

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

From: Corporate Manager – Strategic Planning	Report Number: BOS/17/36
To: Overview and Scrutiny Committee	Date of meeting: 15 March 2018

FIVE-YEAR HOUSING LAND SUPPLY

1. Purpose of Report

- 1.1 To provide greater understanding of the policy context surrounding the five-year housing land supply.
- 1.2 To provide greater understanding of how the five-year housing land supply is calculated.
- 1.3 To clarify the frequency of when the five-year housing land supply calculation is undertaken and how decisions are made.
- 1.4 To identify what actions Councillors can take to ensure the delivery of housing within the five-year period.

2. Recommendations

- 2.1 The Committee is asked to make a recommendation to Full Council that the five-year housing land supply is calculated annually following the end of the April to March monitoring period and that a five-year housing land supply statement is produced as soon as is practicable that will form part of the Annual Monitoring Report.

3. Financial Implications

- 3.1 It is necessary to ensure the Councils in undertaking their five-year housing land supply calculation, produce a robust assessment that can be applied in the determination of planning applications whether the Councils have a five-year housing land supply or not. Producing a five-year housing land supply that has not considered all the available information robustly could result in costs against the Councils at a Planning Appeal.

4. Legal Implications

- 4.1 The five-year housing land supply is a requirement of the National Planning Policy Framework to help with boosting the supply of housing. It is a material consideration in the determination of planning applications. Local planning authorities are required to undertake Annual Monitoring Reports (AMR) in accordance with the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011.
- 4.2 This report has been forwarded to legal services and their response is pending.

5. Risk Management

- 5.1 This report is most closely linked with the Councils' Corporate / Significant Business Risk No. 1b / If we do not have a sufficient appropriate supply of land available in the right locations, then we may be unable to meet housing needs in the district. Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
1b: If we do not have a sufficient, appropriate supply of land available in the right locations, then we may be unable to meet housing needs in the district.	3 – Probable	3 – Bad	Current local plans in place and call for sites undertaken. New Joint Local Plan consultation undertaken between August and November 2017. Next version of Joint Local Plan will have preferred site allocations.
If the five-year housing land supply update is produced more frequently than annually, then this could mean that some of the information required to calculate the five-year housing land supply is missing and would also increase the amount of resources required to undertake the assessment.	2 – Noticeable	3 – Bad	The Councils currently produce a robust five-year housing land supply statement annually in accordance with national planning guidance and policy and is planned to be undertaken alongside the Annual Monitoring Report.

6. Consultations

- 6.1 None.

7. Equality Analysis

- 7.1 There are no Equality and Diversity implications.

8. Shared Service / Partnership Implications

- 8.1 The strategic planning team produce the five-year housing land supply assessment for both Babergh and Mid Suffolk Districts.

9. Links to Joint Strategic Plan

- 9.1 Supports the housing main priority area and housing delivery key strategic outcome of more of the right type of homes, of the right tenure in the right place.

10. Key Information

- 10.1 This report contains sections as detailed below:

- 1) Policy context.
- 2) Detail of how the five-year housing land supply is calculated.
- 3) Timeframe for updates and how judgement fits.
- 4) Impact that Councillors can make on development being completed.
- 5) Where Councillors could lobby.
- 6) Where Councillors could impact any resource for calculating the five-year housing land supply.

1) Policy context

- 10.2 The National Planning Policy Framework (NPPF) requires Councils to identify and update on an annual basis a supply of specific deliverable sites sufficient to provide for five years' worth of housing against their identified requirements (paragraph 47). For sites to be considered deliverable they have to be available, suitable, achievable and viable. Beyond that, the NPPF also requires that Councils seek to identify specific developable sites (or broad locations) for long term growth up to 15 years ahead.
- 10.3 In a recent Appeal decision dated 2nd November 2017 involving Gladman Developments Limited and the East Riding of Yorkshire Council, reference was made to a Court of Appeal judgement involving St Modwen Developments in 2016 and the interpretation of a deliverable site. Footnote 11 of the NPPF identifies that for sites 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 that development of the site is viable.
- 10.4 National Planning Practice Guidance in paragraph 031 identifies that deliverable sites for housing could include those that are allocated for housing in the development plan unless there is clear evidence that schemes will not be implemented within five years. The distinction between deliverability and delivery was considered in the St Modwen Developments judgement and reiterated in the Appeal decision of 2nd November 2017, that the assessment of housing land supply does not require certainty that the housing sites will actually be developed within that period. Therefore *'for a site to be deliverable, it should be capable of being delivered not that it will be delivered'* ¹.

