

**REPORT OF JENNY CLIFFORD, HEAD OF PLANNING AND REGENERATION
FIVE YEAR HOUSING LAND SUPPLY**

Cabinet Member
Responsible Officer

Cllr Richard Chesterton
Head of Planning and Regeneration, Jenny Clifford

Reason for Report: To respond to Scrutiny Committee's request for a report on the Council's 5 year housing land supply, specifically: The report shows that we have failed to achieve our 5 year land supply, despite taking action to bring forward new sites earmarked in the yet to be published in the Local Plan. The intention is to find out why this has happened and what remedial action should be taken as soon as possible to stop aggressive development until the Local Plan is published.

RECOMMENDATIONS: That the report be noted.

Relationship to Corporate Plan: Priorities within the emerging 2016 – 2020 Corporate Plan are economy, homes, community and environment.

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

Legal Implications: The Council is required to have a 5 year land supply of deliverable housing sites together with a buffer of either 5% or 20%, the latter being applied where there has been persistent undersupply of housing.

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

1.0 BACKGROUND.

1.1 In respect of housing supply, the National Planning Policy Framework (NPPF) requires local planning authorities at paragraph 47 to:

- identify and update annually a supply of specific deliverable sites sufficient to provide five year's 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;

1.2 In order to be considered deliverable, The NPPF advises that 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.

1.3 The NPPF also advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. 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. Housing applications are then considered in the context of sustainable development.

2.0 PREVIOUS MEASURES TO BOLSTER SUPPLY - BRINGING SITES FORWARD.

2.1 Cabinet considered a report on five year housing land supply at the meeting of 7th August 2015. This report assessed our deliverable housing land supply requirements at that time as being met, but recommended emerging local plan allocations (see below) and one contingency site at Pedlars Pool, Crediton be brought forward for development from later in the plan period in order to add to the supply by accounting for 151 dwelling completions over the next 5 years. The emerging local plan allocations that this would apply to were listed as:

Barn Park, Crediton
Old Abattoir, Copplestone
Linhay Close, Culmstock
Hunters Hill, Culmstock
Court Orchard, Newton St Cyres,
South of Broadlands, Thorverton

2.2 Some of these sites are now at pre-application stage, most notably Pedlarspool site, Crediton. However no planning application has yet been received.

3.0 THE RECENT APPEAL DECISION.

3.1 On 11th April 2016, an appeal was allowed for outline planning permission for 60 houses on approximately 3.5 hectares of agricultural land outside the defined settlement boundary of the Uffculme which is not allocated for development. The main issue in determination of the appeal is whether, having regard to the development plan, the National Planning Policy Framework (NPPF), the housing land supply of the Council and the scale and location of the development, the appeal scheme would constitute a sustainable form of development.

3.2 In summary the Inspector concluded:

- Mid Devon has a deliverable housing land supply of approximately 4 - 4.5 years as compared with a requirement for 5 years.
- Average annual housing completion rates (356) have under-delivered against targets (COR3 target of 390 and the full objectively assessed need (FOAN) of 370), therefore,
- There has been a persistent under delivery of housing (he acknowledged that this reflects the economic position nationally) and a buffer of 20% should be applied. (Therefore equivalent of 6 year housing land supply needed in total).
- The supply of housing policies in the Core Strategy are inconsistent with the National Planning Policy Framework as they were adopted before the framework was published in 2012. These policies are therefore not up to date and should be given limited weight.
- The emerging Local Plan Review carries very little weight in respect of key housing issues, as there are significant unresolved objections to proposed housing policy.
- The development in question would deliver social benefits through market and affordable dwellings, promote economic activity and no environmental harm was identified. The development is sustainable and the appeal should be allowed.
- The Inspector considered in some detail on a site by site basis whether they were deliverable and if so, when they would be likely to contribute to supply.

4.0 REFLECTIONS ON THE APPEAL DECISION.

4.1 The Council has only within the last year or so started to receive serious challenge by developers and site promoters over 5 year housing land supply. This is thought to be unique within the majority of Devon and in part due to the speed with which the Council has adopted local plans, including that currently adopted and has therefore been able to demonstrate a robust supply of deliverable housing sites that met requirements. A recent appeal decision (27th April 2016) in Topsham has just found that Exeter City also does not currently have a 5 year housing land supply. The increase in challenge over housing land supply within the past year leading to the recent appeal decision is a result of several factors as set out below.

4.2 Delivery.

4.2.1 Demonstrating supply is not just about housing numbers. Deliverability is key. To be considered deliverable, sites should be available, be a suitable location for development, be achievable (ie with a realistic prospect that housing will be delivered within five years) and in particular that development is viable. Delivery is also important in the context of the record of delivering allocations in years prior to the point of appeal.

