

# **Housing Statement for Round Table Discussion**

**Land at Land East of the A10**

**Buntingford**

**Hertfordshire , SG9 9SQ**

June 2024

Appeal Ref: APP/J1915/W/24/3340497

LPA Ref: 3/23/1447/OUT

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Appeal Site: Land East of A10, Buntingford

Appeal by: Countryside Partnerships Ltd and Wattsdown Developments Ltd

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## **1. Introduction**

- 1.1 This Statement is submitted to provide more details and evidence to demonstrate that the local planning authority's (LPA) position on 5 year supply is sufficiently robust to provide a sound basis for supporting its position that it has a deliverable 5 year supply of housing.
- 1.2 The main parties have prepared and submitted to the Inspector a Statement of Common Ground on 5 year housing land supply. There are a number of areas of agreement, but also some areas of disagreement between parties. This Statement includes a summary of the respective position on each of the sites claimed by the Appellant to not be deliverable (in the way anticipated by the LPA) within the 5 year supply period.
- 1.3 The Statement also references the 2023 Appeal Decision in relation to schemes at Whempstead Road in Bennington, where an Inspector concluded that the Council was unable to demonstrate a five-year land supply of deliverable sites. This Statement will summarise the current up-to-date evidence relied upon by EHDC to demonstrate the clear progress on the sites which were omitted from the 5YHS by the Inspector at the time (in 2023). The Statement will set out (in addition to the justification in the Housing Position Statement (March 2024)) how the concerns raised by the Inspector have been addressed in preparing pragmatic and realistic delivery programmes on the basis of the up-to-date evidence on the deliverability of these and other sites.
- 1.4 At the time the planning application (appeal scheme) was refused in February 2024 the LPA could not identify a 5 year supply of housing sites. In April 2024, the LPA published the "East Herts Five Year Land Supply Position Statement". This provided the most up to date information on 5 year supply. In effect, it reviewed the annual requirement to calculate and establish the overall 5 year figure and then assessed the deliverability of sites that make up the land supply. The Statement used the

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Standard Method (as identified in the NPPF) to calculate housing need. The SM uses a formula to identify the minimum number of homes expected to be planned for, in a way that addresses projected household growth and historic under supply. The March Statement concludes that from 2023 to 2028, the 5 year requirement is 5,560 homes, with an annual requirement of 1,112 new homes. It should be noted that at that time the latest affordability ratio data which the Council now relies upon was not available.

1.5 In April 2024, the LPA also published a Position Statement Addendum due to the new affordability ratios that had been published by the Government at the end of March 2024. This indicates that the 5 year requirement is now 5,205 homes with an annual requirement for 1,041 new homes.

1.6 In terms of supply, there are two categories (Category A and Category B) in which housing supply can be assessed. Category A sites are those that are either major development with detailed planning permission (with Reserved Matters approval or detailed planning permission), or sites which do not involve major development but have planning permission. Category B sites are those allocated for housing development or those with outline planning permission only.

1.7 The following section of this Statement provides an up-to-date position of those housing sites that make up the 5 year supply.

## **2.0 2023 Appeal**

2.1 The Council's previous Five-Year Land Supply Position Statement was published in November 2022. This set out that the Council was, at the time, able to demonstrate a five-year land supply position of 5.8 years against the housing requirement.

2.2 This position was challenged, following five separate appeals into schemes at

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Whempstead Road in Bennington (in February 2023), where an Inspector concluded that the Council was unable to demonstrate a five-year land supply of deliverable sites. The Inspector questioned the deliverability of the Council's anticipated supply of housing, setting out specific concerns in relation to the following four sites:

- GA1: The Gilston Area (Villages 1-6 & Village 7)
- HERT3: West of Hertford (Archers Spring)
- EWEL1: East of Welwyn
- WARE2: North and East of Ware

2.3 The Inspector concluded that no development from these sites should be included in the five-year supply at all, thereby reducing the overall supply by 1,800 dwellings, leading to a 760 dwelling shortfall. This resulted in the Council only having 4.41 years of supply. The March 2024 Housing Position Statement notes that there is no established practice for how an Inspector should approach deliverability and that in this case, the approach taken by the Inspector was firm but not unlawful. There are examples of where Inspectors have taken a much more pragmatic approach and applied a discount rate rather than take out the full supply over the five-year period. The LPA has therefore given careful consideration to this Appeal decision and the approach taken by the Inspector in assessing whether the above sites are deliverable circa 18 months on from February 2023. This Statement addresses the concerns raised by the Inspector, and provides up-to-date evidence on the deliverability of these and other sites where applicable.

