of date and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole (NPPF paragraph 11 d and footnote 7).
- b) I have undertaken a review of the evidence that the council have produced to support the inclusion of the Category B sites and windfall and conclude that the supply is just **2.17 years** a deficient of some 2,024 dwellings.
- c) These reductions are justified because:
  - i) The council have no compelling evidence to support the **windfall** figure of 70 dpa. This would **remove 350 dwellings** from the supply.
  - ii) The council have double counted the **windfall** and commitment from sites of under 25 dwellings at least in the first three years. This would **remove 210 dwellings** from the supply.

- iii) The council have included sites that were only draft allocations at the base date (1<sup>st</sup> April 2020) and as such these sites did not fall with the definition of deliverable and should be excluded from the supply. This would **remove 1,440 dwellings** from the supply.
- iv) I have further investigated the nature of the evidence that the council have set out in the Annual Monitoring Report 2018 – 2020 (CD3.15) with regard to all category B sites and concluded that there is not clear evidence of them resulting in completions in the 5 years and this **removes 2,301 dwellings** from the supply (this includes the 1,440 dwellings highlighted above).
- v) In the most recent Draft of the SoCG the council have indicated that they would not contest the **removal of some 488 dwellings** from the 1<sup>st</sup> April 2020 supply.

2.4 While I note that the council claim a 5.39 years supply of housing land which is a surplus of 277 dwellings. This reduces to a deficit of 211 dwellings or a 4.7 years. The council then seek to rely on recently released evidence (mostly June 2021 based) to justify higher levels of projected completions on sites retained in the supply.

2.5 The councils land supply is extremely marginal and is based on a heavy over reliance on Category B sites including local plan allocations which in two circumstances including this appeal have been refused planning permission.

### **3.0 NATIONAL POLICY: PLANNING FOR HOUSING**

#### **a) Introduction**

- 3.1 There are widespread housing affordability issues facing Britain at present with more than three million households in the UK now spending more than a third of their household income on housing. The unresponsive nature of the planning system and failure of house building to keep up has led to a widening gap between supply and demand.
- 3.2 The consequences of this under provision are well documented in terms of increased issues of affordability that have occurred over the last decade. In the period between 1997 and 2019 the affordability ratio increased on average in the UK from just 3.54 times annual income to 7.83 times annual income despite the impact of recent recessions. The affordability ratio in Broxbourne rose from 4.16 to 12.21 over the same period.
- 3.3 Such housing affordability issues manifest in many ways, such as: increased levels of overcrowding, more young people living with parents for longer, impaired labour mobility meaning it is difficult for businesses to recruit and retain staff, and increased levels of homelessness.
- 3.4 As such, the Conservative Government elected in 2017, pledged to meet the 2015 commitment of delivering 1 million homes by the end of 2020 and the Autumn Budget 2017 set out an ambition to “to put England on track to deliver 300,000 new homes a year” with the aim of addressing these issues of affordability. The ambition of 300,000 a year is most recently restated in the consultation on the Changes to the current planning system” (paragraph 6).
- 3.5 In the forward to the 2020 White Paper “Planning for the future” the Prime Minister sums up the failures of the present situation as follows:
- “Thanks to our planning system, we have nowhere near enough homes in the right places. People cannot afford to move to where their talents can be matched with opportunity. Businesses cannot afford to grow and create jobs. The whole thing is beginning to crumble and the time has come to do what too many have for too long lacked the courage to do – tear it down and start again.”*
- 3.6 While the “Planning for the Future” sets out plans to undertake a fundamental reform of the planning system, the government considers the situation to be so important that they are also proposing the shorter terms measures in the “Changes to the current planning system”. Within this is the now enacted proposal to amend the Standard Method to be utilised prior to the more fundamental changes being brought forward (paragraph 5).

3.7 Highlighting the problem with the current system the consultation states that against the government's aspirations to create a system that will deliver 300,000 dpa existing adopted Local Plans have only allocated enough land to provide for 187,000 homes a year, which is lower than the actual rate of delivery 241,000. (Paragraph 6). The consultation states that:

*"However, identifying sufficient land so that the market is not prevented from delivering the homes that are needed is vitally important to prevent the underdelivery of the past from continuing to happen".*

3.8 I note that in the Government response to the local housing need proposals in "Changes to the current planning system" on the 16th December 2020, which introduces the New Standard Method, the Government in the paragraph titled "Rationale for cities and urban centres uplift" state:

*"The Government is also keen to ensure that all areas plan for the right, size, type and tenure of homes, and in particular to ensure that appropriate numbers of family homes come forward, and would encourage these all places, but particular the urban centres, to consider carefully how they deliver the right mix for their communities. Getting this mix right will maximise the beneficial impact that the delivery of more homes can bring."*

3.9 These changes highlight the urgency and importance the Government is placing on increasing the delivery of homes to react to the housing crisis. It also emphasises the need for the right type of homes and for family homes in the right places.

3.10 The Prime Minister summed up the "New Deal" he was proposing in his speech in the West Midlands on the 30th June 2020 in which he stated:

*"To that end we will build. Build back better, build back greener, build back faster and to do that at the pace that this moment requires."*

Source: Prime Minister's Office Press release 30th June 2020

3.11 In conclusion, the Housing crisis continues and the direction of travel of Government policy is to continue to seek ways to increase the supply of housing land and the delivery of housing to address this crisis.

#### **b) National Planning Policy Framework and Guidance**

3.12 The 2019 National Planning Policy Framework (the Framework) was published on 20th February 2019 and came into force with immediate effect.

