

CPRE

Housing Supply Research

The impact of the NPPF's housing land supply requirements on housing supply and the countryside

Final Report

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Executive Summary

The publication of the National Planning Policy Framework (NPPF) in March 2012 resulted in major changes to the planning system. One key change has been the emphasis on the need to “*significantly boost housing supply*” which responds to national concerns over housing need and has placed pressure on local authorities to deliver large numbers of new housing.

Efficient, democratic and proactive planning can only be achieved through a ‘plan-led’ system. The term ‘plan-led system’ is used regularly throughout this report and refers to the legal principle that decisions on planning applications should be decided in accordance with the development plan (currently comprising local plans and, where these exist, neighbourhood plans) for the area in question. It is therefore vital to ensure that properly prepared local plans are being adopted as quickly as possible. Despite this, research has found that the average time taken from the submission of a local plan to adoption has increased since the adoption of the NPPF. The slow delivery of local plans is a particular concern as it exposes local planning authorities to challenge at appeal.

In the examination of local plans there are two key areas that plans are failing on. These are housing numbers and the duty to cooperate.

The approach to establishing housing numbers is the most common reason for local plans being withdrawn from the examination process. Housing need is initially objectively assessed in a Strategic Housing Market Assessment (SHMA), which is based on consideration of potential population growth and other local factors affecting demographic change. In order to understand potential land supply and development capacity, local authorities will carry out a Strategic Housing Land Availability Assessment (SHLAA). Neither of these documents are a statement of policy, but they are used as evidence to inform the development of relevant housing policies and targets in local plans. There has been a lack of detailed guidance on their preparation, which has led to some disputes between local authorities and other parties over the methodologies used.

Housing Market Areas are determined by migration patterns and labour market areas, and therefore may span two or more local authorities. In such areas, the “duty to cooperate” is triggered, where local authorities are required to work together in order to meet housing needs. It is clear from precedent and from National Planning Policy Guidance (NPPG) that this is not a duty to agree, and local authorities may submit local plans without agreeing on how housing needs will be met. There are no standards for what actions meet the duty to cooperate, and this is leading to much debate at examination where this issue is open to interpretation. Many local plans are being withdrawn because they haven’t fulfilled the duty to cooperate, yet the absence of up-to-date local plans is leading to more applications being determined at appeal.

Since the publication of the NPPF there has also been a significant increase in both the number and proportion of appeals relating to housing development being allowed. CPRE and other institutions are particularly concerned that this is undermining the plan-led system and the spirit of localism. In addition, it appears from local plan examination reports and appeal cases that interpretation of parts of the NPPF is being achieved in an ad hoc way through legal precedent rather than standard guidance that is consistently applied, which brings into question the effectiveness of the NPPF as a tool for decision making.

This report particularly focuses on the appeals relating to housing proposals on greenfield sites, for which 309 decisions were issued in the two years following publication of the NPPF. The research shows that the majority of these have been allowed and in many instances it is the five year supply of land for housing, or rather the lack of, that has been central to the decision. However, there does appear to be a growing pool of appeal decisions where issues beyond the five year supply have carried equal, if not more weight, in the decision making process. Matters such as environmental and infrastructure carrying capacity, design and the impact on the Green Belt have all been considered on occasion to outweigh the calculation of supply alone. **Although the publication of the NPPF was sought to simplify the planning process it has, in some places had the opposite effect, with local plans taking longer to prepare and major decisions being made at appeal.**

This report is presented across six main chapters. Following a short introduction, **Chapter 2** outlines the approach to establishing housing need and the availability of land for housing as established in the

NPPF and supporting guidance. It notes that the SHMA and SHLAA are not intended to be interpreted as policy, but that their findings need to be balanced against other policy objectives and local constraints, which should then be reflected in the local plan. Where this balancing act results in the local plan establishing a housing target below that presented through the SHMA then reasons will be needed to fully justify this.

In **Chapter 3** the impact of the NPPF in the first two years since it was published is discussed, particularly where it concerns housing policies, the plan-making and decision-making process. It draws on the recent House of Commons Select Committee and evidence submitted to this by various organisations, including CPRE, RTPI, TCPA and HBF amongst others. Concern has been expressed around the operation of the duty-to cooperate, the weight given in the NPPF to the five year supply of land for housing, and the impact this is having on planning for sustainable patterns of development.

Chapter 4 then looks at how requirements to establish an 'objectively assessed' figure of housing need and the duty-to-cooperate are working in practice. It draws upon those plans that have been delayed or withdrawn for reasons associated with their approach to housing. It appears that the SHMA and the duty-to-cooperate are intrinsically linked and that local plan production is often reaching a stalemate, where some local planning authorities have been unable to fulfil the duty. The consequent delay in the plan-making process is opening local authorities up to planning by appeal.

In **Chapter 5** the decision making process is researched. It looks at the 309 appeals that have been determined in relation to greenfield, residential proposals since publication of the NPPF and includes eight case studies where different matters have been debated. The analysis shows that nearly nine out of every 10 (**88%**) of these appeals have been in locations where the local planning authority was unable to demonstrate a five year supply of land for housing. Almost three quarters (**72% - 193 schemes in total**) of these, totalling **27,364 houses**, were allowed, demonstrating the weight attached to the five year supply. Despite this, the case studies draw attention to the wider interpretation of sustainability and the need to balance this with the delivery of new housing.

It is clear from the appeals investigated that there has been much debate around the approach to identifying and calculating the five year supply. In **Chapter 6** we discuss the various approaches. Research has shown that, on larger sites, individual developers will tend to deliver in the region of 50 units per year. The report calls for greater transparency in the process of calculating the five-year supply and a better understanding of build-out rates, the lead-in time for development to start, what is meant by 'persistent under delivery' of housing by local planning authorities and when this should come into effect.

Chapter 7 draws this altogether and presents a series of messages and recommendations for changes that could be made to national policy.

Our recommendations are phrased as question for discussion, and are:

- 1) **Should further clarification and guidance in relation to housing policies and how they are interpreted be provided at a national level?**
- 2) **Can a wider definition of sustainability underpin plan making and decision making?**
- 3) **Can cross boundary issues be resolved through a more proactive approach to the duty to cooperate?**
- 4) **How can policy makers ensure that the suitability of sites is determined through the plan making process rather than through appeal?**
- 5) **How can planning policy enable a clear and transparent approach to maintaining a five year supply be prepared by local authorities on an annual basis?**

The recommendations are broken down in more detail in Chapter 7. The intention is that resulting changes are incorporated in national policy and or supporting national guidance to help ensure better understanding of policy, interpretation of this and, ultimately, to help deliver the CPRE's desire as set out in its Charter to Save the Countryside to see *'more housing – in the right places'*.

