



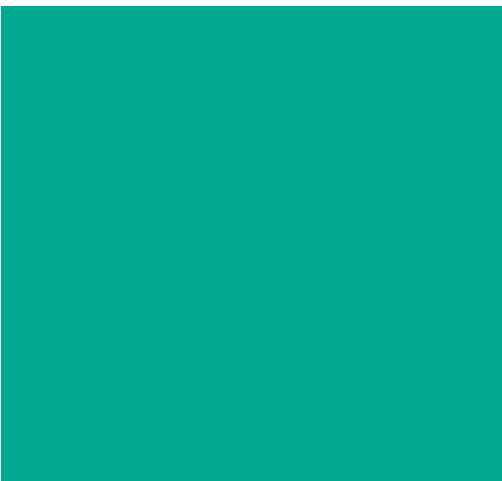
APPEAL PROOF OF EVIDENCE

Site: Land North of Cuffley Hill
Goffs Oak
Hertfordshire
EN7 5EX

For: Countryside Properties (UK) Ltd

Project Ref: LF/17086_PoE

Date: August 2022



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QUALIFICATIONS AND EXPERIENCE

My name is Elizabeth Fitzgerald. I have a degree and diploma in town planning and over 19 years' experience as a practising planner. I have been a Member of the Royal Town Planning Institute (MRTPI) since 2005.

Most of my work has been in the public sector, with 13 years working for a variety of Local Authorities across England, including Chorley Borough Council, Richmondshire District Council, Stevenage Borough Council and Huntingdonshire District Council, including my last job as a Development Manager, responsible for the Development Management and Enforcement function at Harlow District Council. I moved into the private sector to work as a planning consultant in 2015. It was previously employed by the planning consultancy Vincent and Gorbing, before moving to Barker Parry in 2017.

INVOLVEMENT WITH THE PROJECT

I was instructed in November 2017 to assist with the promotion of the site through the Local Plan Examination, the planning application, now appeal, associated with the development of this site, on behalf of Countryside Properties Ltd.



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1.0 **SCOPE OF EVIDENCE**

1.1 My evidence for this Inquiry draws upon the material comprising the planning application, the Appellant's Statement of Case which accompanied the initial appeal papers and the Local Planning Authority's Statement of Case. It should also be read in association with the Proofs of Evidence of Mr A Pankhurst, which deals with biodiversity net gain matters and Mr C Pullan, which deals with design matters.

1.2 This evidence sets out the position of the Appellant in respect of this Planning Appeal.

1.3 The evidence will consider the appeal scheme against relevant Development Plan policies and supplementary planning documents, the NPPF, PPG and other guidance to which I will refer to in relation to material considerations that apply.

1.4 All factors weigh into the consideration of planning balance, for which I will provide an assessment of the public benefits of the scheme, against any harm that may arise.

1.5 At the time of writing, the Statement of Common Ground between the Appellant and the Local Planning Authority remains in draft and discussions are ongoing.

2.0 SITE AND SURROUNDINGS

2.1 The site, which fronts Cuffley Hill, was once horticultural nurseries, which have since become redundant and remains fallow with various species of mature trees. These are concentrated toward the north of the site, whereas the south is less dense, where it may have been part of the nurseries layout.

2.2 Extending to approximately 3.10ha, the site is defined as semi-derelict as the majority of space is taken up by old vehicles, piles of debris, sheds and building materials, with the remaining open space being un-level.

2.3 The village of Goff's Oak lies between Cuffley and Cheshunt. The closest railway station is just over 0.3miles away in Cuffley, which has links to Hertford North, Stevenage and Moorgate. There is a footpath linking the site to the railway station. There are also bus services on Cuffley Hill with nearest bus stops at Robinson Avenue.

2.4 The village of Goff's Oak lies 3.2km to the north-west of the A10 junction and a further 1km away from Junction 25 of the M25. The site can be considered as highly accessible. The accessibility and sustainability credentials of the site are also confirmed in the Council's Strategic Land Availability Assessment, a part of the evidence base that supported the site's allocation for development in the Local Plan (2020), as discussed at paragraph 6.21 (below).

2.5 Access to the site is via a gap between Nos 92 and 94 Cuffley Hill.

2.6 To the north west of the site is the former CG Edwards site which also formed part of the site allocation. This is currently under construction and comprises 23 dwellings. The site layout plan is at **Appendix 1**.

2.7 Existing residential development bounds the site to the east and west.



2.8 To the north, the site is hidden from the wider countryside by a dense tree belt that extends from the gardens of properties fronting Millcrest Road, to the western boundary of the CG Edwards site and beyond.

3.0 **SCREENING OPINION**

3.1 A request for a screening opinion was submitted to the Local Planning Authority on the 24 April 2018.

3.2 The Local Planning Authority responded on the 15 May 2018 stating:

"It is understood that the proposed development is for up to 60 dwellings and the site area is measured at approximately 3 hectares across the two sites. Whilst there are a number of protected trees within the site and particularly to the northern boundaries within protected woodland, the site is not specified as an environmentally sensitive area, as identified within Part 1 of the Regulations. The site is also not within Flood Zones 2 or 3. As such, it is not considered that the development would fall within Schedule 2 of the Regulations and therefore an assessment of any significant effects on the environment is not required.

On the basis of the submitted information, the proposal is not a Schedule 2 development of the EIA Regulations 2017 as set out above. Therefore, there is no requirement to submit an EIA as part of any future planning application"

3.3 The application was submitted following this response, without an Environmental Statement.

4.0 **THE APPEAL PROPOSAL**

4.1 The application was made in full for the following proposed development:

“Erection of 58 dwellings (17no. 2 bed, 14no. 3 bed, 22no. 4 bed, 1no. 5 bed) with associated infrastructure.”

4.2 Following lengthy discussions with the Borough of Broxbourne Council, as the Local Planning Authority, the application was anticipated to be reported to the January 2020 Planning and Regulatory Committee. When the application did not appear on the agenda, contact was made with the then Head of Planning to ascertain why it wasn't reported.

4.3 Whilst there was support from the case officer, the then Head of Planning expressed concerns regarding the proposed SuDs basins and loss of some of the trees. These 11th hour concerns were frustrating and meaningful discussions were then hindered by the Covid pandemic and associated lockdowns.

4.4 A site meeting was eventually arranged for 19 May 2020 to explore the issues. It became apparent that, regardless of the extent of information submitted to demonstrate that the scheme was acceptable, a re-plan was going to be required.

4.5 Lengthy discussions occurred between the Appellant and the Local Planning Authority that culminated in an amended suite of documents being submitted in August 2021.

4.6 The description of development was subsequently amended and the application determined on the basis of the amended scheme:

“Erection of 58 dwellings (14no. 2 bed, 9no. 3 bed, 32no. 4 bed and 3no. 5 beds) with associated infrastructure.”

4.7 With a housing density of 18.7dph, the scheme includes 40% affordable housing, retention of protected trees, SuDs, 0.85ha of open space in the northern and central parts of the site, with additional ad hoc open space throughout the site and a play area.

4.8 Following further consultation, all consultee objections were resolved and the application was reported to Planning and Regulatory Committee on the 25 January 2022 (**CD A41**) with an officer recommendation of approval.

4.9 Following debate, the application was refused by Members contrary to the Officer recommendation. The minutes of the meeting are at **CD A43**.

4.10 The decision notice was received on the 9 February 2022 and the following single reason for refusal was cited:

“The proposal would over-develop the site to the detriment of its semi-rural character. As a result of the quantum of development, the proposal is incapable of guaranteeing delivery of a net gain in biodiversity, as secured by an additional buffer. As such the proposal would be contrary to policies DSC1 and NEB1 of the Broxbourne Local Plan and to the aims and objectives of paragraph 174 of the NPPF 2021 which seeks to conserve and enhance the natural environment and promote biodiversity.”

5.0 **PLANNING POLICY**

5.1 The Development Plan relevant to this appeal is comprised of the Broxbourne Local Plan 2018-2033 (June 2020).

5.2 The Site and proposed development falls wholly within the housing allocation GO5. The red line for the application includes land within the adopted highway to allow access to Cuffley Hill.

5.3 The Site is not constrained by any policy designations.

5.4 The following policies are considered relevant to the main issues to be considered as part of this appeal. The full suite of relevant policies is contained at Paragraph 4.1 of the Council's Statement of Case.

Broxbourne Local Plan

- Policy GO5: North of Cuffley Hill
- Policy DSC1: General Design Principles
- Policy NEB1: General Strategy for Biodiversity

Supplementary Documents

5.5 In addition to the Development Plan, the following supplementary guidance is relevant:

- The National Design Guide 2019
- Borough-Wide Supplementary Planning Guidance (updated 2013)

National Planning Policy Framework (2021)

5.6 The National Planning Policy Framework (NPPF) is a material consideration in the determination of this appeal, the following extracts are considered relevant:

Paragraph 7 Achieving sustainable development: The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection.

Paragraph 9 of the NPPF highlights the active role that planning policies and decisions should take to guide development to reach sustainable solutions. It explains the need to take account of local circumstances, to achieve sustainable solutions that *“...reflect the character needs and opportunities of each area.”*

Paragraph 11 (d)(i) The presumption in favour of sustainable development

11 Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), 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 (7)
 - 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.

Footnote 7: The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in Paragraph 180) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 67); and areas at risk of flooding or coastal change.

Footnote 8: This includes, 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 74); or 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.

Paragraph 12: The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Paragraph 60: 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, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Paragraph 74: Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

Paragraph 112: states that the NPPF makes clear that applications for development should (amongst other things) (b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; (c) create places that are safe, secure and attractive.

Paragraph 119: Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

Section 11: Making effective use of land – Paragraph 120 states Planning policies and decisions should:

- a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains– such as developments that would enable new habitat creation or improve public access to the countryside;
- b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;

- c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;
- d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.

Paragraph 121 states that local planning authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs

Paragraph 124: achieving appropriate densities

Planning policies and decisions should support development that makes efficient use of land, taking into account:

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
- b) local market conditions and viability;
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
- e) the importance of securing well-designed, attractive and healthy places.

Paragraph 125: Area-based character assessments, design guides and codes and masterplans can be used to help ensure that land is used efficiently while also creating beautiful and sustainable places. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In these circumstances:

- a) plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible. This will be tested robustly at examination, and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate;
- b) the use of minimum density standards should also be considered for other parts of the plan area. It may be appropriate to set out a range of densities that reflect the accessibility and potential of different areas, rather than one broad density range; and
- c) local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

Paragraph 126 "Achieving well-designed places" sets out policy on the creation of high quality, beautiful and sustainable buildings and places which is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates

better places in which to live and work and helps make development acceptable to communities.

The importance of the National Design Guide and the National Model Design Code are underlined in **Paragraph 128** of the NPPF. This paragraph also explains the importance of adopting local design guides to ensure the creation of *"beautiful and distinctive places with consistent high quality of design"*.

Paragraph 129 goes further to explain that where a local design guide hasn't been produced for a site, as is the case with the appeal proposals, then the National Design Guide and the National Model Design Code *"should be used to guide decisions on applications"*. Considering the appeal proposals failure to comply with the National Design Guide in particular, this statement taken from the revised NPPF adds further weight against the scheme.

Paragraph 130 states that "Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁹; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

Paragraph 134: Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

5.7 Reference will also be made to relevant extracts from National Planning Practice Guidance.

6.0 PLANNING ANALYSIS

6.1 The Local Planning Authority considered the application having regard to the Development Plan, as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004. In doing so, Members of the Planning Committee resolved to refused the submission for the reasons set out in the Committee minutes (**CD A43**):

- 1) Overdevelopment of the site.
- 2) Insufficient gain in biodiversity.
- 3) Inappropriate use of semi-rural edge of settlement site.

6.2 This was reflected in the single reason for refusal cited on the Decision Notice:

"The proposal would over-develop the site to the detriment of its semi-rural character. As a result of the quantum of development, the proposal is incapable of guaranteeing delivery of a net gain in biodiversity, as secured by an additional buffer. As such the proposal would be contrary to policies DSC1 and NEB1 of the Broxbourne Local Plan and to the aims and objectives of paragraph 174 of the NPPF 2021 which seeks to conserve and enhance the natural environment and promote biodiversity."

6.3 As part of the Local Planning Authority's Statement of Case, limbs 1 and 3 have been amalgamated to relate to the quantum of development being in contrast with the existing edge of settlement development.

6.4 The Authority consider that the proposal materially alters and harms the context in which the village is viewed from the wider landscape and alters the character of the settlement by providing denser more urban character on the outskirts.

6.5 These matters are dealt with in detail within evidence provided by colleagues and will be crossed referred to as appropriate.

Housing Delivery Test

6.6 In the first instance it is important to establish the planning basis upon which any decision should be taken, having regard to the Council's Housing Land Supply (NPPF Paragraph 11d) and associated footnotes advise that where:

"the policies which are most important for determining an application are out of date⁸, granting planning 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 proposed⁷; 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."*

6.7 Footnote 8 advises that policies are out of date when the Local Planning Authority cannot demonstrate a five year supply of deliverable housing (with the appropriate buffer) or where the Housing Delivery Test indicates that the delivery of houses was substantially below the housing requirements over the last three years (i.e. less than 75%).