3.13 Paragraph 11 d requires that decision makers should apply a presumption in favour of sustainable development which, for decision taking, means where there are no relevant



development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

3.14 The application of Paragraph 11 d) ii) is often referred to as the “tilted balance”.

3.15 Footnote 7 to paragraph 11 d) explains that policies can be found out of date in 2 ways:

- a) For applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or
- b) where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1.

3.16 Paragraph 213 also identifies that policies can be considered out of date if they are inconsistent with the policies of the NPPF.

3.17 In this appeal it is considered that Paragraph 11 d) ii) (the tilted Balance) is engaged both because the council have failed the housing deliver test (HDT) and because they cannot demonstrate a 5 year supply of housing land.

3.18 My evidence sets out the basis for both the HDT and the five year supply, but I do not undertake the balance that is then required by paragraph 11d ii). This exercise is undertaken by Mr Waller.

**i) *The Housing Delivery Test***

3.19 The Housing Delivery Test is defined in the NPPF Annex 2 as measuring net additional dwellings provided in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State publishes the Housing Delivery Test results for each local authority in England, supposedly every November although this has not always been the case.

3.20 The latest HDT for 2020 was published on 19<sup>th</sup> January 2021 and is replicated below.

**Table 1. Housing Delivery Test Results 2020**

Area Name	Number of homes required			Total number of homes required	Number of homes delivered			Total number of homes delivered	Housing Delivery Test: 2020 measurement	Housing Delivery Test: 2020 consequence
	2017-18	2018-19	2019-20		2017-18	2018-19	2019-20			
Broxbourne	401.3	454	415.5	1270.8	302.3	492.3	150	944.7	0.74	Presumption

Source: Extract from <https://www.gov.uk/government/publications/housing-delivery-test-2020-measurement>

3.21 In accordance with Paragraph 11 d and Footnote 7 of the NPPF the most important policies for the determination of this appeal are out of date and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

**ii) Housing Need**

3.22 The Planning Practice Guidance was also updated and has been subsequently updated most recently on the 16<sup>th</sup> December 2020 which set out the new step 4 in the calculation of the Standard Method for calculating the Local Housing Need (LHN).

3.23 Paragraph 8 of the Framework sets out in paragraph b) the Government’s social objective is to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. It is noted that paragraph 9 states that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework, but they are not criteria against which every decision can or should be judged.

3.24 Chapter 5 of the Framework covers the delivery of a sufficient supply of homes.

3.25 Paragraph 59 states that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed.

3.26 Paragraph 73 specifies that. Local Planning Authorities should identify, and update annually, a supply of specific deliverable sites sufficient to provide for a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies; or as here against their LHN where the strategic policies are more than five years old, unless these strategic policies have been reviewed and found not to require updating (as specified in footnote 37 to paragraph 73). The process for calculating this is referred to as the Standard

Method and is set out in the NPPG and consists of 4 steps.

3.27 In the case of Broxbourne, it is agreed that the strategic policies are less than five years old, and the assessment should be against the requirement in the Adopted Local Plan of 454 dpa (Annual Monitoring Report 2018 – 2020 page 16 table 2 line A).

iii) **The Buffer**

3.28 The buffer in paragraph 73 is determined by the latest Housing Delivery Test (HDT), as explained in paragraph 215 of the Framework. This was published in January 2021 and is used to determine the appropriate buffer. In the case of Broxbourne, it is agreed that the buffer is 20% (CD3.15 Annual Monitoring Report 2018 – 2020 page table 2 line E and F).

iv) **The Definition of ‘Deliverable’**

3.29 It is important to note, that in the context of assessing what constitutes a “deliverable” site, the 2019 Framework defines “deliverable” in the Glossary as follows (page 66) (emphasis added):

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

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

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

3.30 Planning Practice Guidance Paragraph 007 (Ref ID: 68-007-20190722) states that:

*“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.**”* (Emphasis added).

3.31 The onus is therefore placed on the Council to provide clear evidence for those sites which fall within part b), rather than for interested parties to establish whether clear evidence exists.

3.32 Paragraph 007 (Ref ID: 68-007-20190722) states that clear evidence needed to demonstrate

that housing completions will begin on site within five years includes:

- *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.”*

3.33 PPG Paragraph 68-007 advises the use of up to date evidence.

3.34 The timing of the evidence in 5 year supply calculations has been considered by inspectors and the following is a brief summary of the key points that have arisen:

- a) In Woolpit Appeal decision the Inspector highlighted that the Council relied on list of sites as at 1st April 2018 (CD2.3 DL Paragraph 66) the inspector states:

*“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 overinflating the supply without a corresponding adjustment of need. Indeed that is why there is a clear cut-off date set out in the AMR.”*

- b) This is a position of not including sites that passed the test at the start date is supported by the Longdene House Hedgehog Lane Appeal (CD2.4, APP/R3650/W/16/3165974, paragraph 39) and Darnhall School Lane appeals (APP/A0665/W/14/2212671, CD2.5,. DL paragraph 18; and CD6.15, IR, paragraph 365 to 367) in which sites that did not pass the test of delivery (i.e. not allocated or with outline) could not be included even if there were pending applications. The Hedgehog Lane inspector makes the point clearly stating (CD2.4, paragraph 39):

*“However, I do not discount sites where reserved matters applications were subsequently submitted, but which were shown to be deliverable at the base date by reason of progress made towards the submission of an application or with site assessment work.”*

3.35 The requirement for the research to be done prior to the date of the assessment is the approach required if a Council was seeking to agree a 5 year land supply position in an Annual Position Statement (CD4.2, PPG, Paragraph 68-012). The Planning Inspectorate in their assessment will look at whether the evidence is sufficient to demonstrate a 5 year supply of deliverable housing sites, using 1st April as the base date in the relevant year (Paragraph: 013 Reference ID: 68-013).