1 Introduction

1.1 Purpose of the report

- 1.1.1 In May 2010 the establishment of the Coalition Government led to perhaps the single most radical overhaul of the planning system in England since the passing of the Town and Country Planning Act in 1947.
- 1.1.2 Thousands of pages of planning policy and supporting guidance have been recast, slimmed down or withdrawn. The regional tier of planning that established strategic priorities - the scale and direction of growth - has been swept aside and a new bottom-up tier of planning, led by the community, has been introduced in the form of neighbourhood plans.
- 1.1.3 At the same time there is a significant requirement for new homes to be provided across the country. Population growth, changing demographic patterns and rising house prices point to a need for new homes. Yet, across the country as a whole, the number of new homes being built is at a historic low level.
- 1.1.4 The finger of blame is often unfairly pointed at the planning system. The overhaul of the planning system, publication of the National Planning Policy Framework (NPPF)¹ in 2012 and introduction of the Localism Act in 2011 were meant to simplify the planning system and help deliver not just more new development, but the right development, in the right places.
- 1.1.5 However, the result, at least in the first couple of years since the NPPF was published, has been somewhat different. The supposed simplification of the planning system has instead appeared to cause confusion and delay in both the plan-making and development processes.
- 1.1.6 Although a 'plan-led' system is still embedded within the NPPF large parts of the country still lack up-to-date plans. We are now witnessing more instances of planning by appeal, with decisions focusing on debates around the five-year supply of land for housing, how this should be assessed and how authorities should best work together to meet housing needs (the duty to cooperate).
- 1.1.7 This report is the outcome of research undertaken to better understand the housing policies in the NPPF and how these are being interpreted by local planning authorities, inspectors and the Secretary of State during the plan-making and decision processes. It draws upon examples of local plans and appeal cases to provide a set of recommendations that could be made to national policy to help ensure better understanding of policy, interpretation of this and, ultimately, to help deliver the CPRE's position set out in its Charter to Save the Countryside, which seeks '*more housing – in the right places*'.²
- 1.1.8 This research has drawn on 309 appeal decisions issued in the two years since publication of the NPPF which have involved proposals for residential development on greenfield sites. These appeals cover the whole of England, with the exception of London. It has also drawn upon a selection of local plans that have been delayed or withdrawn, since publication of the NPPF, due to concern around housing numbers and land supply.

1.2 Structure and content of the report

- 1.2.1 Beyond this introduction the report is presented across six further chapters:
- Chapter 2 outlines the approach to establishing housing need and the availability of land for housing as established in the NPPF and support guidance.
 - Chapter 3 discusses the impact of the first two years of the NPPF on the plan-making and decision-making processes. It draws upon evidence submitted to the Commons Select Committee review of the NPPF.
 - Chapter 4 turns to the plan-making process and looks at how national policy on setting housing numbers and meeting the duty-to-cooperate is working at the local

¹ DCLG, 2012

² <http://www.cpre.org.uk/charter>

level. It draws upon examples of local plans which have been delayed or withdrawn for reasons associated with the approach to planning for housing.

- Chapter 5 looks at the decision making process. It draws upon all planning appeals for proposed residential schemes (in excess of ten units) on greenfield sites that have been determined since publication of the NPPF. Eight case studies are presented reflecting a variety of different issues and summary messages drawn out of these.
- Chapter 6 presents a discussion on the approach to calculating the five-year supply of housing.
- Chapter 7 draws the research together and presents a series of key findings and recommendations.

1.2.2 The main body of the report as outlined above is supplemented by the following information:

- Appendix 1 presents a quantitative assessment of all planning appeals which has informed the case study assessment in Chapter 5.
- Appendix 2 and 3 provide a list of sources cited and reviewed during the research.

1.2.3 This report has been researched and written by Parsons Brinckerhoff on behalf of CPRE. Parsons Brinckerhoff work across all scales of planning, including strategic projects involving policy research, best practice, development growth, infrastructure and viability. Parsons Brinckerhoff is able to deploy its understanding of environmental, social and economic skills to help clients better plan for change.

2 Approach to land supply assessments

This Chapter outlines the approach to establishing housing need and the availability of land for housing as set out in the NPPF and supporting guidance. It notes that the SHMA and SHLAA are not intended to be interpreted as policy, but that their findings need to be balanced against other policy objectives and local constraints, which should then be reflected in the local plan. Where this balancing act results in the local plan establishing a housing target below that presented through the SHMA then reasons will need to be fully justified for this, providing clarity and certainty for all in the planning process.

2.1 Policy context and requirements

- 2.1.1 The approach to establishing housing targets has changed significantly since the Coalition government formed in 2010. Substantial reforms to the planning system have resulted in the abolition of top-down housing targets imposed by central government and distributed through regional planning authorities, and moved towards providing local planning authorities with powers to establish their own housing targets based on local need with a 'duty to cooperate' intended to resolve cross-boundary issues.
- 2.1.2 The National Planning Policy Framework (NPPF)³ requires local planning authorities to ensure planning policy identifies housing need in the area and that sufficient land is identified in the local plan to meet this need (para. 47). It recommends achieving this through preparing a robust evidence base. The first part of the evidence base is the preparation of an objectively assessed Strategic Housing Market Assessment (SHMA) to *"identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period"* (para 159). The second part of the evidence base is the preparation of a Strategic Housing Land Availability Assessment (SHLAA) *"to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period"* (para. 159).
- 2.1.3 Guidance on how to carry out SHMAs and SHLAAs is set out in National Planning Practice Guidance (NPPG) published online by the Department for Communities and Local Government (DCLG)⁴. Commentary on the recommended process for carrying out the assessments is set out below.
- 2.1.4 In order to ensure housing needs are met, the NPPF specifically requires local planning authorities to demonstrate *"a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements"* (para 47). The NPPF goes on to state that the five year supply should include a 5% buffer *"to ensure choice and competition in the market for land"* (para. 47). However in cases where a local authority has a record of persistent under delivery, local planning authorities are expected to increase the buffer to 20% to improve the potential of meeting the housing target. The NPPG relating to *Housing and Economic Land Availability Assessments*⁵ makes clear that there is no universal test or definition for *"persistent under delivery"* as this would differ from place to place (para 035). The issue of persistent under delivery is further discussed in Section 6.2 of this report
- 2.1.5 The NPPF states that *"relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites"* (p. 49). In addition, the NPPG relating to *Housing and Economic Land Availability Assessment* notes that *"demonstration of a five year supply is a key material consideration when determining housing applications and appeals"* (p.033).
- 2.1.6 Should a local authority be unable to meet housing need, local planning authorities within the housing market area are required to consider the implications, and may even be required to review their housing policies. This is a legal requirement under the duty to cooperate created in the Localism Act 2011. However, the NPPG relating to the *Duty to Cooperate*⁶ states that *"the duty to cooperate is not a duty to agree"* (para 003). While the potential to secure an

³ DCLG, 2012

⁴ Please note that all references to the NPPG are correct at the time of writing.