6.8 Prior to the determination of the application, the Government published the Housing Delivery Test 2021 (**CD F7**) results which show that Broxbourne has delivered only 72% of its last three years housing requirement, a reduction of 2% on the 2020 results (**CD F8**). Accordingly, the presumption in favour of sustainable development is triggered regardless of the five year housing land supply position and therefore relevant policies of the Development Plan should be deemed to be out-of-date.

6.9 I will explore matters pertaining to the five year housing supply, and demonstrate that the Council are also unable to demonstrate a five year supply.

Housing Need

6.10 Paragraph 8 of the NPPF 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 policies in the NPPF, but they are not criteria against which every decision can or should be judged.

6.11 NPPF chapter 5 covers the delivery of a sufficient supply of homes.

6.12 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 needs are addressed.

6.13 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 local housing need where the strategic policies are more than five years old, unless these strategic policies have been reviewed and found not to require updating (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.

6.14 It is agreed that, within Broxbourne, the strategic policies are less than 5 years old, and the assessment should be against the requirement of 454dpa, as set out in the Broxbourne Local Plan.

6.15 The buffer is determined by the Housing Delivery Test results, as explained in paragraph 215 of the NPPF. It is agreed that within Broxbourne, the buffer is 20%.

6.16 The NPPF defines "deliverable" in the Glossary as follows (page 66):

"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."

6.17 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."*

6.18 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. The Sonning Common decision (appeal ref: APP/Q3115/W/20/325861 **CD G12**) provides clarity on what constitutes 'clear evidence'. Paragraphs 20 and 21 state:

"20.

This advice indicates to me 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."

"21. 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 there 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."

6.19 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."*

- 6.20 In addition to deliverable sites, an allowance can be made for the inclusion of windfall provision. Paragraph 70 of the NPPF requires compelling evidence for the inclusion of windfall sites 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.
- 6.21 The approach to windfall delivery needs to be cautious to avoid double counting. What is apparent from the Council's AMR is that the sites included within the 5 year Housing Land Supply table under Commitments (excluding Local Plan sites) are becoming classed as windfall development once completed.
- 6.22 This is evident when looking at Table 4 of the AMR (**CD F5**), where all 204 dwellings delivered in 2020-21 were deemed to be windfall and at no point over the preceding 10 year has there been any Committed (non-Local Plan) sites included within the totals.

6.23 In this case, the inclusion of both Committed (non-Local Plan sites) and windfall sites constitutes double counting and needs to be allowed for in the assessment.

Five Year Supply

6.24 In November 2021 the Council published their Annual Monitoring Report 2020-2021 (**CD F5**). This report, at Table 2, identifies that the Council has a 5.17 year supply of housing. This position is down from the Annual Monitoring Report 2018-2020 (**CD F6**) which stated a 5.39 year supply.

6.25 This differs from the position established in June 2021, when evidence to another appeal (APP/W1905/W/21/3271027 **CD G2**) identified a 4.9 year supply.

6.26 All of these calculations included both Committed (non-Local Plan sites) and windfall allowance, thus double-counted some housing delivery.

6.27 Whilst the Local Planning Authority's Statement of Case (**CD C5**) at paragraph 5.13 advises that the Local Planning Authority "*will not be contesting matters relating to the five year housing land supply*", it is important to ascertain the extent of the shortfall, as this will guide the level of weight to be afforded to policies deemed to be out of date.

6.28 It was hoped that a Statement of Common Ground could be agreed in respect of the housing supply position, at the time of writing the Local Planning Authority have refused to engage any further on the housing supply matter and have advised that they will be submitting a Proof of Evidence on the matter, with any evidence provided alongside it. Accordingly, the Appellant reserves their position to respond to that evidence upon receipt.

6.29 In light of the statement within the Local Planning Authority’s Statement of Case and the delay in obtaining any feedback on what the five year supply is, work has been undertaken to endeavour to ascertain what the supply position may be. The table attached at **Appendix 2** shows the identified position at this time is 2.26 years based on the most recent AMR 2020-21. It is understood that the Local Planning Authority are working on an updated AMR for 2021/22 and are basing their assumptions on the period 2022/23 to 2026/27. Information pertaining to completions has been provided by Officers, along with some high-level information regarding anticipated completions etc, no evidence of their assertions has been provided. This information has been reviewed and the Scott Schedule updated to reflect the information provided. The table at **Appendix 3** shows that when correctly considering the supply position only 3.30 years can be achieved. This is subject to change, depending on the evidence produced by the Local Planning Authority.

6.30 The Appellant’s assumptions on delivery have been ascertained using the widely recognised Lichfields report which is attached at **CD H4** and guidance within the PPG.

6.31 In addition to this position, the 2020-21 AMR advises us of the following delivery in the last 5 years:

Table 1: Housing delivery since the 2016 base year

FY	OAN	Net Delivered	Difference
2016-2017	454	251	-203
2017-2018	454	240	-214
2018-2019	454	457	3
2019-2020	454	150	-304
2020-2021	454	204	-250
TOTAL	2270	1302	-968

- 6.32 The Local Planning Authority have further advised of a further year of underperformance. In 2021-22 only 335 dwellings (net) were delivered with an additional shortfall of -119 dwellings over the OAN.
- 6.33 With the tilted balance engaged, consideration must be given to Paragraph 11d)i).
- 6.34 The appeal site is not located within any habitat sites or designations set out within footnote 7, nor is the site at risk of flooding. The only test therefore in respect of this Appeal proposal is that set out in paragraph 11d ii), namely whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Site Allocation

- 6.35 The Borough-Wide Options and Scenarios Report (April 2016) demonstrated that, following examination of all available options in the urban area, it was not possible to accommodate the Borough's housing and development needs without some release of Green Belt.
- 6.36 Following further evidence and analysis undertaken to produce the then Emerging Local Plan, the Council produced a Green Belt Topic Paper (June 2017) (**CD F3**) to draw on all available evidence to reach a balanced judgement as to whether there were specific locations for which exceptional circumstances could exist to facilitate Green Belt release for development.
- 6.37 At paragraph 4.28 the Topic Paper considered the Land North of Cuffley Hill, including the appeal site and the C.G Edwards site adjacent. It states:

*"To the **north of Cuffley Hill** lies the C.G Edwards site and the sites of the former Rosemead and Fairmead nurseries. The nursery sites are former*

horticultural uses and therefore do not fall within the definition of previously developed land. Although designated Green Belt, the area is screened from the open countryside to the north and west by a thick belt of trees and therefore development of these sites would not result in any loss of openness to the wider countryside."

6.38 At paragraph 4.30 it proceeds to state:

"Any development coming forward in this area would be expected to achieve very high standards of design as part of a comprehensive masterplanned approach, retaining high-quality mature trees and using them as focal points within the design. It is understood that the site promoters are working on an ecological strategy to provide ecological enhancements and recreational opportunities in the woodland area to the north of the site. Given the low level of harm to the Green Belt resulting from de-designation, together with the efficient use of under-performing land, and the contribution towards the area's housing needs, it is considered that the exceptional circumstances necessary to remove the site from the Green Belt exist."

6.39 The Council's Strategic Land Availability Assessment (SLAA, 2017) when assessing the suitability of the site states *"the Inspector from the Inquiry of the 2005 Local Plan Review stated that **this site lies within a sustainable location for new housing**, being within walking distance of schools, shops and other services. The site is also within the sustainable distance recommended by Barton et al (2010) for some facilities and amenities, with the exception of a leisure centre and hospital."* The SLAA also notes that the Council's Green Belt Review (Scott Wilson, 2008) states that the *"**lack of constraints and good accessibility means that this site would be worth allocating.**"* The SLAA goes on to state *"there are a number of TPO trees on the site that will need to be retained and incorporated into and development*

*that is to occur on this site. **This planning constraint is not considered to be significant** to prevent the development of this site.” (my emphasis) (page 227).*

6.40 To inform site allocations, the Council undertook a feasibility masterplanning exercise, the feasibility masterplan for this site is attached at **CD E6**.

6.41 As the Emerging Local Plan was progressing, the Appellant was having pre-application discussions with the Local Planning Authority and seeking to amend the figures within the draft allocation policy to better reflect an efficient layout. These discussions were reflected in the Borough of Broxbourne’s Local Plan Deliverability Report (June 2018) prepared by the Council as part of the Examination of the Local Plan (**CD F10**) states *“the development of the Fairmead and Rosemead Nurseries site are being promoted by Countryside Properties, which is proposing 60 dwellings on the site, more than the Local Plan policy proposal. The level of development will depend on whether an acceptable justification can be provided for the removal of any of the mature trees within the site.”* (page 47).

6.42 The appellant undertook to make representations to the Examination in respect of the scale of development proposed and the efficient use of land to reduce the risk associated with a future need to release Green Belt land.

6.43 At paragraph 151 of the Inspectors Report (**CD E4**) into the soundness of the Local Plan, he advised:

“Furthermore, an additional table needs to be included in section 3 of the Plan listing all of those sites along with the indicative number of dwellings. This needs to be accompanied by reasoned justification explaining that the figures are neither a minimum nor maximum, but rather an estimate of capacity to inform the plan making process and to provide a starting point

for the consideration of site specific issues through the planning application process."

- 6.44 This report and Main Modification led to the introduction of Table 1 and paragraph 3.19 within the Local Plan (2020) which states:

"for each of the Local Plan sites shown on the Policies Map an indicative dwelling figure is provided within the relevant policy in Part 3 of the Plan... The indicative dwelling figures are neither a minimum nor maximum, but rather an estimate of capacity to inform the plan making process and to provide a starting point for consideration of site-specific issues through the planning application process. In considering the merits of planning applications at the Local Plan sites, the Council will apply the dwelling numbers in the context of sustainable place-making, to achieve efficient use of land through a design-led approach. Proposals at a Local Plan sites which differ from the indicative dwelling numbers provided within this Plan should be fully justified with regard to site-specific factors."

- 6.45 At paragraph 5.3 of the Local Planning Authority's Statement of Case it is stated that the '*expectation for the site was established by way of the allocation of the site in the Local Plan (GO5). The allocation gives a quantum for the site of 26 homes.*' The Local Planning Authority are clearly failing to read the Development Plan as a whole and ignoring the clear decision of the Examining Inspector that these figures are not an expectation but an estimate providing neither a minimum or a maximum scale of development, but as a "*starting point for the consideration of site specific issues through the planning application process.*"

- 6.46 It should be noted that the feasibility masterplan is based on a site area that is smaller than the allocation site by approximately 0.3ha, therefore the

capacity of this site allocation was always going to be higher than the figures contained within Policy GO5.

6.47 Aside from the approximate numbers of dwellings that could be delivered on this site, the Policy GO5 also requires the development of this site to incorporate:

- 40% affordable housing.
- Public Open Space.
- Retention of Protected Trees.

6.48 There is no specific policy reference in GO5 to preserving any perceived semi-rural character of the site as set out in the Members decision on the planning application. The scheme and the associated s106 Agreement secures 40% affordable housing.

6.49 The scheme includes a large area of open space in the central and northern parts of the site extending to 8533m², 23% of the overall site area, with two additional smaller areas of open space to the western boundary adjacent to the C.G Edwards boundary and to the east fronting the main spine road.

6.50 As agreed within the Committee Report, all significant TPO trees are retained, with the loss of a single Category B Ash tree and an apple tree.

Design and Layout

6.51 Design and layout matters are considered within the Proof of Evidence of Mr Colin Pullen.

6.52 The most important initial consideration when assessing the impact of this proposed development on the character and appearance of the area is the allocation of the site for housing development. In allocating the site the Local

Planning Authority considered the re-development of the site for housing as acceptable. Policy GO5 provides 3 constraints:

- Provide 40% affordable housing.
- Provide public open space.
- Retain protected trees.

6.53 Whilst a quantum of development is stated (26 homes) this is an approximately figure and qualified by the Inspectors additional text at paragraph 3.19, where it is advised that "*the Council will apply dwelling numbers in the context of sustainable place-making, to achieve efficient use of land through a design-led approach.*"

6.54 This is reinforced at a national level, with the NPPF dedicating an entire chapter to the efficient use of land. Paragraph 120d) of the NPPF advises that decisions should "*promote and support the development of under-utilised land and buildings, especially if this would help meet identified needs for housing where land is constrained and available sites could be used more effectively...* ". Further, paragraph 125 states: "*.... Where there is an existing or anticipated shortage of land for meeting housing needs, it is important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site...* ".

6.55 In the first instance, it is agreed that the scheme seeks to retain the protected trees and includes in excess of 23% open space. The areas proposed for development also seek to follow the general land use parameters shown within the Council's Local Plan Illustrative Masterplan (**CD E6**).

6.56 Mr Pullan's evidence has sought to draw comparisons between this development proposed and other developments approved within Goffs Oak in recent years. The lowest density is 15.2dph and the highest is 22.37dph.

Most developments are achieving circa 21dph. This proposed development achieves 18.7dph which is evidently in the lower end of density recently approved in the village.

6.57 Mr Pullan also seeks to appraise the local context of the site identifying that the general nature of growth of Goffs Oak has followed the historic routes, with later backland/infill development.

6.58 In my opinion the general form of existing housing within Goffs Oak represents continuous development with a lack of separation or open space when viewed from within the public realm.

6.59 Mr Pullan also identifies the character of the appeal site, a backland plot, surrounded on three sides by existing residential development with no views to the countryside beyond due to a dense tree belt both within the site and adjacent to the northern boundary beyond the appeal site.