3.36 Here it is important to recognise that the council are relying heavily on proformas signed by the developer. However, as concluded in the following three appeals, proformas do not constitute clear evidence of deliverability:

a) Appeal Ref: APP/Z1510/V/17/3180729 Gleneagles Way, Hatfield Peverel. In this appeal updated evidence required the Secretary of State to undertake the assessment of deliverable sites (CD2.6 DL paragraphs 34 to 43). In reviewing the councils evidence the SoS removed 10 sites from the housing trajectory, these are listed at Annex D to this letter (DL Paragraph 41). While there is no detailed explanation to justify these sites a review of the evidence (CD2.6) is presented in appendix 1 of this proof and this highlights that in this case the SoS took a critical view of the evidence in respect of forms setting out agreed positions and deliver and as such removed sites from the supply in cases where there was an identified developer and RM pending.

b) Appeal Ref: APP/W1145/W/19/3238460 Land at Caddywell Lane/Burwood Lane Great Torrington, Devon (CD2.7) paragraph 56 in commenting what is required by the PPG (22 July 2019) states it is clear that:

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

c) The inspector goes onto state in paragraph 57:

*"57 Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the*

*factors concerning the delivery has been considered. This means not only are the planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. **Securing an email or completed pro-forma from a developer or agent does not in itself constitute 'clear evidence'**. Developers are financially incentivised to reduce competition (supply), and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward."*

- d) APP/J2210/W/18/3216104 Land off Popes Lane Sturry Kent (CD2.8) in paragraph 21 the inspector highlighted that the 5 Year Land Supply relied heavily on sites with only outline planning permission or no permission at all and while the inspector outlines the work undertaken by officers to enable housing delivery (paragraph 22) goes onto state in paragraph 23:

*"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."*

- e) APP/R3650/W/19/3227970 Land to the south of Cox Green Road Rudgwick, Surrey (CD2.9) this addresses the issue of land supply in paragraphs 10 to 27 it respect or relying on a proforma for Dunsfold Park the inspector states:

*"The Council's assumptions rest principally on a pro-forma return from the site's lead developer, but the details contained in that document are scant. Although estimated numbers and dates are presented, there is no explanation of how the timing is to be achieved. There is no indication of the intended timescales for submitting and approving reserved matters, including any further public consultation. Neither is there any breakdown of the advance works that are likely to be needed on-site, for discharging conditions, site preparation, and installing infrastructure. On a*

*development of this scale, the planning and programming of these stages is likely to be more complex than on smaller sites, but the evidence contains none of these important details. There is therefore no evidence that house completions can realistically be achieved by 2021/22.”*

**v) Windfall**

3.37 The Framework (paragraph 70) requires compelling evidence for the inclusion of windfall to demonstrate that it will provide a reliable source of supply. Any such allowance is required to be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.

3.38 In this case where the council include all small sites and large “windfall sites” within the supply but also add an allowance of 70 a year for each of the five years. This approach can lead to double counting of the supply from this source.

3.39 Inspector Downes’ conclusions in the Nine Mie Ride Appeal Decision (PINS Ref 3238048, appendix 11) at paragraph 107 acknowledges that the Prior Approvals category of site identified by the Council fall under windfall. As there was no evidence that those prior approvals identified would be delivered in years 1 and 2 and there was potential for double counting and thus it was argued that the large windfall allowance should be removed. Inspector Downes agreed this also applied to other large site windfall entries (i.e., those with approval at the base-date listed in Appendix 5 of the Statement) and that these may not be built out as quickly as the Council contends.

**c) Summary**

3.40 In summary, in assessing whether Broxbourne Borough Council is able to demonstrate a five-year supply of housing land, the key principles are:

3.41 For the purposes of calculating a five-year land supply, the housing requirement is that set out by the Adopted Local Plan.

3.42 The buffer is 20% as determined by the HDT (Paragraph 73 of the Framework). This is to be added to the requirement.

3.43 Sites that can go in the supply are sites with detailed planning permission, sites with outline planning permission, allocations in a development plan, sites with permission in principle or identified on a brownfield register. Of these, the Framework requires sites with outline planning permission, permission in principle and brownfield register sites to have clear evidence provided by the Council that completions will begin in five years in order to be included in the five-year land supply.

3.44 All sites have to be available "now" and offer a suitable location for development "now".



#### **4.0 THE LOCAL PLAN.**

- 4.1 The Local Plan 2018-2033 was adopted June 2020.
- 4.2 Policy DS1: The Development Strategy states that provision will be made for at least 7,718 homes in the period 2016-2033, as set out in the housing trajectory (CD5.1 Page 18).
- 4.3 The trajectory (CD5.1 Table 1 page 21) sets out how the undersupply is to be addressed within the next 5 years, that a 20% buffer be applied and that a windfall allowance of 70 dpa be applied for the last two years of the 21018/19 to 2022/23 and then every year after that.
- 4.4 The plan was examined under the transitional arrangements (CD2.10 Inspector's report paragraph 6).
- 4.5 The plan was examined in the context of the updated evidence on land supply as at 1<sup>st</sup> April 2018. (CD2.10 Inspectors report paragraph 150).
- 4.6 In paragraph 153 the inspector (CD2.10) refers to the 926 dwellings with planning permissions the vast majority of which were on sites of under 10 dwellings.
- 4.7 The inspector noted (CD2.10 Paragraph 155) that whilst some of the sites are owned by public bodies and have been identified in the strategic land availability assessment for a number of years, he was satisfied that the Council's expectations about deliverability are reasonable based on their limited size and the latest information about availability.
- 4.8 The inspector concludes (CD2.10 Paragraph 196) that:
- "Subject to the main modifications, the five year housing land supply from 1 April 2018 was 3,242 dwellings. This only marginally exceeds the relevant requirement (3,223) by around 100 dwellings. However, that requirement includes a 20% buffer designed to ensure choice and competition in the market for housing meaning that it should be sufficient to allow needs to be met in the next few years. Furthermore, I am satisfied that the assumptions made about the identified sites and windfalls are supported by clear evidence, and as development on many of the larger allocated sites starts in the next few years the supply situation is likely to improve. For these reasons, it is likely that there will be a five year supply of deliverable sites on adoption and that this can be maintained over the plan period, or at least until the Plan is reviewed."*
- 4.9 This conclusion of a marginal five year land supply is based upon a number of assumptions including progress on newly allocated sites such as the appeal site which was forecast to start delivering completions in 2019/20 at 40 dpa.
- 4.10 It is however not just the Council's over optimism with regard to the appeal site but as the