2.4 In coming to a view on the deliverability of the 4 sites omitted by the Inspector from the 5YHS position in 2023, the Council is confident that there is now sound evidence to demonstrate that a reasonable amount of housing is capable of being delivered within the 5YHS in the period 2023-2028 from these sites - which have progressed significantly since 2023. Whereas the 2023 position in the Council's 5YHS considered 1800 dwellings were deliverable as part of the 5YHS, the Council considers that it has clear evidence that some 550 dwellings will now come forward from these sites

within the 5YHS period up to 2028. This is considered a realistic and pragmatic approach consistent with the PPG (Reference ID: 68-007- 20190722) which identifies site typologies and then establishes what sort of evidence could be included to demonstrate the deliverability of these sites; the PPG states that such evidence may include:

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

2.5 In the Housing Position Statement (March 2024), the Council sought to present further evidence broadly following the PPG summary above in order to demonstrate the deliverability of sites falling into category B of the definition of deliverable. A site-by-site approach was taken to establish where there is clear relevant information available to determine the deliverability of each site. The Position Statement took what the LPA considers to be a more judicious and holistic approach to collecting factual evidence in connection with the delivery of the site, in combination with a developer feedback form setting out their delivery intentions amongst other information.

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2.6 All of the sites considered by the Council to be deliverable are either Site Allocations identified in the District Plan, or have been identified for development in Neighbourhood Plans, or are subject to an adopted Masterplan. All of these sites have undertaken the Masterplanning process identified above, or are currently undertaking it. With regard to the District Plan allocations, the individual sites were subject to a rigorous examination of their specific deliverability through the Local Plan examination which ultimately found the Plan and its strategy to be sound. The District Plan was also viability tested, and the Council has worked closely with site promoters both prior to the examination, and subsequently, to address any constraints to delivery following the adoption of the Plan.

2.7 In all cases, (in line with bullet point 4 of the PPG) relevant information about site viability, ownership constraints or infrastructure provision has been provided as part of the various post and pre-planning applications, Masterplanning, District Plan or Neighbourhood Planning site selection process. This evidence (along with the assessment work) is set out within the planning applications and pre-application packages, or supporting evidential appraisal as part of the masterplanning/SPD processes which have been followed (in line with bullet point 3 of the PPG).

### **3.0 Sites in dispute within the 5YHS Calculations**

3.1 In addition to the above sites deleted from the previous 5YHS in 2023, the Appellant has challenged a number of other sites which are set out in the Statement of Common Ground. These include Category A sites which have planning permission and are in the process of being implemented. The Scott Schedule within Appendix 1 of the Statement of Common Ground identifies a summary of the appellant's position on these sites and includes assertions which suggest why the sites are not deliverable within the relevant period.

3.2 The Appellant has identified the following sites in Category A and suggests that the housing numbers should be reduced by the following amounts.

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- Bishops Stortford North (Sites ASRs 1-4)/BISH3 reduce by 700 dwellings (the Council considers 1300 homes are deliverable)
- Bishops Stortford North (Site ASR5)/BISH3 reduce by 46 dwellings (the Council considers the whole site will be completed by 2028)

3.3 The Appellant considers the following additional sites in Category B should be omitted from the 5YHS with no housing completions within the period.

- Bishops Stortford High School (BISH6) 223 dwellings
- Bishops Stortford Goodsyard (BISH7) 423 dwellings
- Old River Lane/The Causeway (BISH8) 150 dwellings
- Land North-West of Buntingford 58 dwellings
- Land off Wadesmill Road, Hertford (HERT4) 118 dwellings
- Land off Walkern Road, Watton-at-Stone (WAS3) 60 dwellings

3.4 The Appellant considers the following Category B sites should be fully omitted from the 5YHS calculations replicating the sites omitted by the Inspector in 2023.