⁵ DCLG, 2014

⁶ DCLG, 2014

agreement on the delivery of cross boundary strategic objectives will be a consideration at Examination in Public, should it not be possible to reach agreement on the planning strategy between local planning authorities, the guidance states that this should not prevent a local planning authority from submitting a plan for examination as individual circumstances can be discussed with the Planning Inspectorate prior to submission.

- 2.1.7 The NPPG notes that there is no standard set of actions to demonstrate the duty to cooperate has been properly carried out, as it notes that this will be dependent on place specific circumstances. However, it is considered that the success of the actions will be measured by the outcomes and a report demonstrating how the local planning authority has fulfilled their duty, and who they have cooperated with, is a requirement as part of the examination process.

2.2 Strategic Housing Market Assessments

- 2.2.1 SHMAs are intended to *“identify the future quantity of housing needed, including a breakdown by type, tenure and size”*⁷. The NPPG includes guidance relating to the preparation of *Housing and Economic Development Needs Assessments* which provides a recommended standard methodology for the preparation of SHMAs. This guidance represents a streamlined version of the *Strategic Housing Market Assessments: Practice Guidance, Version 2*⁸, which provided a detailed step-by-step approach to preparing robust and credible SHMAs.
- 2.2.2 The Planning Advisory Service (PAS) has prepared a technical advice note on Objectively Assessed Need and Housing Targets⁹. This provides useful additional guidance, but as NPPG states the assessment of housing need is not an exact science, the PAS document notes that *“many of the questions we address have no definitive answer, and answers may change abruptly if national guidance is updated, planning inspectors and courts of law issue new decisions, or new information comes forward”* (para 1.3), which demonstrates the uncertainty resulting from a lack of detailed guidance.
- 2.2.3 Housing needs are required to be assessed relating to the housing market area. This is defined as *“a geographical area defined by household demand and preferences for all types of housing, reflecting the key functional linkages between places where people live and work”*¹⁰. Due to the broad definition housing market areas may cross administrative boundaries and may even overlap one another. In situations where housing market areas are found to cross local planning authority boundaries, this will trigger the duty to cooperate.
- 2.2.4 The methodology for housing need recommends using housing projections published by the DCLG which are based on the Office for National Statistics population projections and household trends observed in Census and Labour Force Survey data. Locally specific issues may be taken into account in order to refine housing need assessments, such as employment growth that was unaccounted for in national projections and market signals.
- 2.2.5 The PAS technical advice note states that the official projections may not provide a true picture of future demand as they may be based on out of date information, they may not take account of external factors that influence demographic change (such as the economy or provision of housing in neighbouring areas) and they assume that demand was fully met in the past so may underestimate future demand. It also provides further guidance on how to carry out bespoke projections that align with the NPPG and NPPF.
- 2.2.6 PAS¹¹ defines objectively assessed need as synonymous with demand, and notes that it is a policy neutral estimate (para 9.1). The NPPG emphasises that the assessment should not be constrained, but rather should represent an *“objective assessment based on facts and unbiased evidence”*¹². A range of scenarios should be explored through the SHMA, testing different assumptions. Each of these should be clearly reasoned. It notes that wider considerations, such as *supply of land for new development, historic under performance,*

⁷ DCLG, 2014, para. 002

⁸ DCLG, 2007

⁹ PAS, 2014

¹⁰ DCLG, 2014, para. 010

¹¹ Objectively Assessed Need and Housing Targets, 2014

¹² DCLG, 2014, para. 004

*viability, infrastructure or environmental constraints*¹³ should be addressed in developing policies for the development plan. This paragraph could potentially be expanded to clarify that the SHMA does not represent policy, and therefore a housing policy target that differs from the SHMA objectively assessed need may be acceptable in consideration of wider factors. Policy formulation is discussed further in Section 2.4.

2.3 Strategic Housing Land Availability Assessment

2.3.1 SHLAAs provide an assessment of land availability through identifying sites with the potential for development. Guidance on the method for preparing SHLAAs has been published by the DCLG in the NPPG *Housing and Economic Land Availability Assessment*¹⁴.

2.3.2 The method for SHLAAs has a five stage process, as follows:

- Stage 1 – Site/ broad location identification: including review of existing information, call for sites and location survey;
- Stage 2 – Site/ broad location assessment: including considering the development potential, the suitability of the site, the availability of the site, the potential achievability of development and how any constraints could be overcome;
- Stage 3 – Windfall assessment: comprising analysis of potential for windfall development in consideration of the quantum of land already identified and demonstrable evidence of record of windfall delivery;
- Stage 4 – Assessment review: considering if the land identified will meet objectively assessed housing need and whether or not the assessment of sites needs to be reconsidered; and
- Stage 5 – Final evidence: Preparation of final evidence base report to inform the development plan, including deliverability of the five year housing supply and allowance for monitoring.

2.3.3 The guidance is clear that SHLAAs do not allocate land for development. SHLAAs should *“provide information on the range of sites which are available to meet need, but it is for the development plan itself to determine which of those sites are the most suitable to meet those needs”*¹⁵. Section 6.4 provides further discussion on the sites that could come forward to contribute to a local planning authority’s five year housing supply.

2.4 Bringing the assessments together

2.4.1 While a SHMA identifies the objectively assessed housing need, it does not establish a housing target, and while SHLAAs identify all potential development sites, they do not allocate land. The establishment of targets and site allocations can only be made through policy in consideration of wider issues, such as environmental and infrastructure constraints, viability and other policy objectives. In some cases the actual housing requirement set out in the local plan will be below the upper ranges presented in the SHMA through calculation of the objectively assessed housing need. Equally, not all sites identified in the SHLAA will be allocated in the local plan once all the evidence and wider constraints have been weighed up. This balancing act is presented in simple graphical form in Figure 1.