table below illustrates the Local Plan evidence base (CD2.13 EXAM 4F and CD3.15 Monitoring Report 2018 -2023 Appendix H) was over optimism on the majority of the proposed allocations when compared to their own position as at 1st April 2020 (CD3.15).”

4.11 While the updated trajectory from the council keeps many of the local plan allocations delivering in the next five years it pushes many of the start dates back 2 years. Overall, the impact of this over optimism is that the forecast supply from these allocations is 354 dwellings lower than the evidence that was presented to the inspector in September 2018.

**Table 2. Comparison of Councils local plan evidence (September 2018) on local plan allocations with present Monitoring statement (April 2020).**

Local Plan Ref	Address	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	Difference in supply
BR1	Brookfield Riverside (BR1)								
BR2	Brookfield Garden Village (BR2)							100	
	Local Plan evidence Sept 18				100	100	105	105	-310
BX3	Gas Distribution Station (BX3)								
BX4	Broxbourne School (BX4)				50	50	53		
	Local Plan evidence Sept 18			53	50	50			0
CH1	Cheshunt Lakeside (CH1) - net after Phase 1A					150	155	250	
CH1	Cheshunt Lakeside - Phase 1 A reserved matters					100	95		
	Local Plan evidence Sept 18			135	135	135	135	135	75
CH2	Rosedale Park - North/South of Andrews Lane, and South of Peakes Way (CH2)					80	80	80	
	Local Plan evidence Sept 18			56	56	56	56	55	-39
CH2	Rosedale Park (CH2) - North of Andrews Lane 64 bed care home						64	0	
CH2	Rosedale Park - Tudor Nurseries (CH2)				40	80	80	80	
	Local Plan evidence Sept 18				47	47	46	46	158
CH2	Rosedale Park - South of Andrews Lane (CH2)					30	30		
	Local Plan evidence Sept 18			30	30				0
CH7	Cheshunt Football Club						50	50	
	Local Plan evidence Sept 18		40	40	40	45			-65
CH9	Theobalds Brook Field (CH9)					50	40		
	Local Plan evidence Sept 18			50	40				0
CH10	East of Dark Lane (CH10)					50			
	Local Plan evidence Sept 18			50					0
CH11	Former eastern Playing Fields (CH11)				30	45			

	Local Plan evidence Sept 18				30	45				0
CH12	Land North of Bonney Grove (CH12)								40	
CH13	Borough Council Offices, Churchgate (CH13)					30	0	0		
	Local Plan evidence Sept 18			30						0
CH14	Land south of Hammondstreet Road (CH14)						23	22		
	Local Plan evidence Sept 18			23	22					0
GO2	North of Goffs Lane (GO2) - (Tina Nurseries site)				25	25	31			
GO2	North of Goffs Lane (GO2) - (Inex site)									
	Local Plan evidence Sept 18	40	40							-80
GO3	South of Goffs Lane (GO3)				20	20	11			
	Local Plan evidence Sept 18	20	25							6
GO4	Newgatestreet Road (GO4)						25			
	Local Plan evidence Sept 18		25							0
GO5	North of Cuffley Hill (CG Edwards) (GO5)				20	3				
GO5	North of Cuffley Hill (Rosemead/Fairmead Nursery) (GO5)							26		
	Local Plan evidence Sept 18	20	25							4
HOD2	Scania House 17 & 19 - first floor (HOD2)					24				
HOD2	Scania House and Amwell Street (HOD2)					0	36			
	Local Plan evidence Sept 18					60				0
HOD3	Former Hoddesdon Police station (HOD3)								30	
	Local Plan evidence Sept 18			15	15					0
HOD4	Turnford Surfacing Site (HOD4)								40	
HOD6	East of Dinant Link Road (HOD6)						35			
HOD7	High Leigh (HOD7) - housing only				50	75	75	75		
HOD7	High Leigh (HOD7) - 64 bed care home						64			
	Local Plan evidence Sept 18	50	50	50	100	100	100			-111
HOD8	Westfield Primary School (HOD8)						37			
WC2	Waltham Cross Northern High Street (WC2)									
WC3	Theobalds Grove Station (WC3)								50	
	Local Plan evidence Sept 18			25	25					0
LV6	Britannia Nurseries (LV6)	53	37							
	Local Plan evidence Sept 18	82								8
	Total									-354

Source: CD2.13 EXAM 4F Monitoring Report 2018 -2023 Appendix H & CD3.15 Annual Monitoring Report 2018 – 2020 Appendix G

4.12 The Annual Monitoring Report 2018 – 2020 (CD3.15) does not identify this substantial slippage in the projected levels of completions from the evidence that was produced two years earlier. The fact that the council have not identified this issue means that they have not addressed the underlying assumptions and approaches that lead to these over inflated projections of completions but have simply rolled forward the same approach in an uncritical way. This lack of awareness means that the council previous over optimism has still been carried forward into the most recent AMR.