- GA1: The Gilston Area (Villages 1-6 & Village 7) 150 dwellings
- HERT3: West of Hertford (Archers Spring) 200 dwellings
- EWEL1: East of Welwyn (Birchall Garden Suburb) 125 dwellings
- WARE2: North and East of Ware 75 dwellings

3.5 The Appellant considers (as set out in the Statement of Common Ground) that a total of **2,333 homes** should be deleted from the Council's 5YHS. The Appellant does not consider any of the Category B sites listed in the below table are deliverable within 5 years. The Appellant considers that the total Housing Supply is **4,027 dwellings** as of June 2024 based on the supply period being 2023-2028. The Appellant has accepted the Council's **windfall position of 300 homes** (75 dpa for 4 years). The Appellant considers that EH has a 3.6 years supply (using the 2022



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affordability ratio) and 3.9 years (following the 2023 ratio) for the supply period of 2023-2028.

3.6 The Council's Position on the challenged sites is set out in the below table:

Estimated Dwellings Completed per Year						
	2023/24	2024/25	2025/26	2026/27	2027/28	Total
<b>BISH3 (ASR1-4)</b>	260	260	260	260	260	<b>1300</b>
<i>Appellant's Position</i>	140	140	140	140	140	<i>(700)</i>
<b>BISH3 (ASR5)**</b>	51	52	52	51	51	<b>257</b>
<i>Appellant's Position</i>	44	44	44	44	44	<i>(220)</i>
<b>BISH6</b>	0	0	80	80	63	<b>223</b>
<b>BISH7</b>	0	105	108	105	105	<b>423</b>
<b>BISH8</b>	0	0	0	0	150	<b>150</b>
<b>HERT3*</b>	0	0	0	100	100	<b>200</b>
<b>HERT4</b>	0	11	54	53	0	<b>118</b>
<b>NW Buntingford</b>	0	0	20	38	0	<b>58</b>
<b>WARE2*</b>	0	0	0	0	75	<b>75</b>
<b>GA1 (Villages 1-6)</b>	0	0	0	0	100	<b>100</b>
<b>GA (Village 7)*</b>	0	0	0	0	50	<b>50</b>
<b>EWEL1*</b>	0	0	0	50	75	<b>125</b>
<b>WAS3</b>	0	0	40	20	0	<b>60</b>
<b>APPEAL SITE</b>	0	50	100	100	100	<b>350</b>
<b>Totals (Excluding Appeal site)</b>	<b>311</b>	<b>428</b>	<b>614</b>	<b>757</b>	<b>1029</b>	<b>3,139</b>
<i>(Appellant's Position)</i>	<i>184</i>	<i>184</i>	<i>184</i>	<i>184</i>	<i>184</i>	<i>(920)</i>

\*indicate where LPA has reduced the no. cited by the relevant developer/applicant in 2024 HPS in the Proformas

\*\* indicate where LPA has used the dpa mean over 5 years given updated completion data has been provided

#### 4.0 Local Authority's Position on the Appeal Scheme Deliverability

4.1 From the above table it is evident that the Appellant's proposed build rates for the appeal site are ambitious in comparison to the more conservative and pragmatic rates estimated by the Council on other sites, evidenced through the information provided by the various developers/applicants of the Strategic Sites as part of the 5YHS assessment work which went into preparing the Housing Position Statement in March 2024.

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4.2 The Appeal Site is not as advanced as the other sites in the above table in terms of progress and therefore the Council has reviewed the Appellant's evidence to compare with the Council's more pragmatic delivery estimates. It is the LPA's position that the Appellant has not provided sufficient clear evidence to demonstrate that the appeal proposal, if allowed in (for example) September 2024, would provide a more meaningful quantum of housing and affordable housing to meet either the 2023-2028 or 2024-2029 five year supply than the other sites which the Council considers are deliverable, and can demonstrate clear evidence of their progress. As explained in the evidence of Mr. Hester, there are a number of constraints with the appeal site which are likely to result in the development coming forward later than anticipated by the appellant, and at least later than some of the other sites the Council considers are deliverable earlier than the appeal site.