¹ Appeal Decision (2nd November 2017), ref: APP/E2001/W/16/3165930 – Land north and east of Mayfields, The Balk, Pocklington, East Riding of Yorkshire YO42 1UJ, paragraph 12, page 3, <https://www.gov.uk/planning-inspectorate>

However, it is necessary to ensure that sites included in the five-year housing land supply assessment have realistic build-out rates taking into account what the market is delivering in each district.

- 10.5 Paragraph 49 of the NPPF also states that housing applications should be considered in the context of the presumption in favour of sustainable development. 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. Legal judgement has held that this means a narrow definition of policies for the supply of housing and should be *'limited to policies only dealing with the numbers and distribution of new housing, and excluding any other policies of the development plan dealing generally with the disposition or restriction of new development in the authority's area.'*² Therefore, a wide range of policies of both the NPPF and the adopted Local Plan should be referenced in the determination of planning applications, and careful consideration will need to be made with regard to the appropriate weight to be applied. However, judgement further states that *'If a planning authority that was in default of the requirement of a five-year supply were to continue to apply its environmental and amenity policies with full rigour, the objective of the Framework could be frustrated.'*³ Decision takers can and should therefore, apply the judgement as to the interpretation of policies in weighing up of the consequences of apply development plan policies.
- 10.6 Where policies cannot be considered up to date, the NPPF (paragraph 11) states that 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 the NPPF as a whole, or specific policies in the NPPF indicate development should be restricted. The presumption in favour of sustainable development in paragraph 14 of NPPF also applies where a proposal is in accordance with the development plan, where it should be granted planning permission without delay unless material considerations indicate otherwise.
- 10.7 The NPPF (paragraph 47) also requires an additional buffer to the five-year land supply depending upon the recent performance of housing delivery. Where delivery has been good relative to the local annual target, a 5% additional buffer should be required on top of the baseline five-year land supply requirement. However, a 20% additional buffer should be applied where persistent under-delivery of housing is identified.
- 10.8 The Joint Local Plan will identify preferred allocations at the next stage of its preparation and these will therefore gain weight in planning decisions as the Plan progresses towards submission to the Government for an Examination in Public. The weight is influenced by the level of objections a proposed site allocation may have received prior to Examination.
- 10.9 Therefore, in calculating a five-year housing land supply for the 2019-24 period, proposed site allocations in the Joint Local Plan will be able to be taken into account.
- 10.10 However, the five-year housing land supply to be calculated for the 2018-23 will not yet be in a position to take these sites into account but will be updated from the 2017-22 position to take into account completions during 2017/18 and existing planning

² <https://www.supremecourt.uk/cases/uksc-2016-0078.html> / <https://www.supremecourt.uk/cases/docs/uksc-2016-0076-judgment.pdf>, - see paragraph 48 on page 20 and paragraph 82 on page 29

³ <https://www.supremecourt.uk/cases/docs/uksc-2016-0076-judgment.pdf>, paragraph 83, page 30

permissions and those with a resolution to grant planning permission subject to a Section 106 Agreement being signed.

2) Detail of how the five-year housing land supply is calculated

- 10.11 In accordance with National Planning Practice Guidance paragraph 030 (Reference ID: 3-030-20140306) the starting point for calculating the five-year supply should be the housing requirement figures in up-to-date adopted Local Plans. It goes on to state that '*... considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light... Where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints...*'
- 10.12 Babergh District Council adopted its Core Strategy in February 2014 and Mid Suffolk District Council adopted its Core Strategy Focused Review in December 2012 both having been tested and examined as a post-NPPF development plans. The Councils published the Ipswich and Waveney Housing Market Areas Strategic Housing Market Assessment (SHMA) in May 2017 which is important new evidence for the emerging Babergh and Mid Suffolk Joint Local Plan. Therefore, the five-year housing land supply has been calculated for both the adopted Core Strategy based figures and the new SHMA based figures. For determining relevant planning applications, it will be for the decision taker to consider appropriate weight to be given to these assessments and the relevant policies of the development plan.

Babergh

- 10.13 A summary of the Babergh five-year housing land supply position as at 1st April 2017 (published June 2017) for 2017 to 2022 is 4.1 years for the Core Strategy based supply and 3.1 years for the SHMA based supply.
- 10.14 In calculating the Babergh Core Strategy assessment for 2017-22 the following key assumptions were made:
- The base date for figures is at 31st March 2017. The period of five-year supply review is 2017/18 to 2021/22.
 - Core Strategy annual dwellings target is 220 dwellings for years 2011 to 2016 and 325 dwellings for years 2016 to 2031.
 - The Core Strategy based five-year period baseline target is = 1,625 (325 x 5).
 - Total new housing completions since the Core Strategy plan start year (2011) = 1,324.
 - Undersupply was calculated against housing delivery performance since the CS plan start year (2011). Total cumulative shortfall to 31st March 2017 was 101 dwellings (1,324 completions delivery – 1,425 housing target).
 - A 20% buffer was considered appropriate based on past delivery record.