## **5.0 WINDFALL**

- 5.1 As highlighted above the Framework (paragraph 70) requires compelling evidence for the inclusion of windfall not just in terms of past rates but also future trends. The Local Plan Inspector addresses the evidence at that time in paragraphs 157 to 159 of his report (CD2.10). The inspector sets out his reasoning that there will continue to be a contribution from sites of under 25 dwellings (CD2.10 Paragraph 158). In paragraph 159 he states that these windfalls will amount to at least 70 dpa.
- 5.2 I have reviewed the evidence proved by the council at the local plan examination (CD2.11 EXAM 4G) and I cannot find the justification for 70 dpa within this document. There appears to be no analysis of the contribution of sites less than 25 dwellings to the past rate of windfall as referred to by the inspector in paragraph 158.
- 5.3 In respect of windfall the inspector did not apply this from the base date of the plan (2018) but from 2020 onwards (CD2.10 Inspectors Report 159). The reason not to apply windfall to the first two years of the five year period was to avoid double counting.
- 5.4 In the 2020 Monitoring Report CD3.15 Appendix H the commitments which are defined as windfall amount to 615 dwellings (this includes all of the 181 completions forecast for last year 2020/21).
- 5.5 These commitments also include the large windfalls identified in the Monitoring Report (CD3.15 Page 13).
- 5.6 These commitments also include all extant permissions for one or more dwellings.
- 5.7 Of the 615 “windfall” sites already included in the commitments some 408 dwellings are on sites with 25 dwellings or less. In this case the council have already included 408 dwellings over the next five years that on sites of this size an average of just under 82 dpa. If there is evidence to support a windfall rate of 70 dpa from sites of 25 dwellings or less, then there is already a level of windfall commitments included to cover this.
- 5.8 There is no justification for sites of 25 dwellings to almost double their rate of delivery in the next five years which is what is proposed by adding commitments of less than 25 dwellings to a windfall allowance of 70 dpa for the next five years.
- 5.9 This is clearly a case of double counting and also there is no compelling evidence to support the 70dpa windfall allowance.
- 5.10 Furthermore, there is no compelling evidence that there will be 70 completions in the first year (2020/21) on sites which neither have planning permission or are allocations in that year

(2020/21). To achieve 70 completions on sites which were not identified in the Annual Monitoring Report 2018 – 2020 would require pre application, application, approval and construction all within 12 months which is highly improbable. It is also highly unlikely that this could be achieved on completely unidentified sites in year two or even in year 3.

5.11 Given the background to the 70 dpa windfall figure and the fact that the local plan inspector concluded that when undertaking a 5 year land supply exercise the windfall should not be applied to the first 2 years to avoid double counting then the councils approach of doing this would appear to be contrary to the local plan inspectors approach.

5.12 In addition, given the present level of commitments on sites of 25 dwellings or less, the application of the 70 dpa for the whole five years represents a doubling of the contribution from this source for which there is no credible evidence. This is illustrated in the table below:

**Table 3. Impact of adding a further windfall allowance to completions on sites of under 25 dwellings already identified as commitments in council’s supply.**

	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Completions on "windfall sites" of 25 dwellings or less	131	184	91	1	1	408
Windfall not included in commitments	70	70	70	70	70	350
Commitments plus "windfall"	201	254	161	71	71	758

Source: Annual Monitoring Report 2018 – 2020 appendix H

5.13 To avoid double counting therefore it is suggested that the windfall element is only added for the last two years where there are hardly any completions forecast on sites under 25 dwellings as illustrated by the table below.

**Table 4. Completions on windfall sites identified as commitments.**

	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Completions on "windfall sites" of 25 dwellings or less	131	184	91	1	1	408
Completions on all "windfall site"	111	274	197	32	1	615
Windfall not included in commitments	0	0	0	70	70	140
SPRU commitments plus "windfall"	111	274	197	102	71	755

Source: Annual Monitoring Report 2018 – 2020 appendix H (note difference in completions for 2020/21 is that on larger windfalls there are some sites with a net loss during this year).

5.14 The Annual Monitoring Report 2018 – 2020 (CD3.15 Page 11) does not provide convincing evidence as to why there should be a windfall provision of 70 dpa. For while Figure 4 provides details of the total level of windfall there is no analysis of how many of these sites would have been identified as part of the local plan had there been an uptodate plan as there now is.

5.15 On this basis rather than just applying the 70 dpa to the last two years as suggested by table 4 there is actually a very strong argument not to include any allowance for windfall as the

evidence is far from completing as set out in AMR2020 (CD2.11).

## 6.0 THE HOUSING SUPPLY

### a) Introduction

6.1 In this proof I am challenging a number of sites that at the council claim fell within Category B at base date (1<sup>st</sup> April 2020).

6.2 As highlighted the sites must meet the criteria of Category B at the base date. This means on or before the 1<sup>st</sup> April 2020 sites should either:

- a) Have an outline planning permission for major development,
- b) be allocated in a development plan,
- c) have a grant of permission in principle,
- d) or be identified on a brownfield register.

### b) Category B Sites – Local Plan Allocations

#### i) **Sites to be removed as they did not meet the criteria of deliverable at the base date 1<sup>st</sup> April 2020.**

6.3 The following sites where allocations in the draft local plan as of 1<sup>st</sup> April 2020 as such they did not meet the criteria of being deliverable at the base date. The Local Plan was adopted in June 2020 after the base date as such sites which did not have an extant outline permission or a permission in principle or identified on the brownfield register should be excluded from the supply.