6.60 He has undertaken a review of the form of development proposed, which I do not intend to rehearse, but it is an assessment against policy DCS1 and the National Design Guide which I agree with.

6.61 In conclusion, following this detailed assessment, Mr Pullan concludes that the scheme *"is of a high standard of urban design and the requirements and guidance on good design have been met. Having appraised the layout and form of the appeal scheme I consider that this is a well-designed scheme in accordance with relevant urban design policy and guidance"*.

6.62 Whilst the site does increase the approximate quantum of development identified within Policy GO5, as a high quality scheme that ensures the most efficient use of this site, it is in accordance with paragraph 3.19 of the Local Plan and the NPPF.

6.63 Whilst it is our opinion that the scheme accords with the Development Plan and should be approved, consideration should also be given to the Local Planning Authority's lack of performance against the Housing Delivery Test and the lack of a 5 Year Housing Land Supply which also weigh in favour of this level of development on this site.

Biodiversity Net Gain

6.64 Matters pertaining to Biodiversity Net Gain are considered within the Proof of Evidence of Mr Andrew Pankhurst.

6.65 It is worth noting that the Local Planning Authority do not dispute the methodology or calculations provided by the Appellant, as part of the application process, only that achieving 1% net gain does not constitute meaningful net gain, it fails to allow for a buffer and is likely to be eroded through delivery.

6.66 As Mr Pankhurst sets out, the Environment Act 2021 whilst making provision for a 10% biodiversity net gain, requires secondary legislation to enable it to come into force. There is no such secondary legislation.

6.67 In respect of the Development Plan, there are no policies or Supplementary Planning Documents that require the delivery of 10% biodiversity net gain.

6.68 Accordingly, the requirement is solely for proposed developments to achieve a net gain. This is reinforced within Policy NEB1 which requires development proposals to result in net gains to biodiversity wherever possible. This is reinforced by paragraph 27.8 which endorses the use of the DEFRA metric as the "*appropriate method for determining ecological value and delivering measurable ecological gain.*" This position is supported by paragraph 180d)

of the NPPF that supports the delivery of measurable net gains for biodiversity.

- 6.69 As Mr Pankhurst sets out, the proposed site has been assessed using the DEFRA metric 3.0 and it has demonstrated that the site can achieve a measurable net gain of 0.96%.
- 6.70 It is important that the Council's Consultee on biodiversity and ecology matters, the Hertfordshire and Essex Wildlife Trust, did not object to the final metric submitted that achieved a 0.96% net gain (**CD B6b**) and that the Committee Report (**CD A41**) at paragraph 7.16 confirms that the scheme delivers a net gain in accordance with Local Plan policies NEB1 and NEB4.
- 6.71 At paragraph 2.5 of Mr Pankhurst's evidence he confirms that the DEFRA metric accounts for uncertainty that proposed habitat creation and management will be unsuccessful though the risk multipliers, as set out in the Biodiversity Metric 3.0 User Guide (**CD F12**).
- 6.72 The suggestion by the Local Planning Authority that a buffer is required (LPA SoC para 5.10) or that 'the precautionary principle' should apply, simply appears nowhere in policy or legislation when having regard to Biodiversity Net Gain. The Council has not identified any document or decision that supports its position.
- 6.73 A parallel can be drawn between other national requirements where there is a clearly defined need for a buffer to be sought. An appropriate comparison is NPPF paragraph 74, where (albeit in a different context) the NPPF clearly states that Council's should include a buffer in the supply of deliverable sites, a point re-iterated in paragraph 75 and 14c). If the NPPF expected a buffer to be provided in calculating net gain, it would expressly include the requirement – it does not.

6.74 Net gain is becoming an important topic for planning appeals, as Authorities grapple with the scope of the Act at present. Mr Pankhurst references the Land at Filands Road/ Jenner Lane, Malmesbury SN16 9HZ (**CD G6**) where the Inspector in that case states at paragraph 41:

"... The Environment Act 2021 has now passed, secondary legislation is required for it to be implemented. Therefore, the 10% biodiversity net gain requirement set out in the Act is not yet law and is not applicable to these appeals. Policy CP50 of the CS, and Paragraph 174 of the Framework, both seek a net gain in biodiversity without identifying a specific percentage. A net gain of just 1% would be policy compliant in these circumstances."

6.75 Appeal Decision APP/P1940/W/21/3289305 Land to the north of Maple Cross Lodge, Maple Cross, Rickmansworth WD3 9SE (**CD G7**) further reiterates this position. The Inspector at paragraph 33 states:

"... It does not have to represent a 10% net gain at the present time and so this does not count against the proposal. A net gain simply has to be demonstrable, as has been ably established in this case. It is also measurable because it has been based on a metric, even with the disagreement over how the metric has been applied."

6.76 The proposal delivers a measurable net gain, in accordance with the national and development plan policy. Subject to the imposition of appropriate planning conditions there is no basis to withhold permission based on biodiversity net gain.

Benefits

6.77 The scheme seeks to deliver a significant amount of housing over and above that anticipated in the feasibility masterplan which is of general benefit to

the Borough, in pure number terms. An increase in the quantum of housing delivered results in an increased quantum of affordable housing also secured (10 dwellings to 23 dwellings), alongside employment opportunities during the construction phase.

- 6.78 The delivery of housing and a compliance with the required affordable housing provision is a benefit to the scheme, that carries very significant weight.
- 6.79 The scheme provides significant quantum of open space spread across the development area, including on site SuDs and play areas, providing a significant benefit to both existing and proposed residents.
- 6.80 The site is considered to be in a highly sustainable location, within walking distance of Cuffley Station and to the centre of Goffs Oak, providing access to schools, shops and other amenities. This is of significant benefit to the scheme.
- 6.81 The scheme provides a net biodiversity gain on site and creates an attractive and verdant setting, which is of benefit to the area, through the removal of disused buildings and debris from the site.
- 6.82 With a declining ability to meet the 75% required by the Housing Delivery Test and a failure to demonstrate a 5 year housing land supply, even after the Local Plan was adopted over 2 years ago, the need for housing within Broxbourne becomes even more pressing, particularly affordable housing provision. The refusal of application such as this, which clearly accord with the Development Plan only serves to frustrate the Council's ability to deliver housing.

6.83 Making the most efficient use of an allocated site and delivering high quality development, alongside fulfilling all other criteria set out in Policy GO5 can only be of a very significant benefit when applying the tilted balance.



7.0 **PLANNING CONTRIBUTIONS AND CIL**

7.1 The Appellant is content to make all contributions deemed necessary to make the development acceptable, subject to appropriate justifications being provided by the Local Planning Authority. Accordingly, the appeal is supported by an appropriate legal agreement setting out a series of contributions, alongside a blue pencil clause enabling the Inspector to determine which are the appropriate contributions payable.

7.2 During the course of the application process the Appellant sought to obtain clarity around the nature and extent of the s106 contributions being sought by the Local Planning Authority in respect of this proposal. The only response received was from Mr Cooper, the then Head of Planning:

"On the section 106 schools request, your development is reliant on the proposed new Rosedale Park Primary School in the absence of a deliverable project for the expansion of Woodside Primary School. That will be a 2fe school at a cost of up to £8.9 million + a £3 million land cost. 1.6fe of will be met by the Rosedale Park development. This Council requires to make up the remaining 0.4 fe at a cost of over £2 million. All contributions for that school have been on the basis of a pro rata per dwelling sum (500 dwellings per fe). That would also apply to your development. Ditto secondary schooling. In the absence of an in-principle agreement to those and the other drafted sums, we are unlikely to recommend the application as there is no capacity in local schools to accommodate it (local children currently have to travel to Cuffley for primary education). Let me know if you need any further detail than this."

7.3 No further information has been provided to set out how the approach to contributions is CIL compliant.

7.4 The legal agreement(s) that will support this appeal will contain appropriate 'blue pencil' clauses that will enable the Inspector to determine which contributions are appropriate and CIL compliant.

7.5 CIL Regulation 122 provides the relevant framework in which an Obligation can be considered to be acceptable, it states:

"(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—
(a) necessary to make the development acceptable in planning terms;
(b) directly related to the development; and
(c) fairly and reasonably related in scale and kind to the development."

7.6 In order to assist the Inspector I will look at each contribution sought in turn:

Education

7.7 The County Council are the Local Education Authority (LEA) and have a statutory duty to provide sufficient school places for all 5-19 year old young people in its area (Section 14 of the Education Act 1996).

7.8 On an annual basis the County Council forecast the demand for school places, these forecasts include birth rates, primary to secondary moves, established trends and known housing developments. This annual forecasting enables the County Council to ensure that there should be the right number of places in the right locations.

How we decide how many school places we need

We use a computer programme to produce a forecast every summer term to assess the demand for school places in local areas. We update this in the autumn term.

The forecast is based on:

- how many primary school pupils are moving on to secondary schools
- any trends which have formed over the past few years
- any known housing developments.

Using this forecast means there should be the right number of places in the right locations. Decisions will be affordable and won't affect the quality of teaching at each school.

Image from the Hertfordshire County Council webpage

- 7.9 The County Council helpfully have produced updated school forecasts for Sumer 22-23.
- 7.10 The appeal site falls within the Goffs Oak Ridgeway South Primary School Place Planning Area and the Cheshunt Secondary School Place Planning Area.
- 7.11 The County Council have helpfully confirmed that the housing mix proposed as part of this development will generate 0.18FE of primary education demand and 0.18FE of secondary education demand.
- 7.12 The proposed development, if this appeal is allowed will commence construction promptly, with first occupations anticipated in June 2024. The development is anticipated to be complete and fully occupied by March 2025. The proposed development will therefore impact on the academic year 2024/25.
- 7.13 As far as I am aware there is no dispute regarding the relevant place planning areas, level of demand generated by the proposal or the timeframes to implementation and delivery of housing.

Background

- 7.14 NPPF paragraph 95 states *"It is important that a sufficient choice of school places is available to meet the need of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in educations. They should a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and b) work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted."*
- 7.15 The PGG, paragraph 23b-008 advises that *"Plan makers and decision makers should consider existing or planned/committed school capacity and whether it is sufficient to accommodate proposed development within the relevant school place planning areas."* It cross refers to the DfE guidance on Securing Developer Contributions for Education (November 2019) (**CD F14**), which advises at paragraph 3, that it is important that the impacts of development are adequately mitigated, requiring an understanding of, for one, the capacity of existing schools that serve the development.
- 7.16 The National Audit Office report (**CD H5**) advises Local Education Authorities of the following:
- "Although the Department issued guidance in June 2009 that it was reasonable for authorities to aim for between 5 and 10 per cent primary surplus to allow them some opportunity to respond to parental choice, it did not subsequently communicate to authorities its September 2010 figure of a minimum of 5 per cent surplus." (para 1.17)*
- 7.17 The Department for Education clarified that this is a planning assumption, namely that you plan for 90-95% occupancy, but accept that the reality may

- 7.22 With an increasing capacity into 2025/26 and 2026/27, increasing to 0.4FE.
- 7.23 As set out in paragraph 7.8 above, the County Council confirm that these forecasts include an allowance for any known developments, i.e. those that benefit from permission.
- 7.24 In addition, all other developments within this place planning area have contributed towards primary education provision, so do not benefit from residual capacity.
- 7.25 Based on a primary pupil generation of 0.18FE from this proposed development, the remaining capacity in 2024/25 would be 0.12FE, or 2.9%.
- 7.26 However, once the development is fully occupied the capacity within the primary planning area is proposed to increase to 0.4FE. The impact of the development would reduce this to 0.22FE and 5.2%, by 2025/26 this increases again to 5.9%.
- 7.27 So, whilst the initial impact of development results in the primary capacity within this school place planning area falling below the 5% target, it remains within operational capacity, then swiftly we see capacity increase in subsequent years, promptly exceeding the 5% capacity target.
- 7.28 The proposed development does not result in a deficit of school places within this Primary School Planning Area, but utilises existing provision, such that any contribution towards primary school provision would not be necessary to make the development acceptable in planning terms.
- 7.29 The primary school contribution sought either by the County Council or the Local Planning Authority are not CIL compliant.

Secondary Education Provision

7.30 Secondary pupil yield from the housing mix proposed equates to 0.18FE. The site falls within the Cheshunt Secondary School Place Planning Area, for which the County Councils Summer 2022/23 secondary school forecast shows the following:

10.0 Cheshunt												
School Code	School Name	Places Available 2022-23	Actuals			Forecast						
			2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29
4022	Haileybury Turnford	182	134	112	140							
5415	Goffs School	240	241	242	240							
5423	St Mary's Church of England High School (VA)	240	233	205	166							
5425	Goffs-Churchgate Academy	120	120	123	127							
Total Year 7 Pupil Demand			728	682	673	729	694	726	704	737	744	740
Total Year 7 Places Available		782				782	782	782	782	782	782	782
Surplus or Shortage of Year 7 Places (No.)						53	88	56	78	45	38	42
Surplus or Shortage of Year 7 Places (%)						6.8%	11.3%	7.2%	10.0%	5.8%	4.9%	5.4%
Surplus or Shortage of Year 7 Places (FE)						1.8	2.9	1.9	2.6	1.5	1.3	1.4

Larger version at **Appendix 5**

- 7.31 Having regard to the build out rates stated in paragraph 7.12 above, the forecast year is again 2024/25. As shown within the table there is a 1.9FE capacity in 2024/25 increasing to 2.6FE in 2025/26.
- 7.32 When deducting the 0.18FE arising from this proposal from this identified surplus, there remains a surplus of 1.72 (6.6%) and 2.42 (9.2%) respectively.
- 7.33 Neither year falls below the 5% planning target set out within the National Audit Office report and there remains more than sufficient space to accommodate this development and others. Accordingly, there is no identified shortfall in secondary school places to justify any secondary education contribution.
- 7.34 The secondary school contribution sought either by the County Council or the Local Planning Authority are not CIL compliant.