- Total net outstanding planning permissions stood at 2,320 dwellings (rounded), of which 480 dwellings (rounded) were small sites of less than 10 dwellings.

Summary of Core Strategy (CS) based five-year housing land supply calculation:

	Babergh land supply targets and buffers 2017/18 – 2021/22		
a	Land supply 2017-22	1,699	
b	CS Baseline Target 2017-22	1,625	
c	CS Based Undersupply (as at 2016/17)	-101	
d	Adjusted five-year target	1,726	(b + c)
e	5% buffer	86	(d x 0.05)
f	Total adjusted target + 5% buffer	1,812	(d + e)
g	Adjusted target + 5% annual figure	362	(f / 5)
h	Five-year supply + 5% (years)	4.7	(a / g)
i	20% buffer	345	(d x 0.20)
j	Total adjusted target + 20% buffer	2,071	(d + i)
k	Adjusted target + 20% annual figure	414	(j / 5)
l	Five-year supply + 20% (years)	4.1	(a / k)

10.15 In calculating the Babergh SHMA based assessment for 2017-22 the following key assumptions were made:

- The base date for figures is at 31st March 2017. The period of five-year supply review is 2017/18 to 2021/22.
- SHMA annual dwellings target is 355 dwellings for the period between 2014 to 2036.
- The SHMA based five-year period baseline target is = 1,755 (325 x 5).
- Total new housing completions since the SHMA plan start year (2014) = 555.
- Undersupply was calculated against housing delivery performance since the SHMA plan start year (2014). Total cumulative shortfall to 31st March 2017 was 510 dwellings (555 completions delivery – 1,065 housing target).
- A 20% buffer was considered appropriate based on past delivery record.
- Total net outstanding planning permissions stood at 2,320 dwellings (rounded), of which 480 dwellings (rounded) were small sites of less than 10 dwellings.

Summary of SHMA based five-year housing land supply calculation:

Babergh land supply targets and buffers 2017/18 – 2021/22			
a	Land supply 2017-22	1,699	
b	SHMA Baseline Target 2017-22	1,775	
c	SHMA Based Undersupply (as at 2016/17)	-510	
d	Adjusted five-year target	2,285	(b + c)
e	5% buffer	114	(d x 0.05)
f	Total adjusted target + 5% buffer	2,399	(d + e)
g	Adjusted target + 5% annual figure	480	(f / 5)
h	Five-year supply + 5% (years)	3.5	(a / g)
i	20% buffer	457	(d x 0.20)
j	Total adjusted target + 20% buffer	2,742	(d + i)
k	Adjusted target + 20% annual figure	548	(j / 5)
l	Five-year supply + 20% (years)	3.1	(a / k)

10.16 Summary of breakdown of land supply

Babergh land supply 2017/18 – 2021/22	Dwellings	
No permission / Allocated sites	110	A
S106 to sign	120	B
Application	0	C
Permission outline	142	D
Permission full	700	E
In construction	257	F
Windfall and small sites	480	G
Permitted sites (c-f) minus 10% for lapse rate	989	H
Total supply (a+b+c+g+h)	1,699	I

10.17 Sites in the land supply trajectory tables as published in the June 2017 AMR were shown as below:

Site Status / Ref	Site Name	Parish	A = allocation W = windfall	Total no. units to be built	Still to build	Phase 1 dwellings (2017-22)	Phase 2 dwellings (2022-27)	Phase 3 dwellings (2027+)
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Mid Suffolk

10.18 A summary of the Mid Suffolk five-year housing land supply position as at 1st April 2017 (published June 2017) for 2017 to 2022 is 3.9 years for the Core Strategy based supply and 3.9 years for the SHMA based supply.

