

**FIVE YEAR SUPPLY UPDATE AND IMPLICATIONS**

**Cabinet Member:** Richard Chesterton  
**Responsible Officer:** Head of Planning & Regeneration

**Reason for Report:** To advise the members on the most recent five year housing land supply calculations and to recommend a course of action to minimise the risk of a successful challenge to that calculation.

**RECOMMENDATION:** That the emerging local plan allocations of Barn Park, Crediton, Old Abattoir, Copplestone, Linhay Close, Culmstock, Hunters Hill, Culmstock, Court Orchard, Newton St. Cyres, South of Broadlands, Thorverton and the contingency site at Pedlerspool, Crediton are brought forward from later in the plan period in accordance with the NPPF advice and are therefore confirmed as available within the five year supply.

**Relationship to Corporate Plan:** The Local Plan is the prime mechanism for the Council to achieve the Corporate Plan objectives of delivering a Thriving Economy, Better Homes, Empowering our Communities and Caring for the Environment.

**Financial Implications:** Limited, but potential beneficial impact on staff resources by deterring major housing appeals.

**Legal Implications:** Should help to ensure that Local Plan continues to be considered up to date in housing decisions.

**Risk Assessment:** The risks are set out in the body of the report.

**1.0 Background**

- 1.1 The National Planning Policy Framework contains policy which is a material consideration in the assessment of planning applications, and can often be the key determining factor where proposals are considered by Inspectors at appeal.
- 1.2 One of the policy requirements is that Councils should ensure that they “identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.” (Paragraph 47). Further advice states that “Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.” (Paragraph 49).

- 1.3 In effect, therefore, unless the Council can identify a five year supply of housing land the existing Local Plan policies relating to the supply of housing (including, crucially, the definition of settlement limits identifying areas which are open countryside and those which are within defined settlements) may not be supported by Inspectors at appeal in the face of the short term need for housing in the area.

## **2.0 Introduction**

- 2.1 The most recent assessment of the Council's five year supply was published in August 2014 and therefore it is necessary to publish an update. The initial revised calculation has been updated to take account of completions and planning permissions during the 2014/15 year, and is included in full in Appendix 1. In summary, taking account of a number of assumptions the assessment demonstrates that we have a five year supply with a "buffer" of 21%. This can be compared with the required normal buffer of 5% and the higher buffer of 20% in the case of "persistent under delivery".
- 2.2 On the face of it, this suggests that the Council is in a position to continue to determine housing allocations in accordance with the existing local plan policies. However, things are not so simple, and your officers are aware of challenges being made to the council's calculations in current planning applications and appeals. If these challenges are successful there is the potential consequence that existing housing supply policies are considered "out of date" by inspectors and that housing applications may be granted contrary to the local plan. Further discussion on these risk factors is set out below.

## **3.0 Discussion**

### **Risk - Level of Need**

- 3.1 The calculation is based on the current Core Strategy requirement of 6800 dwellings over the period 2006 – 2026 (ie an average of 340 per year). However, contrary to your officers' opinion, some agents have suggested that the Core Strategy should be read in a different way to give a need for the period 2006 – 2016 of 390 per year. Using this figure would reduce the supply buffer to 4% and therefore the Council would not be in a position to demonstrate a five year supply. While your officers' view is that this approach is without merit, it nevertheless provides a small risk in the context of potential housing appeals. A further risk factor in this area is that the target in the emerging local plan is higher at 360 per year, with objections having been received that it should be further increased. This would have similar implications.

### **Risk – Size of Buffer**

- 3.2 As described in the Background section, there is a need to provide a "buffer" for choice and competition reasons. Officers consider that a 5% buffer is appropriate and this view has not changed. However, it appears likely that applicants would argue that a 20% buffer is more appropriate in the context of

recent years' completions. The current buffer of 21% is very close to this level, and therefore this factor provides additional risk to the council's five year supply calculation.

### **Risk – Deliverability of Sites**

- 3.3 The final area of risk relates to the specific sites included within the supply, including sites with planning permission and as yet unknown “windfall” sites. It is common practice during appeal hearings for appellants to assess each site individually and to argue that a number of them are not genuinely deliverable, as well as to seek to reduce the allowance for windfalls. Again, while your officers are confident that the assessment is based on correct information, this is a further risk.

## **4.0 Implications**

- 4.1 Overall, while the Council can demonstrate a five year supply of housing land in accordance with the calculations in Appendix 1, there is a risk that appeal Inspectors will disagree with the Council, based on the issues set out above under “Discussion”. This would clearly be very unfortunate because it would lead to significant pressure on the Council to grant additional housing land contrary to local plan policies, or risk losing further appeals. It may also be difficult to “claw back” the five year supply position should an Inspector find against the council on this matter. Given the importance of this matter, it is recommended that the Cabinet consider measures to mitigate these risks.

## **5.0 Possible mitigation measures**

- 5.1 It is recommended that the Council take action to boost the five year supply of deliverable sites to significantly increase the “buffer” to a point where the risk of a successful five year supply challenge is minimal, which should also act to deter appeals in the first place.
- 5.2 Work is already being undertaken to bring forward the delivery of the existing major allocations at North West Cullompton and East Tiverton, through masterplanning work. This has started to bear fruit as both sites are now considered as commencing during the five year period. A number of other local plan sites may benefit from similar work, but this is resource intensive and takes time, and is therefore unlikely to provide a short term increase in the five year supply. It would involve the use of planning staff who are currently fully employed dealing with planning applications and the local plan review. This approach is therefore not recommended.
- 5.3 The Council could encourage planning applications on new sites in the emerging local plan where this would boost the five year supply. A number of the proposed allocations have received no objections during the local plan consultation, and therefore could be considered for development immediately. This applies to the following sites, totalling 103 dwellings:
- Barn Park, Crediton – 20 dwellings, comments on details received but no objections

- Old Abattoir, Copplestone – 30 dwellings, comments on details received from site promoters only
- Linhay Close, Culmstock – 6 dwellings, no comments received (note already an allocated site but emerging Local Plan allocation has different site requirements)
- Hunters Hill, Culmstock – 10 dwellings, no objections received (note already an allocated site but emerging Local Plan allocation has different site requirements)
- Court Orchard, Newton St Cyres – 25 dwellings, no comments received, site has resolution to approve subject to a s106
- South of Broadlands, Thorverton – 12 dwellings, no objections received other than proposal to enlarge site from landowner.