4.2.2 The existing local plan meets much of housing requirements by allocating land for development within two urban extension sites: east of Tiverton and at north west Cullompton. Whilst both sites now have adopted masterplans in place, neither have completed the planning application process despite efforts by the Planning Service to deliver these sites. Planning applications have not yet been received for NW Cullompton, but are expected in the next few months. The rate of housing delivery set out in the Allocations and Infrastructure Development Plan Document 2011 anticipated the delivery of the first houses on each of these sites to take place in 14/15. By the end of 15/16 it was expected that 200 houses would have been delivered upon them. Delivery of our strategic sites has therefore lagged behind this trajectory.

4.2.3 One of the ways that a local planning authority can seek to maintain a supply of deliverable sites is through granting planning permission. The number of planning permissions in the District is currently standing at it's highest figure since 2002/03 and 1427 dwellings with planning permission (Monitoring Report 2015 Summary 31st March 2015). Whilst strategic sites have been slower to come forward than expected, this has been offset by the higher number of planning permissions granted overall. Despite this, the average annual housing completion rate of 356 has not met the policy COR3 target of 390 or the FOAN target of 370. This lower rate of housing completion is to a large extent a result of factors outside the control of the Council such as the economy, the local housing market, the availability of mortgage funding and the commercial decisions by particularly national housebuilders over permission implementation and build out rates. The Inspector acknowledged a recent dip in completions was a likely result of economic recession and reflects the position nationally together with efforts to bring forward the urban extensions. Nevertheless, his judgement was still informed by past delivery rates.

4.2.4 There will always be a time lag between the grant of planning permission and the completion of those houses. Accordingly the release of further sites for housing will not show in expected housing completion figures for several years, especially on largescale sites that require masterplanning or the delivery of infrastructure.

4.2.5 The Inspector considered in some detail the extent to which individual development sites could reasonably contribute to the deliverable housing land supply. This involved an analysis of factors such as the planning status, whether there were any potential delays in the site coming forward from the timescale expected and whether a developer was in control of the land and ready to deliver houses. The Inspector considered that several sites would come forward later than thought or that was uncertainty over their delivery. He discounted them from contributing to the supply with the consequence that our deliverable housing numbers were less than anticipated.

4.3 **Evidence base.**

4.3.1 A Strategic Housing Market Assessment reviews the whole housing market area within which Mid Devon is located and informs housing policies and strategies by identifying the future quantity of housing needed including breakdown by type, tenure and size. This is considered up to date and was accepted by the Inspector as being the best available evidence at the appeal and the basis upon which to assess housing need. It proposed a higher housing figures from 2013 onwards of 370 dwellings per annum compared with the Core Strategy of 290 dwellings per annum from 2016 onwards. In setting this higher requirement, an equivalent supply is needed. Our deliverable supply fell short of this.

4.3.2 A Strategic Housing Land Availability Assessment identifies specific, deliverable sites for housing that are ready for development. Dated February 2015 it is also considered up to date.

4.4 **Rate of plan production.**

4.4.1 Work stated on preparing the Local Plan Review in 2013 and early estimates were of plan adoption quarter 1 or 2 of 2015/16. The Local Development Scheme 2015 estimates plan adoption January 2017 assuming submission June 2016.

4.4.2 The Cabinet report of 22nd October 2015 on the Local Development Scheme provided an update on plan preparation that took account of the need to commission additional technical assessment work in relation to junction 28 of the M5. The detailed flood modelling and highway /junction design work has been commissioned and is currently underway. The delay in order to accommodate this further investigation work was necessary as the Environment Agency wished to understand in more detail the implications of any highway improvement scheme crossing the floodplain at Cullompton in terms of the floodplain and flood flows. In the absence of this additional work, there was a risk that the plan would be found unsound. The need for this level of detail at this stage was not anticipated as it would normally be required at masterplan stage and necessitated a delay of approximately 8 months. Other technical work needed to inform the submission document together with consideration of changes to Government requirements, particularly over certain housing types, is also currently under consideration. Assuming no major modification, it is likely that plan submission will take place in August following Cabinet and Council meetings that month. This would lead to adoption March 2017.

4.4 **Methodology and assumptions.**

4.5.1 Calculating deliverable housing land supply, the housing requirement and the appropriate rate of delivery involves applying a series of assumptions and a complicated working methodology. The position on these differed between the Council and the applicant with the latter taking a more pessimistic stance on delivery and using a housing requirement calculation that resulted in more housing be needed within the early years of the current plan period. Differences between a Council and

developers over such matters is common and resulted in each party going into the appeal with a different understanding of land supply available. It is common practice during appeal hearings for applicants to assess each site individually and to argue that a number of them are not genuinely deliverable and to seek to reduce the allowance for windfall sites. The Inspector has clarified elements of methodology and assumptions which will be of assistance to the Council going forward.