10.19 In calculating the Mid Suffolk Core Strategy assessment for 2017-22 the following key assumptions were made:

- The base date for figures is at 31st March 2017. The period of five-year supply review is 2017/18 to 2021/22.
- Core Strategy annual dwellings target is 415 dwellings for years 2007 to 2012 and 430 dwellings for years 2012 to 2027.
- The Core Strategy based five-year period baseline target is = 2,150 (430 x 5).
- Total new housing completions since the Core Strategy plan start year (2007) = 3,792.
- Undersupply was calculated against housing delivery performance since the CS plan start year (2007). Total cumulative shortfall to 31st March 2017 was 433 dwellings (3,792 completions delivery – 4,225 housing target).
- A 20% buffer was considered appropriate based on past delivery record.
- Total net outstanding planning permissions stood at 2,480 dwellings (rounded), of which 570 dwellings (rounded) were small sites of less than 10 dwellings.

Summary of Core Strategy (CS) based five-year housing land supply calculation:

	Mid Suffolk land supply targets and buffers 2017/18 – 2021/22		
a	Land supply 2017-22	2,443	
b	CS Baseline Target 2017-22	2,150	
c	CS Based Undersupply (as at 2016/17)	-433	
d	Adjusted five-year target	2,583	(b + c)
e	5% buffer	129	(d x 0.05)
f	Total adjusted target + 5% buffer	2,712	(d + e)
g	Adjusted target + 5% annual figure	542	(f / 5)
h	Five-year supply + 5% (years)	4.5	(a / g)
i	20% buffer	517	(d x 0.20)
j	Total adjusted target + 20% buffer	3,100	(d + i)
k	Adjusted target + 20% annual figure	620	(j / 5)
l	Five-year supply + 20% (years)	3.9	(a / k)

10.20 A In calculating the Mid Suffolk SHMA based assessment for 2017-22 the following key assumptions were made:

- The base date for figures is at 31st March 2017. The period of five-year supply review is 2017/18 to 2021/22.
- SHMA annual dwellings target is 452 dwellings for the period between 2014 to 2036.
- The SHMA based five-year period baseline target is = 2,260 (452 x 5).
- Total new housing completions since the SHMA plan start year (2014) = 1,025.

- Undersupply was calculated against housing delivery performance since the SHMA plan start year (2014). Total cumulative shortfall to 31st March 2017 was 331 dwellings (1,025 completions delivery – 1,356 housing target).
- A 20% buffer was considered appropriate based on past delivery record.
- Total net outstanding planning permissions stood at 2,480 dwellings (rounded), of which 570 dwellings (rounded) were small sites of less than 10 dwellings.

Summary of SHMA based five-year housing land supply calculation:

Mid Suffolk land supply targets and buffers 2017/18 – 2021/22			
a	Land supply 2017-22	2,443	
b	SHMA Baseline Target 2017-22	2,260	
c	SHMA Based Undersupply (as at 2016/17)	-331	
d	Adjusted five-year target	2,591	(b + c)
e	5% buffer	130	(d x 0.05)
f	Total adjusted target + 5% buffer	2,721	(d + e)
g	Adjusted target + 5% annual figure	544	(f / 5)
h	Five-year supply + 5% (years)	4.5	(a / g)
i	20% buffer	518	(d x 0.20)
j	Total adjusted target + 20% buffer	3,109	(d + i)
k	Adjusted target + 20% annual figure	622	(j / 5)
l	Five-year supply + 20% (years)	3.9	(a / k)

10.21 Summary of breakdown of land supply

Mid Suffolk land supply 2017/18 – 2021/22	Dwellings	
No permission / Allocated sites	235	A
S106 to sign	248	B
Application	0	C
Permission outline	252	D
Permission full	510	E
In construction	784	F
Windfall and small sites	569	G
Permitted sites (c-f) minus 10% for lapse rate	1,391	H
Total supply (a+b+c+g+h)	2,443	I

10.22 Sites in the land supply trajectory tables as published in the June 2017 AMR were shown as below:

Site Status / Ref	Site Name	Parish	A = allocation W = windfall	Total no. units to be built	Still to build	Phase 1 dwellings (2017-22)	Phase 2 dwellings (2022-27)	Phase 3 dwellings (2027+)
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10.23 In calculating housing completions the following sources of information are used, which can only be robustly obtained on an annual basis:

- Building control completion records within the Councils;
- Building control completion records from external Approved Inspectors;
- Completion information from the National House Building Council (NHBC);
- Council Tax records;
- Site visits undertaken by planning officers; and
- Community Infrastructure Levy commencement form records.