2.4.2 The key here is that any reduction in the housing requirement identified in the SHMA is fully justified and reasoned in relation to wider constraints and policy objectives. Without this, the local plan and the housing supply are open to challenge at examination and appeal, undermining the principle of the plan-led system. It is useful to note here the landmark judgment relating to *St Albans v Hunston Properties Ltd* in which it was stated: *“Planning decisions are ones to be arrived at in the public interest, balancing all the relevant factors and*

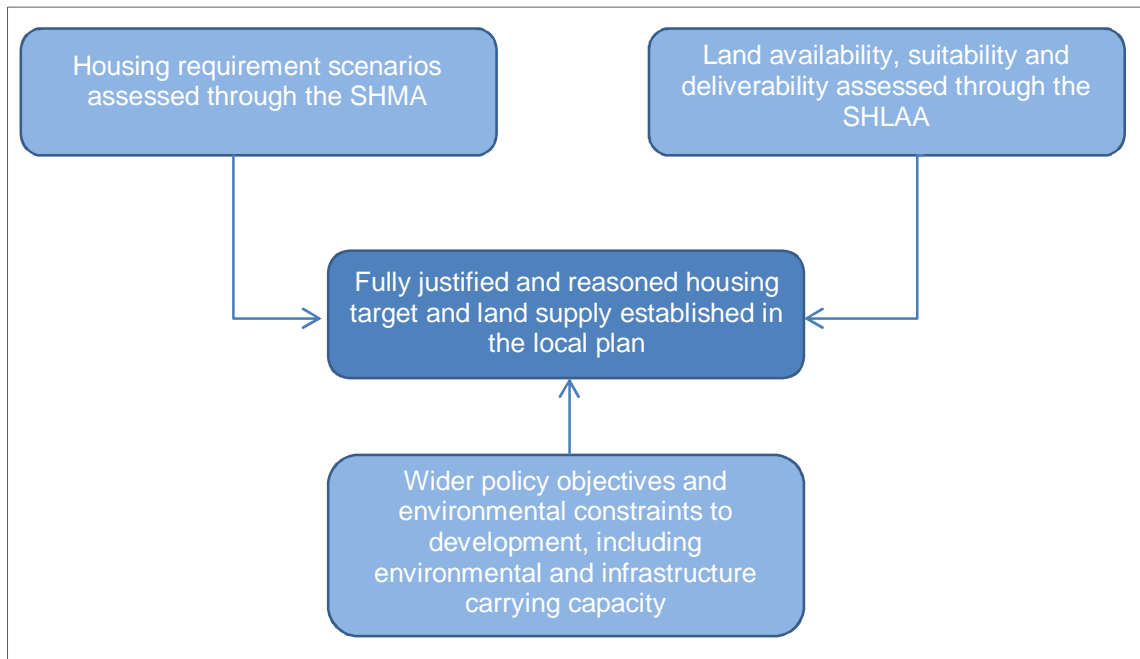
¹³ *Ibid.*

¹⁴ DCLG, 2014

¹⁵ DCLG, 2014, p. 003

are not to be used as some form of sanction on local councils. It is the community which may suffer from a bad decision, not just the local council or its officers"¹⁶.

Figure 1: Balancing the evidence



¹⁶ Court of Appeal Decision City & District Council of St Albans v Hunston Properties Ltd 12 Dec 13

3 Impacts of National Planning Policy Framework

In this chapter the impact of the NPPF in the first two years since it was published is discussed, particularly where it concerns the plan-making and decision-making process. It draws on the current House of Commons Select Committee inquiry and evidence submitted to this by various organisations, including CPRE, RTPI, TCPA and HBF amongst others. Concern has been expressed around the operation of the duty-to cooperate, the weight given in the NPPF to the five year supply of land for housing, and the impact this is having on planning for sustainable patterns of development.

3.1 Select Committee Review: NPPF 2 years on

- 3.1.1 Housing is currently high on the political agenda and it is widely agreed that there has been a severe shortage in the delivery of housing over recent years, which is culminating in a housing shortage¹⁷. A report to the House of Commons Communities and Local Government Committee published by the Cambridge Centre for Housing and Planning Research in March 2014 entitled *The Nature of Planning Constraints* explored the perception that planning is a major constraint to housing delivery.
- 3.1.2 The main planning constraints identified in the document related to processes and cultures within planning departments and committees. A number of aspects were identified as key to ensuring swift and successful planning applications, which included having an adopted local plan in place, a demonstrable five year land supply and effective communication with stakeholders and consultation with communities.
- 3.1.3 At the time of writing it has been more than two years since the publication of the NPPF and the implementation of the significant changes to the planning system, including the change of approach to housing targets. This is a good time to reflect on the implications of these changes, and the Commons Select Committee is currently undertaking an inquiry into the operation of the NPPF and its impacts, which followed the outcomes of the Cambridge Centre for Housing and Planning Research report. The inquiry is particularly focusing on the impacts on three areas: housing, town centres and energy infrastructure, and evidence has been submitted from a number of organisations.
- 3.1.4 With regard to housing, concerns relate to the impact on plan preparation and decision making on planning applications and appeals. Pertinent points are summarised below.

3.2 Impact of the NPPF on Plan Preparation

- 3.2.1 CPRE recognises the slow preparation and adoption of local plans is a serious concern¹⁸. In its evidence to the Select Committee, the RTPI¹⁹ note that “of 109 plans that have been examined or submitted for examination outside London just 40 (37%) have been found sound and a quarter of these are subject to immediate or early review” (p.2). Furthermore, a recent survey of more than 100 local authorities undertaken by Nathaniel Lichfield and Partners revealed that since the publication of the NPPF the average time taken from submission of local plans to being found sound has risen 40% to 14 months, due to increased need for modifications and related consultation (p. 3).
- 3.2.2 The most common reason plans are being found unsound is due to housing numbers²⁰. A key issue for local planning authorities is the lack of detailed guidance in the NPPG relating to the objective assessment of housing need, and the RTPI note in their evidence submission that the provision of more specific guidance would help to mitigate these issues (p.3). The lack of a standard methodology has exposed local planning authorities to be challenged at appeal. For example, in their submitted evidence the Local Government Association highlights one such case in Chester East where “30 homes were allowed on appeal when the inspector agreed

¹⁷ Royal Institution of Chartered Surveyors, 2014, para. 2.3

¹⁸ Select Committee Evidence, para 11; Community Control or Countryside Chaos? (2014), p.2

¹⁹ Royal Town Planning Institute, 2014

²⁰ Nathaniel Lichfield and Partners, 2014, p. 4

*with the appellants challenge on the methodology the council had used to demonstrate a five-year supply*²¹ (para 3.2.6).