Strategic Transport

7.35 The draft Infrastructure Delivery Plan 2018-33 (**CD F11**) identifies a series of strategic transport projects across the Borough. Paragraph 7.16 and Table 7.6 identify a series of improvements to the A10 corridor costing circa £10.2m. It is reasonable that this proposal contributes towards those improvements.

7.36 The Council have not provided any information to date to justify the level of contribution sought. Subject to the receipt of a CIL compliant justification the Appellant has no objection to the contribution.

Air Quality

7.37 The Local Planning Authority are seeking a contribution to mitigate against the impact of the development on air quality.

7.38 The site is not located within an Air Quality Management Area and no issues have been raised in respect of air quality.

7.39 The Local Planning Authority has no identified strategies or schemes in place to which this contribution would be assisting. At the time of writing there is no CIL justification for this contribution.

Health Contribution

7.40 The Appellant acknowledges local concerns regarding the adequate provision of health facilities locally. This concern is reflected in the detailed consultation response from the NHS (**CD B12**).

7.41 The Local Planning Authority states in their Committee Report (**CD A41**) at paragraph 8.1 that the sum sought by the NHS is not justified as they provide no specified end user. In turn, the Local Planning Authority then seek a

reduced contribution towards local medical services but do not provide any clarification on the nature of those services or how the sum has been ascertained.

- 7.42 The Local Planning Authority request lacks any detail that would allow a CIL justification to be ascertained, whereas the NHS consultation response does set out how the monies could be spent.

Recreational Sporting and Community Contribution

- 7.43 The Local Planning Authority is seeking a contribution towards the improvement and expansion of Rosedale Sports Club or other nearby sports pitches serving Goffs Oak.
- 7.44 The draft Infrastructure Delivery Plan 2018-33 (**CD F11**) does reference the need for the expansion and improvement of facilities at Rosedale Sports Club, however, it makes it clear at Table 5.4 (page 31) that such improvements are part of the infrastructure requirements and costs associated with the Rosedale Park (Tudor Nurseries/Rags Brook) development. This is further reinforced within paragraph 11.20 of the same document that advises that these improvements will form part of the Rosedale Park strategic site development. At no point does it suggest that other developments should be contributing to these works.
- 7.45 Beyond works at Rosedale Sports Club, no other potential sports pitch improvements have been identified.
- 7.46 It appears that the Rosedale Park permission (application reference 07/17/0352/O) has already secured the improvements to the Rosedale Sports Club, such that this contribution would be double counting.

7.47 At this time the Local Planning Authority have not provided any information or evidence to demonstrate CIL compliance in light of this established position.

Monitoring Fee

7.48 The County Council's monitoring fee request of £500 to deal with 6 different obligations is reasonable and proportionate.

7.49 The Local Planning Authority is requesting a contribution of £4,600 to deal with a similar quantum of obligations, which will vary in number depending on the Inspectors decision on Education and other matters.

7.50 The Local Planning Authority have provided an extract presumably from a Committee Report (**Appendix 6**) setting out how they intend to determine the monitoring fee payable.

7.51 National Planning Practice Guidance (NPPG) paragraph 036 (Ref ID 23b-036-20190901) (**CD D2**) provides guidance on how local authorities can fund reporting on planning obligations. It states:

"Authorities, including county councils, should work together to ensure that resources are available to support the monitoring and reporting of planning obligations.

Authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of that section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. Monitoring fees should not be sought retrospectively for historic agreements.

Fees could be a fixed percentage of the total value of the section 106 agreement or individual obligation; or could be a fixed monetary amount per

*agreement obligation (for example, for in-kind contributions). Authorities may decide to set fees using other methods. **However, in all cases, monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring. Authorities could consider setting a cap to ensure that any fees are not excessive.***

Authorities must report on monitoring fees in their infrastructure funding statements (see [paragraph \(2\)\(h\)\(iii\) of Schedule 2.](#)" (my emphasis)

7.52 There is no evidence within the report provided to justify the monitoring fee sought. The Authority propose a flat fee of £100 per dwelling up to 10 dwellings and then £75 per dwelling thereafter for a development of the scale proposed in this instance.

7.53 There is no evidence to demonstrate that this level of contribution is proportionate and reasonable to reflect the actual costs of monitoring. In fact, the Local Planning Authority's Report sets out monitoring fees sought by other Authorities shows that the fee sought is the highest when compared to those stated.

7.54 We reserve the right to comment further if the Local Planning Authority provide further justification for this monitoring fee.

Non-contested Contributions

7.55 The following contributions are considered to be reasonable, subject to a CIL Compliance Statement from the relevant Authorities:

- Sustainable Transport Contribution
- Youth Services Contribution
- Waste Services Contribution
- Library Contribution
- Fire and Rescue Contribution

7.42 The Appellant is not averse to the payment of appropriately justified contributions that comply with Regulation 122 and reserves the right to comment further should the Local Planning Authority seek to provide further information around these points.



8.0 **PLANNING BALANCE**

8.1 The planning balance is ultimately a matter of judgement for the decision maker. The Inspector will obviously need to reach his own conclusions, but the following is how I consider the Inspector should approach the determination of this appeal.

The Decision-Making Framework

8.2 I have taken guidance in applying the planning balance and the application of NPPF Paragraph 11d from the 15 stage test set out by Holgate J in *Monkhill Ltd v SSHCLG* [2019] EWHC 1993 (Admin) (**CD G5**), as endorsed by the Court of Appeal in *Monkhill Ltd v SSCLG* [2021] EWCA Civ 74. (**CD G4**)

8.3 The Local Planning Authority are not disputing the Five Year Housing Land Supply position, or that they have only achieved 72% against the Housing Delivery Test 2021, as set out in their Statement of Case.

8.4 If there was a 5YHLS and the Council had achieved 75% on the Housing Delivery Test, then this is a case which should be considered context of NPPF Paragraph 11c, against up-to-date development plan policies, and permission should be granted without delay since the scheme is in accordance with the policies of the plan.

8.5 However, if there is not a 5YHLS as the Appellant submits, and since the HDT has not been met, NPPF footnote 8 is engaged and the application needs to be determined in the context of Paragraph 11d, because the most important policies for determining the application are deemed to be out-of-date.

8.6 In this case footnote 7 does not apply, such that there are no policies or constraints that would present a clear reason for refusal, thus the tilted

balance would not be dis-engaged and the appeal should be determined in the context of Paragraph 11d ii).

8.7 It is accepted that the tilted balance does not change the statutory presumption in favour of the Development Plan set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004. It does however mean that some of the policies may need to be afforded reduced weight in accordance with the *Suffolk Coastal* Supreme Court judgement. Otherwise, those policies will continue to block and frustrate the national aim to significantly boost the supply of housing.

8.8 If the Inspector considered that Paragraph 11d is engaged, then he must consider whether any adverse impacts arising from the grant of planning permission would significantly and demonstrably outweigh the benefits.

Development Plan Compliance

8.9 As set out in evidence, the Appeal proposal complies with the Development Plan as a whole. As stated within the Committee Report, even without the tilted balance, the appeal should be allowed.

8.10 The proposed development is design-led solution that interacts and responds to its setting well, creating a verdant attractive setting for a housing development. The scheme provides plentiful public open space to meet the needs of the arising population and retains all significant trees on site, as required by Policies DSC1 and GO5 of the Local Plan

8.11 The scheme provides a net biodiversity gain, as required by Policy NEB1 and 180 of the NPPF, and can be secured by condition.

8.12 Accordingly, the Appeal proposal on this allocated site represents an efficient use of land, as required by paragraph 3.19 of the Local Plan and 124 of the NPPF

8.13 On this basis, the proposal is also considered to comply with the Development Plan as a whole, whilst seeking to maximise the delivery of housing, thus making efficient use of land as required by the NPPF.

Scheme Benefits

8.14 In 2019 the Government's manifesto pledged to 'continue to increase the number of homes being built' with a rebalance towards more home ownership. It continued to aim towards a target of 300,000 per annum by mid-2020s. A recent Government paper 'Tackling the under-supply of housing' (Feb 2022) (**CD H3**) advises us that the new housing supply is currently lower than the target of 300,000 new homes, with only 216,000 built in 2020/21. Previous years had seen a year on year increase in delivery, with the drop in 2020/21 considered to be in part due to the Covid-19 pandemic.

8.15 This report considers a number of factors that are perceived to be a barrier to the delivery of housing. It states *"The current Government has diagnosed the planning system as central to the failure to build enough homes, particularly where housing need is at its most severe. There's a continued focus on supporting private sector delivery."*

8.16 As set out in the report, one of the stated reasons for the 300,000-home target per annum is to reduce affordability pressures. The report also advises *"More recent research has called for increased supply of affordable housing to meet affordability needs. As previously noted, NHF and Crisis commissioned research identified a need for 340,000 homes each year in England to 2031, to include 145,000 affordable homes comprising 90,000*

homes for social rent, 30,000 for intermediate rent, and 25,000 for shared ownership.”

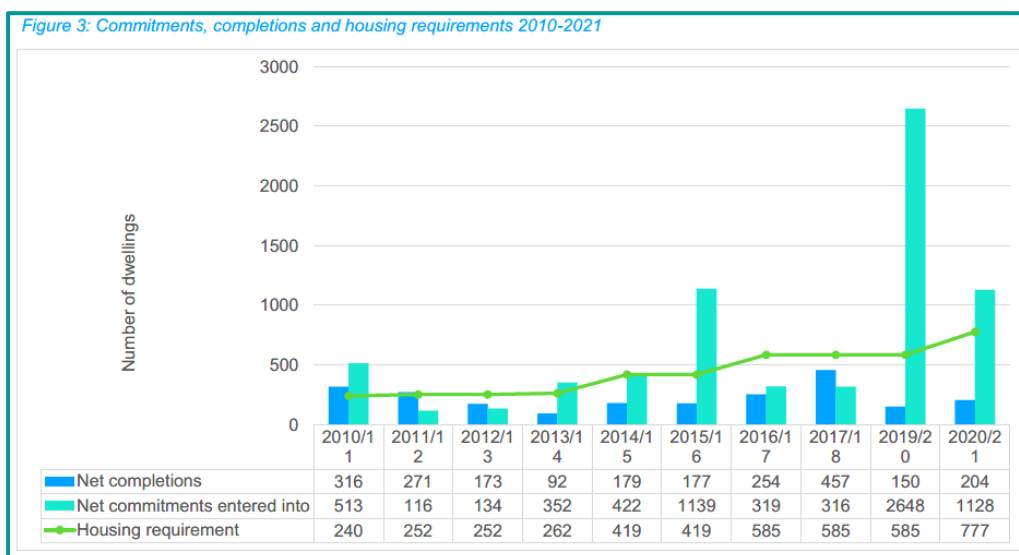
8.17 The report, when read as a whole, can be summarised as there is an overwhelming need for housing within England, the failure to deliver adequate housing within an area directly impacts on the affordability of properties, which is increasingly regarded as critical.

8.18 The Housing Delivery Test provides an indication of the amount of housing delivered in the Borough, set against the level required. There are now four years of data available. Broxbourne has performed as follows:

	No. of Homes Required	No. Homes Delivered	% Delivered
2015-2018	1151	767	67%
2016-2019	1343	1082	81%
2017-2020	1271	945	74%
2018-2021	1172	844	72%

8.19 The most recent result sees a further decline in performance from 2017-2020, with the result remaining below the 75% trigger for engaging the presumption in favour of sustainable development. This is an indication of the importance the Government places on the delivery of housing.

8.20 The Housing Delivery Test, solely as a result of its age, provides a limited snapshot of delivery within the Borough. The below table show the extent of housing delivery within Broxbourne since 2010/11.