**Table 5. List of draft local plan allocations included in the supply that do not meet definition of deliverable at the base date.**

PP Reference	Local Plan Ref	Decision Notice Date	Address	Non Cat B sites 1st April 2020	Total Cat B
	BR1		Brookfield Riverside (BR1)	0	
	BR2		Brookfield Garden Village (BR2)	100	
	BX3		Gas Distribution Station (BX3)	0	
07/19/0368/RM	BX4	24 July 2019	Broxbourne School (BX4)		153
07/18/0461/O	CH1	02 August 2019	Cheshunt Lakeside (CH1) - net after Phase 1A		555
07/19/0996/RM	CH1	05 March 2020	Cheshunt Lakeside - Phase 1 A reserved matters		195
07/17/0352/O	CH2	30 June 2020	Rosedale Park - North/South of Andrews Lane, and South of Peakes Way (CH2)	240	
07/17/0352/O	CH2	30 June 2020	Rosedale Park (CH2) - North of Andrews Lane 64 bed care home	64	
07/17/0864/O	CH2	22 January 2020	Rosedale Park - Tudor Nurseries (CH2)		280



(07/20/0157/R M)		(23 December 2020)			
07/17/1267/O	CH2	6 August 2020	Rosedale Park - South of Andrews Lane (CH2)	60	
	CH7		Cheshunt Football Club	100	
	CH9		Theobalds Brook Field (CH9)	90	
	CH10		East of Dark Lane (CH10)	50	
	CH11		Former eastern Playing Fields (CH11)	75	
	CH12		Land North of Bonney Grove (CH12)	40	
	CH13		Borough Council Offices, Churchgate (CH13)	30	
	CH14		Land south of Hammondstreet Road (CH14)	45	
07/18/1097/O	GO2	23 October 2019	North of Goffs Lane (GO2) - (Tina Nurseries site)		81
07/19/0160/O	GO2		North of Goffs Lane (GO2) - (Inex site)	0	
07/19/0835/F	GO3	12 March 2019	South of Goffs Lane (GO3)		51
	GO4		Newgatestreet Road (GO4)	25	
07/18/0363/F	GO5	12 July 2019	North of Cuffley Hill (CG Edwards) (GO5)		23
	GO5		North of Cuffley Hill (Rosemead/Fairmead Nursery) (GO5)	26	
07/19/0204/PNRES	HOD2	30 April 2019	Scania House 17 & 19 - first floor (HOD2)	24	
	HOD2		Scania House and Amwell Street (HOD2)	36	
	HOD3		Former Hoddesdon Police station (HOD3)	30	
07/20/0467/F	HOD4		Turnford Surfacing Site (HOD4)	40	
	HOD6		East of Dinant Link Road (HOD6)	35	
07/13/0899/O	HOD7	02 April 2015	High Leigh (HOD7) - housing only		275
07/13/0899/O	HOD7	02 April 2015	High Leigh (HOD7) - 64 bed care home		64
07/19/0011/O	HOD8	12 March 2019	Westfield Primary School (HOD8)		37
	WC2		Waltham Cross Northern High Street (WC2)	0	
	WC3		Theobalds Grove Station (WC3)	50	
07/16/1354/RM	LV6	24 April 2017	Britannia Nurseries (LV6)		
			<b>Total</b>	<b>1160</b>	<b>1714</b>

6.4 I note that there has been some debate regarding whether the definition of category B sites in the Framework is a closed or open list i.e. can sites don't meet any of the criteria at the base date be included. It is my reading of the Framework that to be considered deliverable

then a site has to meet the criteria at the base date. This is the simple straightforward reading of this definition. It is also in line with the decision of the Woolpit Inspector (CD2.3).

6.5 I have highlighted that it is for the council to provide clear evidence in the case of category B sites. There is nothing in Annual Monitoring Report 2018 – 2020 (CD3.15) to justify the inclusion of these draft local plan allocations.

6.6 I note that the local plan Inspector did find a surplus of about 100 dwellings in the five year land supply (CD2.10 Paragraph 196) however as the plan was being examined under the 2012 Framework (CD4.1 Paragraph 6) it was possible for him to make this finding as the approach to identifying deliverable site in the earlier guidance was substantially different as set out in footnote 11 defined this as:

*“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.”*

6.7 It would be entirely proper for the inspector in this appeal to reach a different view with regard to the deliverability of the site in the above table on the basis of the significant change in government policy and the definition of deliverable.

ii) **Detailed Commentary on Category B sites**

6.8 As well as sites not meeting the basic criteria of deliverable, there has for many of the same sites been a lack of clear evidence that these sites will deliver completions in the five year period. This lack of clear evidence however also extends to some other sites that did have outline planning permission at the base date.

6.9 Lastly while Rosedale Park - Tudor Nurseries (CH2) has been discounted as there is not clear evidence of delivery however even if this was found to be deliverable, I consider that the rates of delivery are unjustified when compared to average levels of sites of this size as recorded by NLP research (CD2.12). Again, there is no evidence supporting these higher rates of delivery forecast by the council.