- 3.2.3 The focus on the five year housing supply places short term pressures on local planning authorities. A study commissioned by the National Trust found that of those authorities that are in the Green Belt 51% felt unable to adequately protect this land. In a wider group of all authorities surveyed, 51% were unable to include brownfield sites considered deliverable within their five year supply figures (including some with planning permission for development) due to developers arguing their economic viability²².
- 3.2.4 The duty to cooperate is another area local plans are failing on. The evidence submitted by the District Councils' Network²³ and RICS raises particular concerns over strategic, cross boundary planning in the absence of regional strategies. The lack of clear guidance relating to how to fulfil the duty to cooperate leaves testing this aspect of plan preparation open to interpretation at the examination stage and introduces a new area of uncertainty.
- 3.2.5 Data on housing completions for each local planning authority used to be collected, recorded and published by the DCLG, however this ceased following publication of the NPPF. As such, it is difficult to determine how many houses are actually being delivered across the country as a whole, and what the impact of policy changes, including the revocation of the Regional Strategies has been. This is noted in the evidence submitted by the British Property Federation²⁴, the Local Government Association²⁵, the Planning Officers Society²⁶ and RICS²⁷, and is evident in the lack of quantitative analysis undertaken in the evidence submissions. It would be useful to reintroduce this national level monitoring to provide greater transparency.

3.3 Impacts of the NPPF on Decision Making

- 3.3.1 CPRE has expressed concerns in the evidence submitted to the Select Committee over the impact of NPPF policies which have seen an increase in the number of applications being allowed at appeal²⁸. The TCPA, in their submitted evidence²⁹, highlighted: *“a success rate for developers at appeal of between 40% and 45% was regarded as a historic high in the mid-1980s and resulted in reform to reinforce the plan led system. Since the beginning of 2012 there have been 343 appeals related to ‘major dwellings’ of 100+ homes. Of the 173 that have been decided to date, 110 were allowed, a success rate of 63%”* (para. 3.8). Recent research carried out by Turley³⁰ noted that the proportion of appeals allowed relating to all residential development has increased from 37% in the two years before the NPPF to 42% in the two years after NPPF. Appeals allowed at inquiry have seen a dramatic increase, with the rate of success increasing from 38% in the six months prior to the NPPF to 57% in the 24 months after its publication. In addition, for residential proposals of more than 10 units there has been a particularly significant increase, rising from 40% in the two years pre-NPPF to 54% in the two years following the publication of the NPPF.
- 3.3.2 Specifically, a key concern noted by CPRE is the requirement for a demonstrable five year housing supply and the consideration that *“relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”*³¹. CPRE is concerned that the policy relating to five year housing supply is being *“used to trump wider policies on spatial strategy”*³². In their evidence to the Select Committee, the Local Government Association also note a number of appeal cases where the lack of a demonstrable five year supply has outweighed other policy constraints, such as identified harmful impacts on the character and appearance of an area³³.

²¹ <http://www.planningresource.co.uk/article/1281179/editors-pick-housing-shortfall-concerns-justify-hamlet-scheme>

²² National Trust, 2014, paras 14 - 15

²³ District Councils' Network, 2014

²⁴ British Property Federation, 2014

²⁵ Local Government Association, 2014

²⁶ Planning Officers Society, 2014

²⁷ Royal Institution of Chartered Surveyors, 2014

²⁸ Campaign to Protect Rural England, 2014

²⁹ Town and Country Planning Association, 2014

³⁰ Turley, 2014

³¹ DCLG, 2014, NPPF, para. 49

³² Select Committee Evidence, para 9

³³ 400 homes approved in North East Lincolnshire approved by the Secretary of State (reference DC/107/12/HUM)

In the appeals reviewed as part of this report, it would appear that the assessment of housing supply is a key consideration.

- 3.3.3 House builders appear to support the impacts of the five year supply policies in the NPPF, as anecdotal evidence suggests many organisations assume that applications in such areas will be allowed at appeal³⁴. The Home Builders Federation³⁵ and RICS evidence submitted to the Select Committee emphasises the need for the NPPF to allow for decisions to be made in the absence of planning policy in light of the significant number of local planning authorities that do not have an up to date local plan and/ or a demonstrable five year housing supply. They note that it is imperative that applications for housing continue to be treated positively in order to meet the substantial housing need.
- 3.3.4 Evidence submitted by the RTPI, TCPA and the National Association of Local Councils (NALC) identify concerns that the focus on the five year housing supply may be leading to applications being approved on inappropriate and unsustainable sites. There is a danger that focusing on short term targets is leading to a preference towards smaller sites developed in isolation which will not have the critical mass to support the services and infrastructure required to support sustainable communities. NALC make the point that under current policy Councils do not feel empowered to commit to long term aims of developing large sustainable developments, which will generally have long lead in times but will better meet long term sustainability objectives³⁶.
- 3.3.5 Concerns are also noted in the submitted evidence regarding the lack of clarity and detail in the NPPF and NPPG leading to decision making at appeals being open to interpretation, which has led in some circumstances to contradictory outcomes³⁷. In particular, the TCPA evidence submission draws attention to a recent conclusion by the judge in the Hunston³⁸ case, which stated: *“unhappily, as this case demonstrates, the process of simplification has in certain instances led to a diminution in clarity”* (para. 3.7). It is noted that this case also demonstrates the potential use of the lack of five year housing supply as a special circumstance to justify Green Belt development.

³⁴ Cambridge Centre for Housing Planning Research, 2014, p. 33

³⁵ Home Builders Federation, 2014

³⁶ National Association of Local Councils, 2014, p. 3

³⁷ Town and Country Planning Association, 2014, para 3.7

³⁸ Hunston Properties Limited v. (1) Secretary of State for Communities and Local Government and (2) St Albans City and District Council (Neutral Citation Number: [2013] EWCA Civ 1610). TCPA notes that *“this case also demonstrates the force of the presumption in favours in justifying green belt development as special circumstance where there is not five year supply of housing land based on para 47 of NPPF”*

4 Plan Making

This chapter looks at how requirements to establish an 'objectively assessed' housing need figure and the duty-to-cooperate are working in practice. It draws upon those plans that have been delayed or withdrawn for reasons associated with their approach to housing. It appears that the SHMA and the duty-to-cooperate are intrinsically linked and that local plan production is often reaching a stalemate, where some local planning authorities have been unable to fulfil the duty. The consequent delay in the plan-making process is opening local authorities up to planning by appeal.