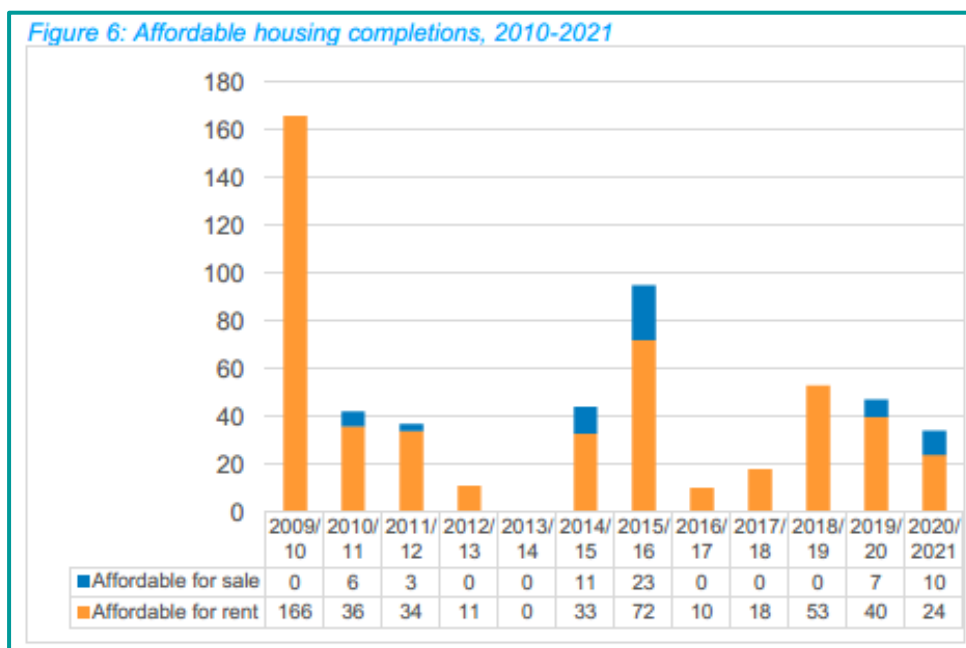
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8.21 What can be seen from this table is that Broxbourne have failed to meet their housing requirement since 2011/12 by a significant amount. Whilst commitments were high in 2015/16 this has not materialised in completions in subsequent years. Similarly, a boost in commitments can be seen in 2019/20, likely as a result of the forthcoming adoption of the Local Plan. However, a correlating boost in completions has yet to occur. During ongoing discussions with the Local Planning Authority regarding the five year housing land supply, they have revealed that only 344 dwellings have been completed in 2021/22, 119 dwellings below the housing requirement.

8.22 In a Borough constrained by the Green Belt historic delivery of housing has been constrained, with limited scope for windfall development. The adoption of the Local Plan brought with it an opportunity to significantly increase the delivery of homes in the Borough, but the Council’s anticipated speed of delivery has not come to fruition resulting in an increasing demand for housing and an ever-growing housing need.

8.23 The persistent under-delivery of houses within Broxbourne has a direct impact on the delivery of affordable housing.

8.24 Within both the previous Local Plan and the now adopted Local Plan the target for affordable housing was 40%, based on slightly different triggers. In short, all sites over 10 dwellings or 0.5ha in size should be delivering 40% affordable housing. Based on the delivery of 204 dwellings in 2020/21, there would be an expectation of circa 80 affordable housing units. The AMR 2020-21 Figure 6 shows us that only 34 affordable homes were delivered.



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8.25 34 homes equates to 16.6% of all properties delivered in the monitoring year. As can be seen from the table, this represents a declining trend in the delivery of affordable homes within Broxbourne.

8.26 The Council’s Review of Objectively Assessed Needs 2016, produced as part of the evidence base that sits behind the now adopted Local Plan, identified an overall need for affordable housing of between 232 and 438 dwellings per annum, thus justifying the figure of 40% within Policy H2.

8.27 The increased need for affordable housing is based largely on the affordability of properties within Broxbourne. As can be seen in the below

table, in 1997 a resident required approximately 4x their income to afford a home, this has now increased to 12.20 in 2020, which means that an individual would require a sizable deposit to enable them to purchase a home, which is likely to be beyond the means of most people on lower quartile incomes and, as the table shows, many on median level incomes.

Appendix A: House prices, annual earnings and affordability

	1997	1998	1999	2000	2001	2002	2003	2004	2005
Median House Price (£)	77,500	87,500	94,498	112,000	126,000	146,000	173,500	185,000	190,000
Median gross annual workplace earnings (£)	18,622	17,777	17,280	18,530	19,234	19,812	21,138	21,434	23,147
Ratio of median house prices to earnings	4.16	4.92	5.47	6.04	6.55	7.37	8.21	8.63	8.21

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Median House Price (£)	215,000	219,000	205,000	217,250	224,500	225,250	237,000	250,000	277,000
Median gross annual workplace earnings (£)	22,002	24,945	24,540	24,424	26,160	25,149	27,431	28,545	28,866
Ratio of median house prices to earnings	9.77	8.78	8.35	8.89	8.58	8.96	8.64	8.76	9.60

	2017	2018	2019	2020	2021	2022	2023	2024	2025
Median House Price (£)	335,000	352,000	351,500	374,805					
Median gross annual workplace earnings (£)	29,511	31,525	30,497	29,983					
Ratio of median house prices to earnings	11.35	11.17	11.53	12.20					

Source: Office for National Statistics:
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoworkplacebasedearningslowerquartileandmedian> (tab 5c)

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- 8.28 It is of paramount importance to significantly boost the supply of housing to meet the Government’s objectives, as set out in paragraph 59 of the NPPF. Whilst the need to improve housing delivery is a national requirement, it is also of great significance at a local level. As demonstrated the level of affordability within the Borough has been progressively worsening, correlating with the poor level of delivery of housing, significantly below the identified housing need for Broxbourne.
- 8.29 It is abundantly clear that there is a substantial need for housing within the Borough of Broxbourne and that a continued failure would have significant adverse social and economic consequences.
- 8.30 The need to deliver allocated sites in a timely manner and in an efficient and effective manner is the only way the Local Planning Authority is to stand any realistic prospect of achieving its targets.

8.31 As set out above, the scheme does deliver additional housing units within the Borough which is of benefit to the area, whilst making an efficient use of this allocated housing site.

8.32 This housing delivery comes with the provision of 40% affordable housing which is an additional 13 dwellings on top of the estimated site capacity.

8.33 It is my opinion that this provision is a very significant benefit to the local area.

8.34 The economic benefits of the proposal are limited. There is a clear benefit to employment during the construction phase of development, and that attracts moderate weight.

8.35 The scheme includes a significant amount of open space that weighs significantly in favour of the development, as it benefits existing and proposed residents.

8.36 The site is in a highly sustainable location with ready access to local facilities and a train station. This weighs significantly in favour of the scheme.

The Balance

8.37 The scheme fully complies with the Development Plan which weighs significantly in favour of the proposal

8.38 In addition, the following points should be considered:

- The Local Planning Authority cannot demonstrate a 5-year housing land supply.
- The Local Planning Authority has failed to perform against Housing Delivery Test (HDT) measurement with a reduced delivery of 2% between 2020 and 2021, only achieving 72% in 2021.

- The site is allocated for development and the Appellant has demonstrated that an acceptable scheme can be delivered without it constituting over-development.

8.39 If the Inspector disagrees with this position and the tilted balance engaged, when consideration is given to the benefits and disbenefits addressed above, there are very significant reasons to allow this development.

9.0 **DECLARATIONS**

9.1 I am retained by the Countryside Properties (UK) Ltd to provide independent expert planning evidence in relation to the proposed residential development at the Former Rosemead and Fairmead Nurseries, Land North of Cuffley Hill, Goffs Oak.

Statement of Truth

9.2 I confirm that, in so far as the facts stated in my Evidence, are within my own knowledge, I have made clear which they are and I believe them to be true, and that the opinions expressed represent my true and complete professional opinion.

Declaration

9.3 I confirm that my Proof of Evidence includes all facts which I regard as being relevant to the opinions which I have expressed and that attention has been drawn to any matters which would affect the validity of those opinions.

9.4 I can confirm that my duty to the Planning Inspector as an Expert Witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.

9.5 I confirm that I am not instructed under any conditional fee arrangement.

9.6 I can confirm that I have no conflicts of interest of any kind.



APPENDIX 1
Site Layout Plan





PRIVATE

House Type	No of Bedrooms	SqFt	No	Total SqFt
401	4B	1194	6	7164
404	4B	1281	2	2562
405	4B	1408	3	4224
407	4B	1397	5	6985
410	4B	1466	2	2932
412	4B	1546	2	3092
416	4B	1759	2	3518
419	4B	1790	2	3580
424	4B	1265	8	10120
500	5B	1828	3	5484
TOTALS			35	49661

Private housing plot areas (sqft) 49661

AFFORDABLE

House Type	No of Bedrooms	SqFt	No	Total SqFt
2AH	2B	850	14	11900
3AH	3B	1000	9	9000
TOTALS			23	20900

Affordable housing plot areas (sqft) 20900

SITE TOTALS

	58	70561
--	-----------	--------------

Romsey Portishead
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www.thrivearchitects.co.uk

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Rev	Description	Date	Au	Ch
P6	Plot changes as per comments from LPA.	15/03/21	KK	TW
P7	Changes to plots 23/24/25.	16/03/21	KK	TW
P8	Changes to plots 9-32.	06/05/21	KK	TW
P9	Changes to plots 16,17,18,22,24,25	12/05/21	KK	TW
P10	Addition of one plot. Plot 41(H1416) swapped with 2x (H1424). Changes to plots 40-45. Plots 24,25 moved back 0.5m. Accommodation schedule updated to show increase in units to 58. Footpath continued in front of Plot 44.	27/05/21	KK	TW
P11	Changes to plots 9-15, 39,40. Access updated to latest information.	07/06/21	KK	TW
P12	Red line boundary updated in the south east corner.	06/07/21	KK	TW
P13	Affordable units made NDSS compliant.	14/07/21	KK	TW
P14	GRP Chimneys added to pit 2,23,35,44,47,48&58. Garage roof changes for pit 23/24&41,42/43. Roof changes for plots 21&20. Boundary wall change for pt 31.	14/07/21	KK	TW

Updated Tree Survey 29/03/21

scale 1:500
0 10m 20m 30m

Project Cuffley Hill, Goff Oak
Drawing Coloured Site Layout

Client	Countryside Developments Ltd	Date	01.12.20
Job no.	COUN180506	Revision	P14
Dwg no.	CSL.02	Scale	1:500 at A1
Author	RP	Checker	TW
Status	PRELIMINARY	Office	Portishead
Client ref.			



APPENDIX 2

**Appellant 5 Year Housing Land Supply Table
Annual Monitoring Report 2020/21**

5YHLS Overview

	Annual LP Housing Target	5 Year requirement (1 April 22 - 31 March 27)	Existing Shortfall	Buffer 20%	5YHLS Requirement	Deliverable Sites	Balance	Years supply
Council AMR (Table A1)	454	2,270	-968	648	3,886	4,020	134	5.17
Appellant Position	454	2,270	-968	672	3,886	1,759	-2,127	2.26

5YHLS Requirement

<i>2021/22</i>	<i>777</i>
<i>2022/23</i>	<i>777</i>
<i>2023/24</i>	<i>777</i>
<i>2024/25</i>	<i>777</i>
<i>2025/26</i>	<i>777</i>

Ref	LBH AMR - SITE DETAILS				Appellant Position		Justification
	Sites	Ref	Total Units (AMR)	Deliverable in 5 Years (AMR)	Deliverable in 5 Years	Difference from AMR	
(1) SITES NOT AGREED BETWEEN PARTIES							
1	Brookfield Riverside (BR1)		250	0	0	-250	No applications have been validated pursuant to the site allocation. No indication of type of application or quantum of development and then delivering 250 dwellings in the time period is unlikely. Evidence is required.
2	Brookfield Garden Village (BR2)		1250	100	0	-1250	No applications have been validated pursuant to the site allocation. No indication of type of application or quantum of development Evidence of the feasibility of delivery is required. Lichfields 'Start to Finish' indicates an average timeframe from validation of first application to completion of first dwelling (for sites of 1,000-1,499) of 6.9 years.
3	Gas Distribution Station (BX3)		35	0	0	-35	No applications have been validated pursuant to the site allocation. Evidence of the feasibility of delivery is required.
4	Broxbourne School (BX4)	07/16/0512/F 07/19/0368/RM 07/21/0685/F	156	156	77	-79	Pre-commencement conditions appear to be discharged and building operations have commenced on-site. Lichfields 'Start to Finish' indicates an average build out rate (for sites between 100-499) of 55 dwellings per annum. AMR figures therefore appear accurate and achievable.
5	Cheshunt Lakeside (CH1)	07/18/0461/O 07/19/0996/RM 07/20/1186/RM 07/20/1187/RM 07/22/0597/F	1750	788	414	-1336	A number of detailed consents have been secured with development having been commenced on site. From securing a detailed planning consent, the average time to completion of first dwelling is 2.3 years (for sites between 1,000-1,499 dwellings). On the basis that 107 dwellings are achieved per annum on sites of this scale, the below completions are considered achievable. 07/19/0996/RM (195 dwellings) - Approved 05/03/20 and conditions discharged. It is considered that delivery of these dwellings is achievable within the 5 year period. 07/20/1186/RM (22 dwellings) - Approved 03/03/21 and conditions discharged. It is considered that delivery of these dwellings is achievable within the 5 year period. 07/20/1187/RM (205 dwellings) - Approved 11/06/21 and conditions discharged. It is considered that delivery of these dwellings is achievable within the 5 year period. 07/22/0597/F (471 dwellings) - Validated 06/07/22. Given this application has only recently been validated, the completion of dwellings under any future approval is not considered achievable based on typical planning approval and lead in times.