6.10 The following sites are included in the Council's supply as category B sites are challenged for the reasons set out below:

**Table 6. Detailed Commentary on Category B sites**

Site Reference	Council projected supply 2020/21 – 2025/26	Appellant supply 2020/21 – 2025/26	Appellant Adjustment	Appellant Commentary
BR2 – Brookfield Garden Village	100	0	-100	Not a Cat B site at start of assessment period No applications submitted. No extant permission and no clear evidence that site will be delivered.
CH1 - Cheshunt Lakeside	555	22	-533	Detailed applications for Parcel 2 (Phase 1B, 205 units) and Parcel 14 (22 units) submitted December 2020. Parcel 14 - ref. 07/20/1186/RM approved 3 March 2021. Parcel 2 - ref. 07/20/1187/RM submitted December 2020 - decision pending, no extant reserved matters permission. No clear evidence that other units (apart from the 22 units in Parcel 14 with reserved matters approval) will be delivered.
CH2 - Rosedale Park - North/South of Andrews Lane, and South of Peakes Way	240	0	-240	Not a Cat B site at start of assessment period No reserved matters application submitted. Application for discharge of condition 29 of outline application submitted January 2021 (ref. 07/21/0033/DRC) - decision pending. No clear evidence that site will be delivered.
CH2 - Rosedale Park - North of Andrews Lane 64 bed care home	64	0	-64	Not a Cat B site at start of assessment period No reserved matters application submitted. Application for discharge of condition 29 of outline application submitted January 2021 (ref. 07/21/0033/DRC) - decision pending. No clear evidence that site will be delivered.
CH2 Rosedale Park - Tudor Nurseries	280	0	-280	Part B site at start of assessment period  Outline application 07/17/0864/O approved 22 January 2020 with no clear evidence provided to support deliverability assessment  07/20/0157/RM not approved until after base date. Approved 23 December 2020. Also challenged on delivery rates - NLP rates suggest would only deliver 140 in next 5 years.
CH2 - Rosedale Park - South of Andrews Lane	60	0	-60	Not a Cat B site at start of assessment period No reserved matters application submitted.

Site Reference	Council projected supply 2020/21 – 2025/26	Appellant supply 2020/21 – 2025/26	Appellant Adjustment	Appellant Commentary
				No clear evidence that site will be delivered.
CH7 – Cheshunt Football Club	100	0	-100	Not a Cat B site at start of assessment period Appeal site – 07/18/0514/F submitted for 163 dwellings – validated 24/05/2018 – refused 23/11/2020 – appealing. No extant permission and no clear evidence that site will be delivered.
CH9 – Theobald’s Brook Field	90	0	-90	Not a Cat B site at start of assessment period Outline application (07/18/0021/O) received on 03/01/2018 and is still under consideration. No extant permission and no clear evidence that site will be delivered.
CH10 – East of Dark Lane	50	0	-50	Not a Cat B site at start of assessment period Outline application (07/18/0022/O) received on 08/01/2018. Outline permission granted 15/12/2020 but no reserved matters application submitted. No discharge of condition applications submitted. No clear evidence that site will be delivered.
CH11 - Former Eastern Playing Fields	75	0	-75	Not a Cat B site at start of assessment period No applications submitted. No extant permission and no clear evidence that site will be delivered.
CH12 – Land North of Bonney Grove	40	0	-40	Not a Cat B site at start of assessment period No applications submitted. No extant permission and no clear evidence that site will be delivered.
CH13 - Borough Council Offices, Churchgate	30	0	-30	Not a Cat B site at start of assessment period No applications submitted. No extant permission and no clear evidence that site will be delivered.
CH14 – Land south of Hammondstreet Road	45	0	-45	Not a Cat B site at start of assessment period No applications submitted. No extant permission and no clear evidence that site will be delivered.
GO2 – North of Goffs Lane (Tina Nurseries site)	81	0	-81	Outline permission granted 23 October 2019. No conditions discharged or reserved matters applications submitted. No clear evidence that site will be delivered.

Site Reference	Council projected supply 2020/21 – 2025/26	Appellant supply 2020/21 – 2025/26	Appellant Adjustment	Appellant Commentary
GO4 - Newgatestreet Road	25	0	-25	Not a Cat B site at start of assessment period Application for 42 units (ref. 07/19/0753/F) refused 2nd July 2020. 07/20/1220/F – application for 38 dwellings validated 24/12/2020. Recommended for approval as per an officer report with a committee date of 02/03/2021 but no decision notice or completed S106 agreement published on Council's website. Trajectory indicates 25 units will be delivered in 2023/24. This site does not yet appear to have an extant permission in place and therefore no clear evidence site will be delivered within 5 years.
GO5 – North of Cuffley Hill (Rosemead/Fair mead Nursery)	26	0	-26	Not a Cat B site at start of assessment period Application at Fairmead (07/19/0200/F) received 04/03/2019 and is under consideration. No extant permission and no clear evidence that site will be delivered.
HOD2 Scania House 17 & 19 - first floor	24	0	-24	Allocation HOD2 not a Cat B site at start of assessment period  Prior Notification Application (07/19/0204/PNRES) approved on 30/04/2019 within part of Scania House only
HOD2 Scania House and Amwell Street	36	0	-36	Not a Cat B site at start of assessment period  Application 07/19/0653/F (Demolition of existing buildings and erection of 62no. retirement living (sheltered housing) apartments) refused 7 April 2020
HOD3 – Former Hoddesdon Police Station	30	0	-30	Not a Cat B site at start of assessment period No applications submitted. No extant permission and no clear evidence that site will be delivered.
HOD 4 Turnford Surfacing Site	40	0	-40	Not a Cat B site at start of assessment period  Application submitted 12 June 2020. Committee resolved to grant permission at 15 December 2020 meeting. No permission in place at 1st April 2020 base date or June 2021
HOD6 – Land east of Dinant Link Road/Essex Rd	35	0	-35	Not a Cat B site at start of assessment period No applications submitted. No extant permission and no clear