4.1 Introduction

- 4.1.1 The slow delivery of local plans has been identified as a serious concern by CPRE³⁹. As outlined in Chapter 2 of this report, the high proportion of districts and boroughs without a local plan in place, coupled with the growing timescale taken for local plans to be approved⁴⁰, means that a significant proportion of local planning authorities are unlikely to have an up to date local plan in place by the forthcoming election.
- 4.1.2 The plan-led system is fundamental to more efficient planning that provides more certainty for developers while also ensuring local communities and stakeholders are able to influence local development. It is imperative then that local plans are updated and adopted as soon as possible and local authorities are given more certainty at examination.
- 4.1.3 Since the preparation of the NPPF 109 plans have been submitted or examined. However, as previously noted, the length of time between submission and examination has lengthened compared to pre-NPPF figures. So far, over half of the plans submitted are considered to be on the right track, with 28% plans being found sound without the need for immediate review and 26% currently being examined and not requiring modifications⁴¹.
- 4.1.4 15 plans (13%) have been withdrawn by local planning authorities, with the main reasons being housing numbers (73%) and failure to meet the duty to cooperate (27%)⁴². A further 26 plans are currently being examined and have been found to require modifications, which largely relates to the need for further evidence on objectively assessed housing need⁴³. These issues are considered further below.

4.2 Considering housing numbers

- 4.2.1 The most common reasons for withdrawing or altering a plan is associated with housing numbers. Paragraph 47 of the NPPF requires local planning authorities to *"boost significantly the supply of housing"* and states that they should *"use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out [in the NPPF]"*.
- 4.2.2 Housing needs are objectively assessed through a SHMA, and possible development sites are identified in a SHLAA. But neither the SHMA nor the SHLAA are policy. It is through the plan making process that decisions are made on appropriate sites to allocate, in light of wider constraints, including planning policy and viability.
- 4.2.3 SHMAs form an essential part of the evidence base for planning policy relating to housing provision. Some local plan examinations have come unstuck at this point. By way of an example, Cherwell District Council submitted its local plan⁴⁴ in advance of the publication of the Oxfordshire SHMA (within which housing market area it sits). As a result the Council was recommended to suspend the Examination process until the Council had a chance to update the Plan in light of the outcomes of the SHMA.

³⁹ Select Committee Evidence, para 11; Community Control or Countryside Chaos? (2014), p.2

⁴⁰ Nathaniel Lichfield and Partners, 2014

⁴¹ Nathaniel Lichfield and Partners, 2014, p.2

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ Cherwell Submission Local Plan 2006-2031 (January 2014)

- 4.2.4 The NPPG has replaced detailed guidance for the preparation of SHMAs with a simplified document. The lack of standard guidance has opened up areas of concern at appeal when the SHMA is being assessed. For example, during the Examination of the Weymouth & Portland local plan⁴⁵ in early 2014, the Inspector raised major concerns over the robustness of the SHMA. He was concerned that too much weight was placed on projections, which only covered the period to 2021, and insufficient assessment of alternative growth scenarios had been carried out. Further guidance or a standard approach to the production of SHMAs would help overcome issues associated with their production.
- 4.2.5 The suitability of sites will be determined by local circumstances. For example, Harrogate Borough Council identified a number of constraints in the borough which severely restricted development, such as Green Belt and AONB designations and limited infrastructure. However, the Inspector was not satisfied with the justification put forward by the Council and concluded further evidence would be required to demonstrate the magnitude of these constraints and proposed a fundamental review of the strategy should be undertaken. The Council resolved to withdraw its District Sites and Policies Development Plan Document (DPD)⁴⁶ following recommendations for a fundamental review of policies, including those relating to housing provision. A SHMA was published for the area in 2011 and concluded there was a need for between 862 and 1,086 dwellings per annum, however the DPD only provided for 390 dwellings per annum, in accordance with the Core Strategy, and based on evidence dating from 2008. The Inspector noted that it would be unlikely neighbouring councils would be willing or able to make up the shortfall and so there would likely be a significant unresolved housing need in the area.
- 4.2.6 In examining the local plan⁴⁷ submitted by Waverley District Council, the Inspector also highlighted concerns associated with the restriction in the proposed housing target due to constraints associated with environmental assets and designations. Here again the Inspector required further justification for the use of such identified assets and designations to rationalise the provision of a lower housing target than the objectively assessed housing needs identified in the SHMA. The Inspector noted that such designations should not be taken as a 'blanket ban' on development, but rather should be read in the context of the NPPF as a whole. In particular the Inspector noted the Council's aversion to carrying out a Green Belt review, and stated that *"such a stance would need to be justified in the context of the [NPPF's] policies"*⁴⁸. The implication here appears to place pressure on the release of greenfield land in order to meeting the shortfall of land for housing.
- 4.2.7 The Inspector's report relating to the examination of the Reigate and Banstead Core Strategy Local Plan⁴⁹ stated that the Council would need to *"recognise that some loss of Green Belt land to housing development will be necessary, in certain sustainable locations, to meet as far as practicable the needs of the borough"*. Following the publication of this report Nick Boles MP (who was Parliamentary Under Secretary of State (Planning) at that time) wrote to the Chief Executive of the Planning Inspectorate to express concern over the wording of the report and to clarify the Government's view of Green Belt policy and Local Plan examinations⁵⁰. He noted that the NPPF maintains protections for the countryside and the Green Belt. He then stated that while Local Authorities have the right to carry out amendments to the Green Belt boundary in exceptional circumstances through the Local Plan process, this must be a decision they come to themselves. In cases where an Inspector has recommended a Green Belt review that is not supported by the local planning authority, the Secretary of State will consider intervening.
- 4.2.8 There is a particular emphasis on the short term target of meeting a five year housing supply. In their response to the Commons Select Committee relating to the Operation of the NPPF, the RTPI noted that in some circumstances this could be to the detriment of achieving sustainable development, supposedly the golden thread running through the planning system. For example, the identification of large strategic sites provides the opportunity to create

⁴⁵ Weymouth & Portland Draft Local Plan Pre-Submission Draft (June 2012) With Proposed Modifications (June 2013) Shown As Tracked Changes (June 2013)

⁴⁶ Harrogate District Sites and Policies Development Plan Document (November 2013)

⁴⁷ Waverley Core Strategy (August 2012)

⁴⁸ Letter dated 13th June 2013, para 20

⁴⁹ Submission version (2012)

⁵⁰ Letter dated 03 March 2014.

sustainable developments that provide a critical mass to support a range of services and sustainable transport infrastructure. Such developments are likely to have a long lead in time though, and may not be entirely delivered within the immediate five year period so not all the housing proposed within them can be fully counted in the five year supply. Additionally, some areas may still be recovering from the recent recession which drastically reduced the number of houses completed by developers. It may take a number of years before pre-recession levels of completions can be achieved regardless of how many sites a local planning authority allocates in its local plan. In such circumstance a flexible approach to housing trajectories could be taken.