6	Rosedale Park North/South of Andrews Lane and South of Peakes Way (CH2) & 'Vyse Lane'	ENQ/21/0062 07/17/0352/O 07/21/1508/RM 07/21/0596/RM	400	202	50	-350	<p>A Reserved Matters application was approved 04/05/22 relating to Phase 1a of the outline permission (50 dwellings). Further, a Reserved Matters application pursuant to the infrastructure within the outline permission was validated 21/12/21. No application has been submitted which relates to the pre-application enquiry listed within the AMR. No condition discharge applications pursuant to the outline have been submitted.</p> <p>It is considered that no dwellings will be deliverable until the main access and spine road, as sought by the infrastructure RM, are constructed. Even if this RM application was determined in the coming weeks, lead in times (for sites between 100-499) are 1.9 years. This would result in first delivery by July 2024. This would then allow for only the consented 50 dwellings to be constructed within the 5-year period.</p>
7	Rosedale Park (CH2) - North of Andrews Lane (Carehome)	07/17/0352/O 07/21/1508/RM	64	64	0	-64	<p>No RM application has been validated relating to the 64 bed Care Home. In light of the access and spine road infrastructure having not been permitted at this stage, evidence is required that delivery would be feasible within the 5-year period.</p>
8	Rosedale Park - Tudor Nurseries (CH2)	07/17/0864/O 07/20/0157/RM 07/22/0364/RM	360	260	260	-100	<p>An RM application was approved on 23/12/20 for 360 dwellings with a further having been validated on 05/04/22, relating to amendments to the layout of 186 of the previously consented dwellings. A significant number of conditions have been discharged in relation to the Outline approval. Consequently, in line with the 1.9 year lead in time typical of sites of this scale, the anticipated delivery timings and build out rates within the AMR appear achievable.</p>
9	Rosedale Park - South of Andrews Lane	07/17/1267/O 07/21/0005/F 07/20/1068/F 07/22/0104/F	76	76	66	-10	<p>A Full application for 66 dwellings was granted on 16/12/21 and a further application for an additional 10 dwellings was validated on 19/11/20, but appears to have stalled with no updates available online since June 2021. A follow up to this stalled Full application was made valid on 01/02/22 and is currently under determination.</p> <p>A significant number of conditions relating to the Full application for 66 dwellings have been discharged. In accordance with the average lead in times (of 2.0 years for sites between 50-99 dwellings) demonstrated within the Lichfield review, the first delivery of homes is likely to be achieved in December 2023, with an average build out rate of 22 dwellings per annum. Consequently, it is considered 66 could be completed within the 5-year period, but not the additional 10 dwellings for which no permission has been granted.</p>
10	Cheshunt Football Club	APP/W1905/W/21/3271027	165	0	0	-165	<p>An appeal was allowed relating to a Full application for the new Cheshunt Football Club Stadium, including the delivery of 163 dwellings, on 13/09/21. No discharge of condition applications have been submitted pursuant to this consent since and therefore evidence is required that delivery is feasible within the 5-year period.</p>
11	Theobalds Brook Field (CH9)	07/18/0021/O	90	90	0	-90	<p>An Outline application seeking 87 residential dwellings was validated on 08/01/18. The last updates to the application webpage took place in March 2021, with the application appearing to have stalled. Given the lack of evidence to suggest that an outline permission is forthcoming, notwithstanding the following RM, discharge of conditions and construction lead in time required, it is considered that the completion of dwellings at this site within the 5-year period is unrealistic.</p>

12	East of Dark Lane (CH10)	07/18/0022/O	52	52	44	-8	<p>An Outline application was approved on 24/08/21. This did not specify an exact number of dwellings, but showed 52 indicatively. Subsequently, a RM application pursuant to this Outline consent was approved on 01/04/22. Two discharge of condition applications relating to the Outline consent have been validated, with neither having been determined.</p> <p>Having regard to the typical lead in times from a detailed planning consent to the first completion of dwellings (2.0 years for sites between 50-99 dwellings), it is considered that the first homes will likely be delivered at the start of 24/25. Given the typical build out rates of 22 dwellings per annum, it is considered that approximately 44 dwellings are likely to be completed within the 5-year period.</p>
13	Former Playing Fields (CH11)		150	75	0	-150	<p>No applications have been validated pursuant to the site allocation. Evidence of the feasibility of delivery is required.</p> <p>Dwelling figures appear to be duplicated within the AMR.</p>
14	Land North of Bonney Grove (CH12)		100	0	0	-100	<p>No applications have been validated pursuant to the site allocation. Evidence of the feasibility of delivery is required.</p>
15	Borough Council Offices (CH13)	07/21/0668/F	75	39	39	-36	<p>A Full application for 49 dwellings was validated 27/05/21 and was approved at Planning Committee on 08/06/22, subject to the reinforcement of specific conditions. No decision notice for the application has yet been issued. No application has been validated pursuant to the remaining 26 dwellings of this allocation. According to the Lichfields review, typical lead in times from a detailed planning approval is 2.0 years, with an average build out rate of 22 dwellings per annum.</p> <p>On the basis of an approval being issued shortly and assuming the timely discharge of conditions, the first delivery to homes could likely be secured in 2024/25. This would result in approximately 44 dwellings being secured within the 5-year period. The 26 dwellings falling outside of the above application are not considered achievable within this time period.</p>

16	Land South of Hammondstreet Road (CH14)		45	0	0	-45	No applications have been validated pursuant to the site allocation. Evidence of the feasibility of delivery is required.
17	North of Goffs Lane (GO2) (Tina Nurseries)	07/18/1097/O 07/21/1174/RM	81	81	44	-37	<p>An Outline application for 81 dwellings was approved on 23/10/19 and numerous discharge of condition applications have been submitted pursuant to this consent. Further, a RM application pursuant to this Outline was approved on 03/03/22. Consequently, the progress being made towards a commencement on-site indicates that the first delivery of dwellings by May 2024 is realistic. With two full years of delivery at a site of this scale, Lichfield's review would imply that 44 dwellings would be secured during the 5-year period.</p> <p>Given that pre-commencement conditions have not yet been discharged, the AMR predictions of 25 dwellings delivered in 2023/24 are considered overly ambitious.</p>
18	North of Goffs Lane (GO2) (Inex Site)	07/19/0160/O 07/19/0154/F	105	0	0	-105	<p>A Full application for 21 dwellings was validated on 20/02/19 and an Outline application for 105 dwellings and a 78 bed care home was validated on 21/02/19. The Full application appears to have stalled with the most recent updates on the application webpage being in June 2019. The Outline application, after first being recommended for refusal, was then recommended for approval subject to submission to and clearance by the Secretary of State (SoS) and the completion of a Section 106 agreement. The SoS decided not to call in the application, however, no Section 106 appears to have been completed in relation to the site and no decision notice has been issued.</p> <p>Consequently, when considering the time required to complete this Section 106, submit and secure both RM and a number of discharge of condition approvals, and the construction lead in times, the delivery of dwellings within the 5-year period is considered unrealistic.</p>
19	South of Goffs Lane (GO3)	07/19/0835/F	51	51	51	0	A Full application for 51 dwellings was approved on 27/04/21 with numerous conditions having been discharged. The AMR predictions align with the typical lead in times and build out rates for sites of this scale. Consequently, the figures within the AMR for this site are considered realistic.

20	Newgatestreet Road (GO4)	07/20/1220/F	38	38	38	0	A Full application for 38 dwellings was approved on 06/08/21. A number of conditions have been discharged in relation to this permission, however, certain pre-commencement conditions remain undischarged. Given that construction will not have commenced on site, the AMR figures indicating the full delivery of the 38 dwellings in 2023/24 appear overly optimistic. Typical lead in times would indicate that the completion of the dwellings would likely fall within the 2024/25 and 2025/26 years. Whilst these completions would likely occur later than the AMR suggests, their delivery within the 5-year period is still considered achievable.
21	North of Cuffley Hill (GO5) (C.G Edwards)	07/18/0363/F	23	23	23	0	A Full application for 23 dwellings was approved on 12/07/19. A significant number of conditions have been discharged in accordance with the decision notice and building works have subsequently begun on site. As such, the AMR figures relating to the site are deemed to be realistic.
22	North of Cuffley Hill (GO5) (Appeal Site)	07/19/0200/F APP/W1905/W/22/330025 4	84	58	58	-26	A Full application for 58 dwellings was refused on 09/02/22. This decision was then appealed and forms the basis of this inquiry. The anticipated dwelling completions within the AMR are agreed for the year 2024/25 and 2025/26, however, it should be noted that the AMR appears to erroneously attribute an additional 26 dwellings to the site during 2026/27.
23	Scania House (HOD2) First floor	07/19/0204/PNRES 07/19/0653/F	60	24	0	-60	Prior Notification for the change of use of offices to 24 dwellings was granted on 30/04/19. A Full application for 62 dwellings was subsequently refused on 07/04/20. No discharge of condition applications have been validated pursuant to the grant of Prior Approval and the 3 year time period of the approval has elapsed. Consequently, the site does not benefit from an extant permission nor has the conversion been (lawfully) implemented. No applications have since been validated pursuant to the site allocation. Evidence of the feasibility of any dwelling completions within the 5-year period is therefore required.

24	Scania House & Amwell Street(HOD2)		36	0	0	-36	No applications have been validated pursuant to this residential provision. Evidence of the feasibility of delivery is required.
25	Former Hoddesdon Police Station (HOD3)	07/22/0252/O	30	30	4	-26	<p>A Hybrid application for 43 dwellings (4 detailed and 39 outline) was validated on 28/06/22. There are presently holding objections from statutory consultees including the Local Highways Authority. Assuming these objections are overcome and a positive determination is granted by the end of the calendar year, the full delivery of this site is not considered achievable by 2025/26 as indicated by the AMR.</p> <p>The 4 dwellings which are included within the detailed aspect of the application may be feasible within the 5-year period, the remaining provision would still be subject to an RM approval, the discharge of all conditions and the lead in times for construction, including the remediation of the site. Consequently, robust evidence would be needed to demonstrate that the remaining 39 dwellings could be completed within this timeframe.</p>
26	Turnford Surfacing Site (HOD4)	07/20/0467/F	104	104	0	-104	<p>A Full application was approved by committee on 15/12/20 subject to the completion of a Section 106 Legal Agreement. The application webpage does not indicate that such an agreement has been finalised since, whilst no decision notice appears to have been issued for the application.</p> <p>In light of the lack of progress made in relation to the decision notice in the intervening years, evidence is required demonstrating that there is a realistic prospect of the site being developed in the immediate future. Further to securing a permission, a number of conditions will need to be discharged, whilst the construction lead in time for sites of this scale is typically 1.9 years. We have therefore concluded that the completion of dwellings within the 5-year period is not realistic without evidence of a forthcoming approval.</p>
27	East of Dinant Link Road (HOD6)		70	35	0	-70	The council appear to have erroneously duplicated the number of dwellings allocated to the site within the AMR. No applications have been validated pursuant to the site allocation, however, construction works relating to a new road layout/bridge appear to be ongoing within the site boundary. Evidence of the feasibility of delivery is required.

28	High Leigh (HOD7) - Housing only	07/13/0899/O 07/20/0046/RM 07/21/0405/RM 07/22/0504/F 07/22/0544/F	535	400	241	-294	<p>An Outline application for up to 523 dwellings was approved on 02/04/15. Numerous discharge of condition applications and RM applications have been submitted and approved in relation to this Outline consent, with building operations having begun on site. The following RM applications are available on the Council's webpage:</p> <p>07/20/0046/RM (100 dwellings) - Approved 02/10/20 and conditions discharged.</p> <p>07/21/0405/RM (141 dwellings) - Approved 01/10/21 and conditions discharged.</p> <p>07/22/0504/F (54 dwellings) - Validated 18/05/22.</p> <p>07/22/0544/F (110 dwellings) - Validated 26/05/22.</p> <p>For sites between 500-999 dwellings, lead in-times typically comprise 1.7 years, whilst build out rates are typically 68 dwellings per annum. Therefore, of these applications, it is considered that only the dwellings benefitting from a detailed consent could realistically be completed within the 5-year period.</p>
29	High Leigh (HOD7)64 Bed Care Home	07/13/0899/O	64	0	0	-64	<p>The Outline application above also included the provision of a care home up to 80 bedspaces. No RM application for this aspect of the wider development has been validated thus far. Consequently, the AMR is considered to accurately reflect that this is unlikely to be delivered within the 5-year period.</p>
30	Westfield Primary School (HOD8)	07/19/0011/O	37	37	0	-37	<p>An Outline application for 37 dwellings was approved 15/07/21. No RM or discharge of condition applications appear to have been validated pursuant to this Outline approval. Given the limited progress being made towards the discharge of conditions and eventual implementation of the outline and any future RM consents, evidence of the feasibility of any dwelling completions within the 5-year period is therefore required.</p>
31	Waltham Cross Northern High Street		300	0	0	-300	<p>The council appear to have indicated that 300 dwellings will be completed by the end of 2032/33. It is assumed the further 150 dwellings are what the Council anticipate on the 'Land west of Sturlas Way' under Policy WC2 part (b). No applications have been validated pursuant to this allocation. Evidence of the feasibility of delivery is required.</p>
32	Theobalds Grove Station (WC3)		50	0	0	-50	<p>No applications have been validated pursuant to the site allocation. Evidence of the feasibility of delivery is required.</p>

33	Britannia Nurseries (LV6)	07/16/1354/RM	0	0	0	0	Site complete
	Windfall Sites		840	350	350	-490	
	Self-build		75	30	0	-75	
TOTAL - DISAGREED					1759	-5842	
OVERALL TOTAL (Deliverable Sites)					1,759		
					APPELLANT		