5.4 It is therefore recommended that the Cabinet confirm that it is Council Policy that applications for development of these sites will be considered appropriate in principle, subject to relevant planning considerations including the requirements of the emerging policies. This would accord with the advice in the NPPF to move sites forward from later in the plan period into the five year supply.

5.5 A further area of potential action relates to “contingency sites” which are allocated in the existing Local Plan (specifically the Allocations and Infrastructure DPD). These contingency sites were to be released if the rate of development in the plan area fell below certain levels. However, with the increase in emphasis within the NPPF relating to the need for a five year supply the emerging local plan alters the approach by confirming that these contingency sites may be brought forward in order to ensure that the Council maintains its five year housing supply. In accordance with this emerging policy, the Cabinet could confirm that it is Council policy that applications for development of these sites will be considered appropriate in principle, subject to relevant planning considerations including the requirements of the existing and emerging policies. This will accord with the advice in the NPPF to move sites forward from later in the plan period into the five year supply. Further details are set out below.

## **6.0 Pedlerspool, Crediton**

6.1 The Pedlerspool site is included as a contingency site within the current local plan under policy AL/CRE/12 for 165 dwellings. If this site were released now, allowing time for an application to be made, the first new dwellings would be expected to come forward in about 2017/18. Releasing this site would boost the supply by just over 60 dwellings, which would increase the buffer by 3%. This supply boost would continue into future five year supply calculations as the site develops out. This site is proposed to be allocated (not as a contingency site) in the emerging Local Plan Review for 200 dwellings, and

therefore has significant planning policy support. It is recommended that the Cabinet confirm the release of this site into the five year supply.

## **7.0 Tidcombe Hall, Tiverton**

- 7.1 The Tidcombe Hall site is included as a contingency site within the current local plan under policy AL/TIV/21 for 200 dwellings. Again, release of this site would boost the supply by just over 60 dwellings, allowing time for the site to gain planning permission and commence, which would increase the buffer by 3%. The site is proposed to be retained as a contingency site in the emerging Local Plan Review, although reduced in scale to 100 dwellings. This is a less strong policy support than with the Pedlerspool site and therefore it is not recommended that the site is released into the five year supply at this time.

## **8.0 Colebrook, Cullompton**

- 8.1 The Colebrook site is included as a contingency site within the current local plan under policy AL/CU/20 for 100 dwellings. A similar boost would apply if this site were released. The site is proposed to be retained as a contingency site in the emerging Local Plan Review, however an additional criterion has been included that the site should not be released until the town centre relief road has been completed, as a result of revised information from Devon County Council. This requirement means that the site could not form part of the five year supply, since the relief road is unlikely to be completed within the necessary timescale. Accordingly, it is not proposed that this site is released.

## **9.0 Conclusion**

- 9.1 By inviting applications on the local plan sites referred to above, and by releasing the contingency site at Pedlerspool there would be a significant boost to the five year supply, which would leave the risk of a successful challenge at a very low level. A revised calculation is set out in Appendix 2 which indicates that this would leave a 29% buffer. Accordingly, this is the course of action recommended to you.

**Contact for more Information:** Dean Titchener, Principal Forward Planning Officer, 01884 234334

**Circulation of the Report:** Cllr Richard Chesterton, Cabinet Member

## Appendix 1 – Initial Five Year Supply Calculation 2015 – 2020

Supply factor	Calculation	Figure
A Core Strategy Requirement 2006 – 2026		6800
B Implied annual rate 2006 – 2026	$A/20$	340
C Core Strategy requirement to date 2006 - 2015	$B*9$	3060
D Completions to date 2006 – 2015		2942
E Shortfall to date 2006 – 2015	$C-D$	118
F Core Strategy requirement 2015 – 2020	$B*5$	1700
G 5 Year supply requirement 2015 – 2020	$E+F$	1818
H Five year delivery on allocations without planning permission		748
I Five year delivery on allocations with planning permission or under construction		586
J Five year delivery on windfall sites with planning permission or under construction		706
K Five year delivery on additional windfall sites		158
L Total projected five year delivery	$H+I+J+K$	2198
M Five year supply as %	$L/G * 100\%$	121%

## Appendix 2 – Revised five year supply calculation 2015 – 2020

Supply factor	Calculation	Figure
A Core Strategy Requirement 2006 – 2026		6800
B Implied annual rate 2006 – 2026	$A/20$	340
C Core Strategy requirement to date 2006 - 2015	$B*9$	3060
D Completions to date 2006 – 2015		2942
E Shortfall to date 2006 – 2015	$C-D$	118
F Core Strategy requirement 2015 – 2020	$B*5$	1700
G 5 Year supply requirement 2015 – 2020	$E+F$	1818
H Five year delivery on allocations without planning permission		748
I Five year delivery on allocations with planning permission or under construction		586
J Five year delivery on windfall sites with planning permission or under construction		706
K Five year delivery on additional windfall sites		158
L Five year delivery on released contingency and emerging allocation sites		151
M Total projected five year delivery	$H+I+J+K+L$	2363
N Five year supply as %	$M/G * 100\%$	129%