- 4.2.9 More guidance should be provided on how constraints should be assessed, particularly in terms of the Green Belt, past under delivery, realistic and achievable build-out rates and environmental constraints, to help local planning authorities provide a justifiable and defensible position, and provide developers with some degree of certainty.
- 4.2.10 The focus on short term targets often favours smaller sites. For example, the Inspector for the Examination of the Amber Valley Local Plan⁵¹ recommended that in establishing a five year land supply, the Council should identify *“a larger number of suitable sites at a greater variety of locations rather than placing too much reliance on a smaller number of sites at fewer locations”*. This would seem to place too much reliance on one type of site and could potentially encourage small scale piecemeal development that may not contribute to the creation of sustainable places.
- 4.2.11 The opposite was said in correspondence between the Inspector and Castle Point Borough Council during examination into the subsequently withdrawn local plan⁵². Although dated May 2011 and predating publication of the NPPF the comments on land supply are still relevant. The Inspector said:
- “The reliance on a large number of small sites makes it difficult to ensure an adequate land supply can be maintained, particularly when a number of such sites are in multiple ownerships, currently occupied, or constrained in other ways, and where the evidence to demonstrate they are genuinely available is limited. In addition, the absence of a reasonable number of large sites is more likely to undermine the Council’s ability to deliver its objective to provide affordable housing.”*
- 4.2.12 It is necessary to demonstrate the availability of a variety of sites of differing sizes to allow for *“choice and competition in the market for land”*⁵³ which will facilitate the delivery of the five year housing supply target. However, in order to meet the objectives of sustainable development it would be encouraging if Councils actively pursuing large sustainable developments (often in partnership or cooperation with developers) with longer lead in periods were rewarded with some flexibility in the preparation of housing trajectories.
- 4.2.13 As noted previously, the five year housing supply is also expected to include an additional 5% buffer, rising to 20% if the council persistently demonstrates an undersupply of housing. This is intended to *“provide a realistic prospect of achieving the planned supply”*⁵⁴ and effectively provides a fall back so that if one allocated site cannot come forward within the immediate five year time frame there are other sites that could come forward and allow a council to meet its target. The buffer does not require local authorities to deliver 5% or 20% more homes within the five year period. However the application of the buffer, and particularly a 20% buffer, could make it more difficult for the local authority to demonstrate they have a sufficient supply of deliverable land. This could potentially expose them to challenge at appeal.
- 4.2.14 A key issue is that there is no definition of what is meant by a local planning authority having a record of “persistent under delivery” of housing. For example, in examining the Rother District Council local plan⁵⁵, the Inspector noted *“although new housing completions have been low in recent years I accept that this can be attributed to the effects of the economic recession and that, when regard is had to a longer time period, there is not a record of persistent under*

⁵¹ Amber Valley Local Plan Part 1 Core Strategy (December 2013)

⁵² As referenced in the Inspectors Report in the Appeal Relating to Land off Glebelands, Thundersley, Essex (APP/M15020/A/12/2177157, 2013)

⁵³ DCLG (2012), NPPF, para. 47

⁵⁴ *Ibid.*

⁵⁵ Rother District Council Submission Core Strategy (2013)

delivery⁵⁶. However the in the examination of the Amber Valley Local Plan, as the Council was found to have under-delivered in the period 2008-2014 the Inspector concluded that the deficit accrued in the period from 2011-2014⁵⁷ should be included in the five year supply, along with an additional 20% buffer.

- 4.2.15 It is acknowledged that whilst local plans allocate land, Councils do not necessarily develop sites. Instead, that role is for the wider development industry. So, it not Councils alone who may be seen to be 'under delivering' and instead there are a wide range of factors that may contribute to under delivery, but Councils can plan proactively, working with local communities and developers to help promote, shape and bring forward development⁵⁸.
- 4.2.16 However, in some parts of the country the introduction of 'moratoriums', or a reduction of the housing target for a specified period introduced in plan periods prior to adoption of the NPPF has caused some confusion as to how previous undersupply should be assessed. Indeed, paragraph 035 of the NPPG⁵⁹ states that *"the factors behind persistent under delivery may vary from place to place and, therefore, there can be no universally applicable test or definition of the term. It is legitimate to consider a range of issues, such as the effect of imposed housing moratoriums and the delivery rate before and after any such moratoriums."*

4.3 Considering the duty to cooperate

- 4.3.1 The duty to cooperate is a legal requirement established in the Localism Act 2011 for local planning authorities to engage constructively and effectively with relevant parties, including other local planning authorities, county councils and public bodies as part of the local plan making process.
- 4.3.2 Paragraph 11 of the NPPG relating to the duty to cooperate seeks to respond to the question *"what actions constitute effective cooperation under the duty to cooperate?"* There is no detailed guidance on what constitutes adequate communication; however it does note that the duty *"is unlikely to be met by an exchange of correspondence, conversations or consultations between authorities alone"*. It encourages the preparation of joint strategies or evidence base documents. However, as noted by the Inspector in the examination of the Aylesbury Vale District Council Local Plan⁶⁰, a Council independently preparing an evidence base that extends into neighbouring boroughs does not on its own provide evidence that a Council has failed to meet the duty to cooperate so long as the affected boroughs are properly consulted. However, in this case, it was concluded that the Council failed to comply with the duty to cooperate due to the limited engagement Aylesbury Vale carried out in the preparation of a SHMA that crossed over a number of authorities. Objections from the relevant neighbouring authorities demonstrated that they were not given adequate opportunity to contribute to the evidence base and did not feel directly involved in the preparation of the Plan. It was concluded that substantial changes would be required in order to update the plan fully following proper cross boundary co-ordination and so it was recommended the local plan be withdrawn on the grounds of failure to comply with the duty to cooperate.
- 4.3.3 The Inspector examining the Aylesbury Vale Local Plan noted that *"there are significant strategic housing issues which need to be effectively resolved as soon as possible through the plan making process following genuine co-operation and collaboration with other authorities... Whilst there are clearly benefits in having an adopted plan as soon as possible, these would not in themselves outweigh the need for that plan to be effective in respect of housing issues"*⁶¹.
- 4.3.4 The success of the duty to cooperate is not determined by the outcome of the process, as the NPPG relating to the duty makes clear that this is not a duty to agree, but that local planning

⁵⁶ Letter to Rother District Council dated 17th March 2014

⁵⁷ It was considered the SHMA provided a good base point for capturing housing need from 2011, and so the deficit between 2008-2011 would not need to be included.