APPENDIX 3

**Appellant 5 Year Housing Land Supply Table
2021/22**



5YHLS Overview

	Annual LP Housing Target	5 Year requirement (1 April 22 - 31 March 27)	Existing Shortfall	Buffer 20%	5YHLS Requirement	Deliverable Sites	Balance	Years supply
Council AMR 20/21	454	2,270	-968	648	3,886	4,020	134	5.17
Council Position	454	2,270	-1,087	672	4,029	4,785	756	5.94
Appellant Position	454	2,270	-1,087	672	4,029	2,660	-1,369	3.30

5YHLS Requirement

2022/23	806
2023/24	806
2024/25	806
2025/26	806
2026/27	806

		Appellant Position		Justification	Appellant / LPA Status	LPA Position		
Total Units (AMR)	Deliverable in 5 Years (AMR)	Deliverable in 5 Years	Difference from AMR			Deliverable in 5 Years	Difference from AMR	Justification
250	0	55	-195	<p>No applications have been validated pursuant to the site allocation and no indication has been given on the quantum of development a future outline application would seek. An email indicatively suggesting a timeframe to the submission of an application is not considered sufficient evidence of delivery.</p> <p>Lichfields 'Start to Finish' indicates an average timeframe from validation of first application to completion of first dwelling (for sites of 100-499) of 4 years. Accordingly, delivering 250 dwellings in the time period is unrealistic. It is considered a maximum of 1 year's delivery (typically 55 dwellings for site's of this scale) could be achieved during 2026/27.</p>	Disagreed	250	0	Project Co-ordinator confirmed by email that an outline application will be submitted in Sept 2022
1250	250	0	-1250	<p>No applications have been validated pursuant to the site allocation and no indication has been given on the quantum of development a future outline application would seek. An email indicatively suggesting a timeframe to the submission of an application is not considered sufficient evidence of delivery.</p> <p>Lichfields 'Start to Finish' indicates an average timeframe from validation of first application to completion of first dwelling (for sites of 1,000-1,499) of 6.9 years. Accordingly, it is not considered that first delivery would be achievable by 2026/27.</p>	Disagreed	450	-800	Project Co-ordinator confirmed by email that an outline application will be submitted in Sept 2022
35	0	0	-35	No applications have been validated pursuant to the site allocation. Evidence of the feasibility of delivery is required.	Agreed	0	-35	
103	103	77	-26	Pre-commencement conditions appear to be discharged and building operations have commenced on-site. Lichfields 'Start to Finish' indicates an average build out rate (for sites between 100-499) of 55 dwellings per annum. Council figures therefore appear accurate and achievable.	Agreed	77	-26	

1750	924	529	-1221	<p>A number of detailed consents have been secured with development having been commenced on site. From securing a detailed planning consent, the average time to completion of first dwelling is 2.3 years (for sites between 1,000-1,499 dwellings). On the basis that 107 dwellings are achieved per annum on sites of this scale, the below completions are considered achievable.</p> <p>07/19/0996/RM (195 dwellings) - Approved 05/03/20 and conditions discharged. It is considered that delivery of these dwellings is achievable within the 5 year period.</p> <p>07/20/1186/RM (22 dwellings) - Approved 03/03/21 and conditions discharged. It is considered that delivery of these dwellings is achievable within the 5 year period.</p> <p>07/20/1187/RM (205 dwellings) - Approved 11/06/21 and conditions discharged. It is considered that delivery of these dwellings is achievable within the 5 year period.</p> <p>07/22/0597/F (471 dwellings) - Validated 06/07/22. Given this application has only recently been validated, the completion of dwellings under any future approval is considered to be restricted to a single year of delivery by 2026/27.</p>	Disagreed	1031	-719	Developer confirmed by email with construction schedule.
400	232	50	-350	<p>A Reserved Matters application was approved 04/05/22 relating to Phase 1a of the outline permission (50 dwellings). Further, a Reserved Matters application pursuant to the infrastructure within the outline permission was validated 21/12/21. No application has been submitted which relates to the pre-application enquiry listed within the AMR. No condition discharge applications pursuant to the outline have been submitted.</p> <p>It is considered that no dwellings will be deliverable until the main access and spine road, as sought by the infrastructure RM, are constructed. Even if this RM application was determined in the coming weeks, lead in times (for sites between 100-499) are 1.9 years. This would result in first delivery by July 2024. This would then allow for only the consented 50 dwellings to be constructed within the 5-year period.</p> <p>No evidence has been provided as to the delivery of the remaining dwellings.</p>	Disagreed	368	-32	Under construction. Developer confirmed by email. Council site visit undertaken. Reserved matters application 07/21/0596/RM for phase 1a (50 dwellings) received planning permission on 04/05/2022. This application was not included in the trajectory because it falls outside the monitoring period.

64	64	0	-64	<p>No RM application has been validated relating to the 64 bed Care Home. In light of the access and spine road infrastructure having not been permitted at this stage, evidence is required that delivery would be feasible within the 5-year period.</p> <p>Consideration will also need to be given to the nature of the units proposed. If any subsequent application states that the units will be C2 accommodation (likely) then the dwelling numbers will need to be reduced accordingly.</p>	Disagreed	64	0	Developer confirmed by email.
360	310	330	-30	<p>An RM application was approved on 23/12/20 for 360 dwellings with a further having been validated on 05/04/22, relating to amendments to the layout of 186 of the previously consented dwellings. A significant number of conditions have been discharged in relation to the Outline approval. Consequently, in line with the 1.9 year lead in time typical of sites of this scale, the anticipated dwelling completions set out by the Council appear achievable.</p>	Agreed.	330	-30	Under construction. Council site visit undertaken.
76	76	66	-10	<p>A Full application for 66 dwellings was granted on 16/12/21 and a further application for an additional 10 dwellings was validated on 19/11/20, but appears to have stalled with no updates available online since June 2021. a follow up to this stalled Full application was made valid on 01/02/22 and is currently under determination.</p> <p>A significant number of conditions relating to the Full application for 66 dwellings have been discharged. In accordance with the average lead in times (of 2.0 years for sites between 50-99 dwellings) demonstrated within the Lichfield review, the first delivery of homes is likely to be achieved in December 2023, with an average build out rate of 22 dwellings per annum. Consequently, it is considered 66 could be completed within the 5-year period, but not the additional 10 dwellings for which no permission has been granted.</p>	Agreed.	66	-10	Under construction.
0	0	0	0	<p>An appeal was allowed relating to a Full application for the new Cheshunt Football Club Stadium, including the delivery of 163 dwellings, on 13/09/21. No discharge of condition applications have been submitted pursuant to this consent since and therefore evidence is required that delivery is feasible within the 5-year period.</p>	Agreed	0	0	
90	90	0	-90	<p>An Outline application seeking 87 residential dwellings was validated on 08/01/18. The last updates to the application webpage took place in March 2021, with the application appearing to have stalled. Given the lack of evidence to suggest that an outline permission is forthcoming, notwithstanding the following RM, discharge of conditions and construction lead in time required, it is considered that the completion of dwellings at this site within the 5-year period is unrealistic.</p>	Disagreed	90	0	Awaiting evidence from the Developer

52	52	52	0	<p>An Outline application was approved on 24/08/21. This did not specify an exact number of dwellings, but showed 52 indicatively. Subsequently, a RM application pursuant to this Outline consent was approved on 01/04/22. Two discharge of condition applications relating to the Outline consent have been validated, with neither having been determined.</p> <p>Having regard to the typical lead in times from a detailed planning consent to the first completion of dwellings (2.0 years for sites between 50-99 dwellings), it is considered that the first homes will likely be delivered at the start of 24/25. Given the typical build out rates of 22 dwellings per annum, it is considered that the completion of all dwellings is achievable within the 5-year period.</p>	Agreed	52	0	Reserved matters application (07/21/1176/RM) approved on 01/04/2022. Not included because it falls outside the monitoring period.
150	105	0	-150	<p>No applications have been validated pursuant to the site allocation. Evidence of the feasibility of delivery is required.</p> <p>Dwelling figures appear to be duplicated within the AMR.</p>	Disagreed	75	-75	Awaiting evidence from Developer
100	50	0	-100	<p>No applications have been validated pursuant to the site allocation. Evidence of the feasibility of delivery is required.</p>	Agreed	0	-100	
75	75	39	-36	<p>A Full application for 49 dwellings was validated 27/05/21 and was approved at Planning Committee on 08/06/22, subject to the reinforcement of specific conditions. No decision notice for the application has yet been issued. No application has been validated pursuant to the remaining 26 dwellings of this allocation. According to the Lichfields review, typical lead in times, for site's of this scale, from a detailed planning approval is 2.0 years.</p> <p>On the basis of an approval being issued shortly and assuming the timely discharge of conditions, the first delivery of homes could likely be secured in 2024/25. As such, the Council's figures appear achievable.</p>	Agreed	39	-36	Planning permission granted at committee on 28/06/2022, outside the monitoring period.
45	0	0	-45	<p>No applications have been validated pursuant to the site allocation. Evidence of the feasibility of delivery is required.</p>	Agreed	0	-45	

81	81	66	-15	<p>An Outline application for 81 dwellings was approved on 23/10/19 and numerous discharge of condition applications have been submitted pursuant to this consent. Further, a RM application pursuant to this Outline was approved on 03/03/22. Consequently, the progress being made towards a commencement on-site indicates that the first delivery of dwellings by May 2024 is realistic. With three full years of delivery at a site of this scale, Lichfield's review would imply that 66 dwellings would be secured during the 5-year period.</p> <p>An email from the developer suggesting indicative timeframes is not considered sufficient evidence that full delivery is achievable within the 5-year period.</p>	Disagreed	81	0	Developer confirmed by email
105	21	55	-105	<p>A Full application for 21 dwellings was validated on 20/02/19 and an Outline application for 105 dwellings and a 78 bed care home was validated on 21/02/19. The Full application appears to have stalled with the most recent updates on the application webpage being in June 2019. The Outline application, after first being recommended for refusal, was then recommended for approval subject to the submission to and clearance by the Secretary of State (SoS) and the completion of a Section 106 agreement. The SoS decided not to call in the application, however, no Section 106 appears to have been completed in relation to the site and no decision notice has been issued.</p> <p>Consequently, when considering the time required to complete this Section 106, submit and secure both RM and a number of discharge of condition approvals, and the construction lead in times, only a single year of delivery is considered the realistic without robust evidence needed to suggest otherwise. It is also noted that the Council have counted C2 bedspaces as equivalent to dwellings. The Planning Practice Guidance 'Housing Supply and Delivery' indicates this is an incorrect approach, with Council's being responsible for calculating the number of households that would be released as a result of the C2 accommodation, based on Census data.</p>	Disagreed	188	83	Approved at committee on 29/06/2022, outside the monitoring period. Currently finalizing S106 agreement. Awaiting further evidence from Developer.
51	51	51	0	<p>A Full application for 51 dwellings was approved on 27/04/21 with numerous conditions having been discharged. The AMR predictions align with the typical lead in times and build out rates for sites of this scale. Consequently, the figures within the AMR and provided by the Council for this site are considered realistic.</p>	Agreed	51	0	Under construction- confirmed by developer email. Council site visit undertaken.
38	38	38	0	<p>A Full application for 38 dwellings was approved on 06/08/21. The Council have highlighted that construction has commenced on site. Accordingly, the AMR figures indicating the full delivery of the 38 dwellings within the 5-year period appear realistic.</p>	Agreed	38	0	Under construction. Council site visit undertaken.