5.0 RISK ASSESSMENT.

- 5.1 Until the Council can demonstrate a 5 year land supply (with 20% buffer) there will be vulnerability to housing applications coming forward on sites that have not been planned for development. This is often dubbed 'planning by appeal'. Appeal losses can result in unbalanced distribution of piecemeal development, development in areas considered unsuitable by the Council, a lower level of funding for affordable housing, community facilities and service infrastructure and additional costs to be borne by the Council. Decision making is also taken out of local control. Houses can now legitimately be provided by developers on sites not planned for until supply figures are next tested and a new Local Plan is adopted. However Inspector's will continue to assess the sustainability of housing sites coming forward and the extent to which any material harm will result. It is therefore not a free for all on any site.
- 5.2 The Planning Service has estimated what would be needed to regain a sufficient land supply taking into account the Inspector's conclusions that a 20% buffer should be applied due to persistent under delivery. The amount of additional dwellings over and above the supply from existing allocations and known windfall sites that would need to be permitted and completed between 2016 – 2021 is dependent upon assumptions made about the level of delivery. A realistic figure is considered to be 460. This is the amount of vulnerability. (Note this is based on interim figures)
- 5.3 The Inspector gave little weight to the emerging Local Plan Review at this stage due to significant unresolved objections on key housing issues. In light of this, the Local Plan Review is not expected to be of substantial assistance to the Council's 5 year land supply until adoption (rather than at point of submission) or until the Inspector has heard the housing evidence and presented his findings. The period of vulnerability to the Council in terms of unplanned sites coming forward for housing is considered to be between now and plan adoption or when the Inspector's findings on housing matters are known.
- 5.4 The Council can anticipate further tests of land supply at appeal. This will involve a reassessment of the deliverability and timescale of sites being developed at that point in time. It will assist the Council's position to continue to grant planning permissions for appropriate schemes and to work both at a pre-application stage to get applications submitted and post-application to see the sites delivered. Acceleration of delivery will assist the Council's position.

6.0 MITIGATION MEASURES.

1. **Advance the Local Plan Review to adoption.** However this would need to be in conjunction with being able to demonstrate an up-to-date deliverable five year housing land supply.
2. **Bring forward further sites for housing development.** However this does not overcome the immediate shortfall in completed dwellings that can contribute towards the first few years of the 5 year housing land supply. This is due to the inherent lead in time to prepare applications and go through the planning process together with construction. An assessment of sites that could be brought forward is underway, but are unlikely to make the housing completion contribution needed

within the required timescale due to this lead in time and due to infrastructure capacity issues that will need to be resolved. Encouraging planning applications on further sites in the emerging plan prior to the plan examination and Inspector's decision letter would also be a risk as they are subject to unresolved objections.

3. **Bring forward contingency sites at Tidcombe Hall, Tiverton and Colebrook, Cullompton.** However based on Devon County Council advice, it is proposed in the emerging plan that the Colbrook site should not come forward, even on a contingency basis until the new road from Tiverton Road to Willand Road has been completed. The Tidcombe Hall site has less strong policy support than the released Pedlarspool site in Crediton, but pre-application discussions to assess it could be commenced.
4. **Continue efforts to deliver allocated or appropriate windfall sites, especially the urban extensions at Tiverton and NW Cullompton.** Since September 2015 the Council has had an officer dedicated to the Tiverton Eastern Urban Extension project in order to progress delivery. A design guide is due to be adopted in May and work has been commissioned by the Council to inform the further masterplan required for Area B. (These are all externally funded). The NW Cullompton masterplan has recently been adopted and applications are being prepared. The delivery of housing on other allocated and windfall sites is also important to assist supply. The Planning Service will seek to accelerate delivery on planned for housing sites wherever possible.
5. **Enter into pre-application discussions on land not planned for housing to date** where approached by developers in order to understand wider issues of suitability and sustainability.
6. **Update the 5 year supply figures by completing the 2015/16 monitoring year assessment** as soon as possible. This is well advanced, with final figures likely to be available within 3-4 weeks. The estimate of housing numbers is needed to demonstrate a compliant supply. This report is based on an interim position. Subject to available resources, consideration will also be given to producing 5 year supply figures more than once per year.

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Circulation of the Report: Councillors Richard Chesterton

List of Background Papers:

National Planning Policy Framework

<http://planningguidance.communities.gov.uk/blog/policy/>

Cabinet report 7th August 2015

Monitoring Report 2015 Summary Leaflet 1st April 2014 – 31st March 2015

<https://new.middevon.gov.uk/media/205669/annual-monitoring-report-summary-leaflet-2015.pdf>