3) Timeframe for updates and how judgement fits

10.24 The five-year housing land supply is linked to the Councils' annual Local Plan monitoring timescales, with the monitoring periods identified as 1st April to 31st March each year. Councils are required to produce annual monitoring reports under section 35 of the Planning and Compulsory Purchase Act 2004 as amended. Due to the multiple data sources to collate and reconcile, and the often slow (and less reliable) information provided directly by private Approved Inspectors, agents and developers, the accuracy of the data is substantially more reliable at the end of the financial year period. End of year site checks are used to improve the accuracy of the best available desktop data obtained. In addition, it is important that the Councils' published five-year housing land supply is as realistic and robust as possible. Therefore, the Councils also gather evidence from the site agents / landowners and developers for example with regard to their planned or estimated timescales for housing delivery on the identified sites.

10.25 If a five-year housing land supply is claimed and is not robust, there is a risk of challenge and award of costs against the Councils at a Planning Appeal.

10.26 Calculating the five-year housing land supply on a quarterly or even monthly basis increases the risk to the Councils of being in a position where the information informing the calculation is inaccurate due to the Councils being unable to obtain all the information required. In addition, assessing the information on a more frequent basis would result a considerable increase in the resource requirement on planning officers.

4) Impact that Councillors can make on development being completed

10.27 Councillors can impact the speed of delivery of developments through using funding such as the New Homes Bonus to contribute towards infrastructure development and supporting bids to Government for potential funding streams.

10.28 Councillors could also contact the housebuilders themselves.

10.29 Councillors may also want to consider requiring applicants of major planning applications to submit a statement indicating the anticipated delivery phasing of the proposed scheme.

5) Where Councillors could lobby

10.30 Councillors could lobby the Ministry of Housing, Communities and Local Government (MHCLG) and local MPs.

6) Where Councillors could impact any resource for calculating the five-year housing land supply

10.31 Councillors need to be mindful of the staff resource that is required in calculating the five-year housing land supply and that it is more efficient and effective to undertake this on an annual basis.

10.32 Requesting additional updates increases the risk that any five-year housing land supply calculation may be less robust and producing a figure mid-year could also result in the Councils being required to produce a calculation for the five-year period commencing in the next financial year, which could also increase any shortfall in delivery to be accounted for. Additional staff resource would be necessary which could detract from preparation of the Joint Local Plan and supporting communities undertaking Neighbourhood Plans.

10.33 It then requires updating of the databases and exporting reports to determine the number and status of outstanding planning permissions, i.e. not started or under construction.

10.34 If officers are to defend a position at a Planning Appeal, then there needs to be complete confidence in the process by which an interim five-year housing land supply has been reached. However, there would likely be either a) legal challenges from disaffected communities / developers or b) challenges at planning appeals by applicants.

10.35 Furthermore, publication of monthly data has in itself historically resulted in additional enquiries and Freedom of Information / Environmental Information Requests from communities which then takes further valuable resource to manage and respond to.

11. Appendices

Title	Location
(a) 5 year land supply briefing note – August 2015	Attached
(b) Appeal decision: APP/E2001/W/16/3165930	Attached / https://www.gov.uk/planning-inspectorate

12. Background Documents

12.1 Mid Suffolk District Council 5 year land supply briefing note (August 2015) – see appendices

12.2 Babergh District Council Interim 5 Year Housing Land Supply Statement (April 2017) <http://www.babergh.gov.uk/assets/Strategic-Planning/AMR/INTERIM-BDC-5-year-land-supply-update-report-April-2017.pdf>

- 12.3 Babergh and Mid Suffolk Joint Annual Monitoring Report 2016 – 2017 (June 2017) <http://www.babergh.gov.uk/assets/Strategic-Planning/AMR/FINAL-BMSDC-AMR-2016-17.pdf>
- 12.4 Ipswich and Waveney Housing Market Areas Strategic Housing Market Assessment (SHMA) (May 2017) <http://www.babergh.gov.uk/assets/Strategic-Planning/AMR/FINAL-BMSDC-AMR-2016-17.pdf>
- 12.5 Babergh and Mid Suffolk District Local Plans <http://www.babergh.gov.uk/planning/planning-policy/adopted-documents/>
- 12.6 Local Government Association: Plan making – 5 year housing land supply <https://www.local.gov.uk/plan-making-5-year-housing-land-supply>
- 12.7 National Planning Policy Framework (March 2012) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf
- 12.8 National Planning Practice Guidance <https://www.gov.uk/government/collections/planning-practice-guidance>
- 12.9 Appeal Decision (2nd November 2017), ref: APP/E2001/W/16/3165930 – Land north and east of Mayfields, The Balk, Pocklington, East Riding of Yorkshire YO42 1UJ, <https://www.gov.uk/planning-inspectorate> - see appendices
- 12.10 Supreme Court Judgement (10th May 2017) Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant), <https://www.supremecourt.uk/cases/docs/uksc-2016-0076-judgment.pdf>

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