23	23	4	-19	A Full application for 23 dwellings was approved on 12/07/19. A significant number of conditions have been discharged in accordance with the decision notice and a number of dwellings have been completed. As such, the Council's figures relating to the site are realistic.	Agreed	4	-19	Construction nearing completion - with 19 completions during monitoring period. Council site visit undertaken.
84	84	58	-26	A Full application for 58 dwellings was refused on 09/02/22. This decision was then appealed and forms the basis of this inquiry. The anticipated dwelling completions within the AMR are agreed for the year 2024/25 and 2025/26, however, it should be noted that the AMR appears to erroneously attribute an additional 26 dwellings to the site during 2026/27.	Disagreed	0	-84	
24	24	0	-24	Prior Notification for the change of use of offices to 24 dwellings was granted on 30/04/19. A Full application for 62 dwellings was subsequently refused on 07/04/20. No discharge of condition applications have been validated pursuant to the grant of Prior Approval and the 3 year time period of the approval has elapsed. Consequently, the site does not benefit from an extant permission nor has the conversion been (lawfully) implemented. No applications have since been validated pursuant to the site allocation. Evidence of the feasibility of any dwelling completions within the 5-year period is therefore required.	Agreed	0	-24	
36	0	0	-36	No applications have been validated pursuant to this residential provision. Evidence of the feasibility of delivery is required.	Agreed	0	-36	
30	30	4	-26	A Hybrid application for 43 dwellings (4 detailed and 39 outline) was validated on 28/06/22. There are presently holding objections from statutory consultees including the Local Highways Authority. Assuming these objections are overcome and a positive determination is granted by the end of the calendar year, the full delivery of this site is not considered achievable by 2025/26 as indicated by the AMR. The 4 dwellings which are included within the detailed aspect of the application may be feasible within the 5-year period, the remaining provision would still be subject to an RM approval, the discharge of all conditions and the lead in times for construction, including the remediation of the site. Consequently, robust evidence would be needed to demonstrate that the remaining 39 dwellings could be completed within this timeframe.	Agreed	0	-30	

104	104	55	-49	<p>A Full application was approved by committee on 15/12/20 subject to the completion of a Section 106 Legal Agreement. The application webpage does not indicate that such an agreement has been finalised since, whilst no decision notice appears to have been issued for the application.</p> <p>In light of the lack of progress made in relation to the decision notice in the intervening years, evidence is required demonstrating that there is a realistic prospect of the site being developed in the immediate future. Further to securing a permission, a number of conditions will need to be discharged, whilst the construction lead in time for sites of this scale is typically 1.9 years. We have therefore concluded that only a single year of delivery is achievable within the 5-year period without evidence of a forthcoming approval.</p>	Disagreed	104	0	Full permission approved at committee pending HCC Highways condition discharge
70	70	0	-70	<p>The Council appear to have erroneously duplicated the number of dwellings allocated to the site within the AMR. No applications have been validated pursuant to the site allocation, however, construction works relating to a new road layout/bridge appear to be ongoing within the site boundary. Evidence of the feasibility of delivery is required.</p>	Agreed	0	-70	

535	450	340	-195	<p>An Outline application for up to 523 dwellings was approved on 02/04/15. Numerous discharge of condition applications and RM applications have been submitted and approved in relation to this Outline consent, with building operations having begun on site. The following RM applications are available on the Council's webpage:</p> <p>07/20/0046/RM (100 dwellings) - Approved 02/10/20 and conditions discharged.</p> <p>07/21/0405/RM (141 dwellings) - Approved 01/10/21 and conditions discharged.</p> <p>07/22/0504/F (54 dwellings) - Validated 18/05/22.</p> <p>07/22/0544/F (110 dwellings) - Validated 26/05/22.</p> <p>For sites between 500-999 dwellings, lead in-times from detailed planning approval typically comprise 1.7 years, whilst build out rates are typically 68 dwellings per annum. Therefore, the dwellings benefitting from a detailed consent could realistically be completed within the 5-year period.</p> <p>However, even assuming the timely approval and discharge of conditions relating to the validated full applications, the typical build out rates would suggest only 340 dwellings would be completed within the 5-year period. The Council are anticipating the delivery of dwellings within 5 years for which no detailed applications have been validated, which is not considered realistic.</p>	Disagreed	449	-86	Awaiting further evidence from Developer
64	0	0	-64	<p>The Outline application above also included the provision of a care home up to 80 bedspaces. No RM application for this aspect of the wider development has been validated thus far. Consequently, the AMR is considered to accurately reflect that this is unlikely to be delivered within the 5-year period.</p> <p>As above, the Council have counted C2 bedspaces as equivalent to dwellings. The Planning Practice Guidance 'Housing Supply and Delivery' indicates this is an incorrect approach. It is for the Council to apply a correct ratio based on Census data and reduce the number of dwellings represented accordingly.</p>	Agreed	0	-64	

37	37	0	-37	An Outline application for 37 dwellings was approved 15/07/21. No RM or discharge of condition applications appear to have been validated pursuant to this Outline approval. Given the limited progress being made towards the discharge of conditions and eventual implementation of the outline and any future RM consents, evidence of the feasibility of any dwelling completions within the 5-year period is therefore required.	Disagreed	37	0	Awaiting further evidence from Developer
300	0	0	-300	The Council's AMR appears to indicate that 300 dwellings will be completed by the end of 2032/33. It is assumed the further 150 dwellings are what the Council anticipate on the 'Land west of Sturlas Way' under Policy WC2 part (b). No applications have been validated pursuant to this allocation. Evidence of the feasibility of delivery is required.	Agreed	0	-300	
50	0	0	-50	No applications have been validated pursuant to the site allocation. Evidence of the feasibility of delivery is required.	Agreed	0	-50	
0	0	0	0	Site complete	Agreed	0	0	
N/A	N/A	566	N/A		Agreed	566	N/A	
770	350	210	-560	The Council have added a windfall allowance of 70 dwellings per annum on top of the existing windfall commitments over the 5-year period. Whilst this allowance may be appropriate for the later half of the 5-year period, windfall sites which will be constructed in the years 2022/23 - 2023/24 will likely have commitments/approvals in place already. Accordingly there is an element of double counting in these respective years. A more accurate approach would be to apply the committed developments to the first two years of the 5-year period, then allocate the windfall allowance for the remaining 3 years. This will prevent a significant amount of double counting for windfall sites, resulting in a reduction of 140 dwellings across the 5-year period.	Disagreed	350	-420	
25	25	15	-10	As with windfall sites, there is likely a degree of double counting as a result of dwellings to be constructed within the first two-years of the 5-year period likely to already have consent.		25	-44	
		2660	-5188			4785	-3052	
2,660						4,785		
APPELLANT						COUNCIL		



APPENDIX 4

Primary Place Planning Area Extract



RAG Reports - Hertfordshire County Council

10.6 Goffs Oak Ridgeway South											
School Code	School Name	Places Available 2022-23	Actuals			Forecast					
			2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	
2263	Goffs Oak Primary & Nursery School	30	31	30	30						
2401	Woodside Primary School	30	26	27	28						
5205	Cuffley School	60	56	57	60						
5209	Northaw Church of England Primary School	15	15	11	14						
Total Year R Pupil Demand			128	125	132	133	118	127	124	123	
Total Year R Places Available		135				135	135	135	135	135	
Surplus or Shortage of Year R Places (No.)						2	17	8	11	12	
Surplus or Shortage of Year R Places (%)						1.5%	12.6%	5.9%	8.1%	8.9%	
Surplus or Shortage of Year R Places (FE)						0.1	0.6	0.3	0.4	0.4	



APPENDIX 5

Secondary Place Planning Area Extract



RAG Reports - Hertfordshire County Council

10.0 Cheshunt												
School Code	School Name	Places Available 2022-23	Actuals			Forecast						
			2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29
4022	Haileybury Turnford	182	134	112	140							
5415	Goffs School	240	241	242	240							
5423	St Mary's Church of England High School (VA)	240	233	205	166							
5425	Goffs-Churchgate Academy	120	120	123	127							
Total Year 7 Pupil Demand			728	682	673	729	694	726	704	737	744	740
Total Year 7 Places Available		782				782	782	782	782	782	782	782
Surplus or Shortage of Year 7 Places (No.)						53	88	56	78	45	38	42
Surplus or Shortage of Year 7 Places (%)						6.8%	11.3%	7.2%	10.0%	5.8%	4.9%	5.4%
Surplus or Shortage of Year 7 Places (FE)						1.8	2.9	1.9	2.6	1.5	1.3	1.4



APPENDIX 6

S106 Monitoring Fee Report



Section 106 Agreement Monitoring Charges Paper

Summary:

The purpose of this report is to set out the business case for the introduction of a new fee charging schedule for the monitoring of Section 106 Agreements with effect from the 1 April 2021.

Section 106 Monitoring Fees

A major role of the Planning Service is to negotiate, complete and monitor Section 106 Agreements for major developments. The collective value of these agreements is in excess of £100 million.

Presently developers are paying Broxbourne's reasonable legal costs in preparing Section 106 Agreements. However, no monitoring and administration costs are currently recovered beyond this.

The function of monitoring Section 106 Agreements is important to ensure the timely payment and allocation of development contributions in order to mitigate the impact of new development. Many current and future developments are large and developed over multiple phases which will result in S106 Agreements becoming increasingly complex to administer and monitor.

A S106 monitoring system has been procured (Exacom) to enable the administration and monitoring of S106 which can be viewed across different sections of the Council and allow common use of a single piece of software. This contract is for 2 years and has been initially funded from the capital element of Housing and Planning Delivery Grant Reserve.

The below table sets out options for funding and includes perceived pros/cons for each:

OPTION	POSITIVE (PRO)	NEGATIVE (CON)
<p style="text-align: center;">Option A</p> <p>Flat Rate Fee per agreement</p>	<p>Accuracy of income prediction;</p> <p>All agreements would be covered;</p> <p>Offers Simplicity;</p> <p>Certainty of cost for applicants;</p> <p>Limited resources required.</p>	<p>Ignores complexity of some agreements;</p> <p>Could unfairly penalise simple agreements;</p> <p>Large schemes would not necessarily pay their fair share;</p>
<p style="text-align: center;">Option B</p> <p>A set Fee per obligation contained within each legal agreement</p>	<p>Better representation of anticipated work,</p> <p>Would limit costs for small scale;</p> <p>Could encourage simpler agreements.</p>	<p>Complicates income prediction;</p> <p>Could result in over simplification of agreements;</p>

		Could increase costs for small projects on complex sites;
Option C Cascading Fee Structure depending on development size	Good representation for work involved; Would limit costs for small scale developments; Certainty of cost for applicants.	Costs might not be covered for small but complex schemes; Unwieldy to manage if too many cascade levels.
Option D A set percentage of the overall financial S106 contribution	Small developments likely to be impacted less; Would be representative for predicted work requirement.	Large schemes might be charged an excessive amount; Uncertainty on upfront costs; If no monetary value involved, no fee income received.
Option E No set fee, each agreement is subject to negotiation	Could ensure fee asked was appropriate; Fee tailored for each project ensuring costs are covered.	Could cause significant delay while fee negotiated; Lack of cost certainty; Further pressure on resources to carry out negotiation.
Option F Status Quo	No additional costs to developers when adopting S106 Agreements.	Service remains underfunded; Could result in dilution of service; Customer service could suffer Unable to fund Exacom S106 monitoring software

Preferred Option

The fairest solution utilises a cascading fee structure as described in Option C.

A cascade system would ensure that the less onerous, small to medium developments with fewer clauses would not be unfairly penalised, while larger and often more complex developments would pay more in recognition of work involved. While there might be instances of small but complicated sites not covering their individual monitoring costs, such occurrences are likely to be small in number.

For very large schemes covering multiple phases of development it is considered appropriate to negotiate a monitoring fee. Negotiations for the monitoring fee can be run in parallel to any negotiations of the S106 in order to streamline the process.

It is considered that unless exceptional circumstances apply, monitoring contributions should be paid prior to completion of the Agreement and that they are retained within a ring fenced budget to be applied to monitoring costs. This would remove the expectation upon the site owner to inform the Council of implementation. For large schemes, involving multiple phases, monitoring fees associated with phase 1 would be requested in the first instance.

Proposed Charging Schedule

Development Size	Proposed Fee
Minor Developments (Less than 10 units) and/or 1000sqm commercial floor space	£100 per house £100 per 100sqm up to 1000sqm
Major (small) Development (10 – 100 units) and/or 1000sqm – 10,000sqm commercial floor space	£100 per house up to 10 units and £75 per each additional unit up to 100 units £100 per 100sqm up to 1000sqm £75 – 100sqm above 1000sqm up to 10,000sqm
Major (Large) Development (100 – 250 units) and/or 10,000sqm – 75,000sqm commercial floor space	Agreed by negotiation
Exceptional Site (250 + units) and/or +75,000 sqm commercial floorspace	Agreed by negotiation

Resource Implications

The Office Manager in Planning currently monitors signed S106 agreements and deals with day to day requests for information. Securing increased revenue income would enable the current resourcing levels to be reviewed.

Below are summarised examples of funding mechanisms adopted by surrounding Local Authorities.

Welwyn Hatfield Borough Council	- 5% of total value capped at £5000
Milton Keynes Borough Council	- £400 per obligation
Three Rivers District Council	- £1000 per agreement, - Complex agreements £1000 obligation
Hertsmere Borough Council	- £100 per residential unit permitted (up to 10 units) £50 for each additional unit up to 100. - On schemes of over 100 units fees will be negotiated
Watford Council	Minor Development - £350 per agreement £450 per agreement with healthcare cont. Major Development - £500 per agreement £600 per agreement with healthcare cont.

Under the proposal the following would be an indication of potential income. In 2019/20 there were 10 legal agreements which would have been liable for the charge.

Development Size	Number of Agreements Received during 2019/20	Proposed Fee Per Agreement	Total
Minor Developments (Less than 10 units) and/or 1000sqm commercial floor space		£100 per house	
Major (small) Development (10 – 100 units) and/or 1000sqm – 10,000sqm commercial floor space	7	£100 per house up to 10 units and £75 per each additional unit up to 100units £100 per 100sqm up to 1000sqm £75 – 100sqm above 1000sqm up to 10,000sqm	£13,450
Major (Large) Development (100 – 250 units) and/or 10,000sqm – 75,000sqm commercial floor space		Agreed by negotiation	
Exceptional Site (250 + units) and/or +75,000 sqm commercial floorspace		Agreed by negotiation	

The above table demonstrates a potential income of £13,450.00.

Going from a position of no monitoring fee, this could be met with resistance from development sectors and/or other areas of the business. To continue without providing this essential funding would put at risk the service currently offered resulting in a poorer service and/or restricted service for customers and internal departments.

Applicants will be informed of the increase in cost by email or telephone when they make an enquiry. The Council's charges would be listed on the website and would be raised during negotiation of future agreements.

The charging schedule will be reviewed after one year to ensure fees are proportionate to maintain effective monitoring of all S106 agreements.

RECOMMENDATION:

- 1. The introduction of a fee charging schedule for monitoring of S106 Agreements in accordance with the rates set out in the proposed charging schedule above; and**
- 2. Monitoring income to be used for enhancement of the Council's planning obligation monitoring function**