4.3 The appellant has set out that Countryside and Vistry would build out the homes, but has also stated that there would be two sales outlets. The following is the appellant's draft delivery timetable:

- Year 1 - Submission and approval of reserved matters.
- Year 2 - Discharge of pre-commencement conditions and enabling works
- Year 2 - 50 dwellings
- Year 3 - 100 dwellings
- Year 4 - 100 dwellings
- Year 5 - 100 dwellings

4.4 There is no other additional evidence to justify the appellant's proposed delivery rate, or how this site can progress at an accelerated rate, well in excess of the delivery rate of the larger Category B sites omitted from the Appellant's Position on the 5YHS (which the appellant considers to be optimistic as stated in the Scott Schedule). In particular, a comparison can be drawn with HERT3, WARE2, GA1 and

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EWEL which all comprise outline applications. Some or all of these sites will comprise multiple outlets capable of delivering completions earlier on than in the estimated programmes and all of these sites are considered to be further along the planning process than the Appeal site.

4.5 The LPA considers that on average for a strategic site with one outlet, and without encumbrances, there would be some 6 houses coming forward per month. For the first year of housebuilding, this should generate around 70-80 houses. This would be broadly consistent (although slightly higher) with the patterns of housing trajectory for the strategic sites (included in Appendix 1 of the Housing Position Statement (March 2024) and forecasted rates in the Category B sites reinforcing the point that the Council's assumptions on build programmes are reasonable.

4.6 On the basis of the above, the LPA anticipates around 200 homes to be completed in Years 4-5 if the proposal is constructed at a similar delivery rate as the LPA's suggested comparable Category B sites (notably HERT3). The S106 Agreement requires a Phasing Plan to be submitted with regard to the phased provision of the affordable housing units. This phasing plan has not yet been supplied, so it is difficult to guarantee that the affordable housing will be provided in a timely manner without this information secured in the legal agreement. However, and in case there is only one phase, the development will be constructed as a continuous run (which is doubtful as an RSL will be involved). The S106 agreement requires the affordable housing to be provided by the completion of 75% of the open market housing. As such, all the AH should be provided by the 245<sup>th</sup> market home. It appears likely that the final and completed affordable housing units will not be provided within the 5 year period.

4.7 The conclusion to be reached following the above issues raised is that there is considerable uncertainty in the planning and post planning process which indicate the development on the appeal site could come forward at a later date than stated by the appellant. This, therefore, may temper the benefit afforded to the provision

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of housing within the 5 year supply period. This also provides something of a benchmark against which other sites can be considered.

## **5. Summary of Evidence of the Council's Housing Supply Position (as of June 2024)**

- 5.1 The attached table comprises a summary of the Council's updated position on the sites viewed by the Appellant as undeliverable. This expands upon and updates (where applicable) the evidence set out in the appraisal of each Site within the Housing Position Statement (2024) as well as the proformas appended to the document. The table includes updated completion data on ASR1-4 and ASR5 (BISH3) which updates the supply numbers within Appendix One of the Housing Position Statement (2024) from the latest Council database which records completions. This information does not include full completions for the year 2023/24 which is first year of the Council's 5YHS period.

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**Appendix 1 – Summary of Council Evidence**

**SEE ATTACHED DOCUMENT**

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## **Appendix 2 – Guidance Notes in Determining Deliverability**

Officers have considered the following questions in determining whether clear evidence exists to support the inclusion of the site as deliverable within 5 years. This expands upon the guidance referenced earlier in the PPG and in the Council's view is critical in determining how firm progress has been made on the various sites.