Site Reference	Council projected supply 2020/21 – 2025/26	Appellant supply 2020/21 – 2025/26	Appellant Adjustment	Appellant Commentary
Gateway				evidence that site will be delivered.
HOD8 – Westfield Primary School	37	0	-37	Outline permission granted March 2019. No conditions discharged or reserved matters applications submitted. No clear evidence that site will be delivered.
WC3 - Theobalds Grove Station	50	0	-50	Not a Cat B site at start of assessment period No applications submitted. No extant permission and no clear evidence that site will be delivered.
<b>Total</b>	<b>2113</b>	<b>22</b>	<b>-2091</b>	

**c) Brief Commentary on the evidence made available on 25<sup>th</sup> June 2021 by BBC**

- 6.11 In the one working day I have had to review this evidence I am only able to provide the briefest of response in this proof. I will however provide further detail in my rebuttal.
- 6.12 All of the email correspondence published postdates the start of the period of assessment 1<sup>st</sup> April 2020 and much of it is dated June 2021. It not only postdates the base date of the assessment period, but it also contains information that could not have been known as at 1<sup>st</sup> April 2020. As such this evidence is attempting to “backfill” the evidential deficit in the council’s case and cannot be used to justify the inclusion of these sites into the supply as at the base date.
- 6.13 It is appreciated that in the lasted draft of the SoCG the council are not contesting the removal of the sites in the table below from the 1<sup>st</sup> April 2020 supply. This removes some 488 dwellings from the supply.

**Table 7. Draft List of non-contested sites to be removed from the 1<sup>st</sup> April 2020 Supply.**

Site Reference	Council projected supply	Appellant Adjustment	Council adjustment
BR2 – Brookfield Garden Village	100	-100	-100
CH2 - Rosedale Park - North/South of Andrews Lane, and South of Peakes Way	240	-240	- 59
CH2 - Rosedale Park - North of Andrews Lane 64 bed care home	64	-64	-64
CH7 – Cheshunt Football Club	100	-100	-100
CH12 – Land North of Bonney Grove	40	-40	-40
CH14 – Land south of Hammondstreet Road	45	-45	-45
HOD3 – Former Hoddesdon Police Station	30	-30	-30
WC3 - Theobalds Grove Station	50	-50	-50
Total			-488

## 7.0 CONCLUSION

- 7.1 The council have failed the Housing Delivery Test and as such the “tilted balance” in paragraph 11d of the Framework is engaged.
- 7.2 The Council’s evidence (CD3.15 Annual Monitoring Report 2018 – 2020) is that there is a 5.39 year supply of housing land. I have highlighted that the draft Statement of Common Ground reduced this to 5.01 years supply although this has yet to be confirmed.
- 7.3 I note that the council may not be contesting my deletion of some sites from the 2020 base as set out in the in the draft Statement of Common Ground. Removing these sites (which amount to 488 dwellings) from the supply would reduce the land supply to 4.7 years.
- 7.4 I also note that the council will seek to rely upon evidence collected recently to increase the level of completions on some sites, this in my view can not be relied upon as it is effectively “backfilling” the evidential gap nevertheless I will comment on this recently received evidence further via a rebuttal.
- 7.5 My criticism of the Council’s calculation of supply is that they have clearly double counted the level of windfall. The AMR (CD3.15) provides very little evidence to justify the inclusion of any windfall allowance and it is certainly not the compelling evidence that is required by the Framework.
- 7.6 I have considered the level of forecast completions from level of commitments that are not allocations and to avoid double counting (like the Local Plan inspector) I do not consider that the 70dpa should be applied for the whole of the five year period. Instead, I propose that it should only be applied to the last 2 years as prior to that completions from sites of under 25 dwellings are forecast to come forward at over this rate. This **removes 210 dwellings from the supply** (3 x 70 dpa).
- 7.7 Next, I have considered if those sites presently included in the supply actually passed the test of deliverable as at the start date 1<sup>st</sup> April 2020. In this case draft local plan allocations have been discounted unless they had an outline permission or were on the brown field register. This **removes 1,440 dwellings from the supply**.
- 7.8 Lastly, I have considered those category B sites that the council have not provided clear evidence of their delivery. This increases the reduction from 1,440 dwellings to a **total of 2,301 dwellings**.
- 7.9 **If these deductions on the basis of windfall and deliverable sites are made the supply is reduced to 2.17 years supply.**

7.10 While the tilted balanced is already engaged by the failure of the HDT the fact that the five year land supply is also below 5 would suggest that substantial weight should be placed on the delivery of new housing.

**Table 8. Summary of the Council's and the Appellant's 5 year land supply position at 1<sup>st</sup> April 2020**

Housing Land Supply Components	Housing Land Supply 2020 - 2025 - SPRU Analysis	BBC	BBC Draft SoCG 24 June 2021 Table 3	SPRU
	Commitments (excluding Local Plan sites)	615	615	615
	Local Plan allocations	2,874	2,589	783
	Windfall Allowance (70 dpa)	350	350	140
	Self-build Allowance (5 dpa over 4 years)	20	20	20
	<b>Total</b>	<b>3,859</b>	<b>3,574</b>	<b>1,558</b>
Requirement Calculations	<b>Requirement</b>			
	Base OAN requirement (dpa)	454	454	454
	Requirement over 5 years	2,270	2,270	2,270
	Shortfall	715	715	715
	With Buffer @ 20%	3,582	3,582	3,582
	Dwellings Per Annum	716	716	716
5 Year Supply	<b>Supply</b>			
	Deliverable Supply	3,859	3,574	1,558
	Years @ 20% Buffer	<b>5.39</b>	<b>4.99</b>	<b>2.17</b>
	Oversupply/Undersupply	<b>277</b>	<b>-8</b>	<b>-2,024</b>





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