1. Does the site comprise a Site Allocation, which has been subject to examination and scrutiny of evidence as a part of an adopted District Plan Process?
2. Is the site subject to a Masterplanning or Supplementary Planning Document (SPD) process in accordance with the District Plan Policy DES1, which front loads the planning issues and establishes the key planning principles to facilitate future delivery?
3. Is the site subject to a current or approved planning application and what status is the site at?
4. Does the site benefit from a resolution to grant planning permission and if so, how far advanced is the s106 Agreement? Has a draft s106 been published?
5. Has the Applicant/Developer/Promotor submitted written evidence of their intended build programme or phasing of the development?
6. Has the Applicant/Developer/Promotor submitted updated evidence of the build programme or phasing of development following the March 2024 Housing Position Statement?
7. Has the Applicant/Developer/Promotor entered into or has agreed to enter into a Planning Performance Agreement (PPA) to ensure a shared commitment between the parties to work constructively and collaboratively on current/emerging applications/pre-applications?
8. What (if any) are outstanding planning issues with the site?
9. Is significant infrastructure required to facilitate the development which requires construction early on in the programme?
10. How realistic are the build rates/delivery programmes provided and are they consistent with other local development schemes?

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### **Appendix 3 – Sources of Information**

The following sources/contacts and communications have informed the information set out in this Statement:

- Neil Button (East Herts DC – Strategic Sites Team Leader)
- Stephen Tapper (East Herts DC – Principal DM Officers and project lead for the BISH3 (Sites ASR1-4 and 5, Bishop’s Stortford))
- Jenny Pierce (East Herts DC – Team Leader – Gilston Area Team, Development Management and Lead officer for the Gilston Area planning applications)
- David Lamb (East Herts DC – Principal DM Officer – Strategic Sites Team and Lead officer for the Bishops Stortford Goods Yard planning application)
- Sara Saunders (East Herts DC – Head of Planning & Building Control)
- Claire Sime (East Herts DC – Service Manager for Planning Policy & Conservation)
- Laura Guy (East Herts DC – Principal Planning Officer in Policy Team)
- Julia Watson (East Herts DC – Planning Officer in Policy Team)
- Turley – Agent for WARE2 application
- Savills – Agent for Bishops Stortford Goods Yard application
- David Locke Associates (DLA) – Agent for EWEL1 application
- Tarmac – Developer/Promoter for EWEL1 application
- Bellway – Developer of BISH6 (Bishop’s Stortford High School)
- Durkan – Developer of HERT4 site
- Rapleys – Agent for HERT3 site
- L&R – Master developer/Promoter of HERT3 site
- Pigeon Homes – Developer/Promoter of North-West Buntingford site
- Fairview Homes – Developer for WAS3 site
- East Herts District Council – Property/Asset Team – Landowner for BISH8 site
- Places for People (Master-developer for Gilston Villages 1-6 Site)
- Taylor Wimpey (Developer for Gilston Village 7)
- CMYK Planning – Agent for Consortium (BISH3)

**Appendix 4 – BISH3 Eastern Neighbourhood Phasing Plan (subject to application ref:  
X/24/0062/CND)**





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### Appendix 5 – Gant Chart for Estimated Delivery/Completion Rates for Eastern Neighbourhood, Stortford Fields - BISH3

X/24/0062/CND - Revised phasing plan, Eastern Neighbourhood, SF												
Residential parcels												
Parcel	2023	2024	2025	2026	2027	2028	2029	2030	Dwellings	Population	Developer	Phase
A		10	39	27					76	182	TW	3
B C			20	45	45	50			160	384	TW	4
D E F G			30	43	54	54	30		211	506	Vistry	4
H J K		30	45	45	30				150	360	Pers	3
L M	10	27	27	10					74	177	Tilia	1
M1 V U	46	50	46						142	341	TW	3,8
N O	23	23	23						69	166	Vistry	3
P Q W			38	38	38				114	274	Pers	9
R T1		30	42	42	40				154	370	Vistry	8
D1			24	25	25				74	178	?	4
T			10	30	10				50	75	?	2
			Elderly / Mobility Village									
S X Y			85						85	204	?	2
			Eastern Local Centre Apartments									
<b>Totals</b>	79	170	344	305	327	104	30					
<b>Cumulative</b>	79	249	593	898	1225	1329	1359					

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