⁵⁸ Useful guidance relating to the definition of proactive planning is provided on the Planning Advisory Service website (2013) (http://www.pas.gov.uk/decisions/-/journal_content/56/332612/15219/ARTICLE) and in the Farrell Review (2014) (<http://www.farrellreview.co.uk/explore/design-quality/2A.>)

⁵⁹ Housing and Economic Land Availability Assessments, DCLG, 2014

⁶⁰ Vale of Aylesbury Plan Strategy (2013)

⁶¹ Letter dated 7th January 2014

authorities should demonstrate every effort has been made to ensure cross boundary issues have been addressed and cooperated on. In preparing their local plan, the Inspector considered that Waverley Borough Council⁶² did not reach an agreement with neighbouring local planning authorities to off-set part of its housing requirement. Nevertheless, it did make reference to the ability for large developments nearby in neighbouring boroughs to contribute to meeting the borough's housing needs, which were objected to by the relevant local planning authorities on duty to cooperate grounds. The Inspector concluded that the Waverley had adequately demonstrated constructive and active communication and engagement with relevant authorities and so passed the duty to cooperate test. However, since the objections from neighbouring local planning authorities highlighted the fact that housing needs could not be offset by neighbouring boroughs, this contributed to the concerns over the ability for the Plan to meet housing needs. These cases highlight the need for effective strategic planning processes for plan making to be efficient and robust.

- 4.3.5 As noted in the previous section, the Cherwell Local Plan⁶³ was submitted in advance of the preparation of the Oxfordshire SHMA, which was a joint piece of evidence intended to inform the preparation of all the local plans in the housing market area, including Cherwell. In this case, the Inspector concluded that Cherwell had fulfilled the duty to cooperate as there was no compelling evidence to suggest otherwise. It is understandable that Cherwell District Council would want to have a local plan adopted as soon as possible, but their actions in submitting a local plan for examination while a vital part of the joint evidence base was being updated highlights difficulties with aligning plan-making with shared evidence gathering, and practice guidance should address this in order to avoid unnecessary frustrations in the plan process.
- 4.3.6 The cases noted above highlight issues over how effective a duty to cooperate, rather than a duty to agree, really is. The test for the duty to cooperate should be the outcome of discussions, rather than the fact conversations have been held. Accepting a stalemate where parties refuse to come to an agreement should not be an option, as it will result in cross boundary issues not being addressed and opens up uncertainty in the examination of plans which delays the process. Where issues cross administrative boundaries such as housing market areas local planning authorities should be encouraged to prepare joint plans covering strategic elements. Where this is not practicable, an alternative might be to set up a committee of representatives from relevant authorities who have signed a Memorandum of Understanding. This committee could then agree an appropriate method for assessing housing needs and allocate sufficient land to meet these needs within the housing market area. As an alternative, some form of objective intervention could be provided, such as mediation to facilitate discussions and set out recommendations for resolving differences in order to ensure strategic cross boundary issues are addressed in a sustainable manner.

⁶² Waverley Core Strategy (August 2012)

⁶³ Cherwell Submission Local Plan 2006-2031 (January 2014)

5 Decision making

This chapter considers the decision making process. It looks at appeals that have been determined in relation to proposals for housing development on greenfield sites since publication of the NPPF and includes eight case studies where different matters have been debated. The analysis shows that 88% of these appeals have been in locations where the Council was unable to demonstrate a five year supply of land for housing. 72% of these were allowed, demonstrating the weight attached to the five year supply. Despite this, the case studies draw attention to the wider interpretation of sustainability and the need to balance this with the delivery of new housing.

5.1 Introduction

- 5.1.1 CPRE is concerned over the rising proportion of applications allowed at appeal. Chapter 2 demonstrates that a number of national organisations share this concern, including the RTPi and TCPA, as it is undermining the plan-led system and conflicting with the spirit of localism.
- 5.1.2 There has been an increase in the proportion of appeals allowed relating to residential development since the publication of the NPPF⁶⁴, and there has been a particularly significant rise in the proportion of major housing proposals, from 40% to 54%⁶⁵.
- 5.1.3 The proportion of housing applications allowed at appeal, and in particular major residential applications of more than 10 units, has seen a significant increase since the publication of the NPPF⁶⁶. It is clear that the NPPF has had a significant impact on the outcome of appeal decisions. The policy that has had the most impact is the requirement for a five year housing supply, which is one of the most common reasons for approving applications at appeal, and which CPRE is concerned is outweighing all other policy considerations and of particular concern is the impact this is having on the loss of countryside.
- 5.1.4 The following sections present an analysis of the appeals relating to housing on greenfield land since the publication of the NPPF.

5.2 Quantitative analysis

- 5.2.1 Research carried out by CPRE has found that in the period since the publication of the NPPF in March 2012 to June 2014, 309 appeals for residential development on greenfield sites have been determined. The quantitative analysis undertaken on these appeals is presented in a series of infographics overleaf.
- 5.2.2 These 309 appeals account for 40,323 proposed residential units. This equates to around 20,000 units per year. In 2013, approximately 174,000 units were granted planning permission⁶⁷. A significant proportion of these are therefore being determined through appeal.
- 5.2.3 Of these appeals, nearly nine out of 10 (88%) were in locations where the Council was unable to demonstrate a five year housing supply. Of these, almost three quarters (72%) were allowed, which demonstrates the significant weight afforded to this policy.
- 5.2.4 The approval rate for appeals relating to greenfield residential sites in locations where the Council has been able to demonstrate a deliverable five year housing supply appears to be rising, with just 1 out of 10 in the first year post NPPF and 4 out of 22 in the second year of the NPPF (though this is of course still a very small proportion of the total). Just nineteen of the 309 appeals reviewed have been in places where the local authority has an up-to-date local plan, i.e.: adopted 2012 onwards. In more than half of these cases (ten) the Council were able to demonstrate a five year supply of land for housing.

⁶⁴ In the two years prior to the publication of the NPPF 37% of appeals relating to residential development were allowed compared to 42% in the two year post publication (Turley, 2014, p.1)

⁶⁵ In the two years prior and post publication of the NPPF respectively (Turley, 2014, p.1). Major residential developments comprise more than 10 units.

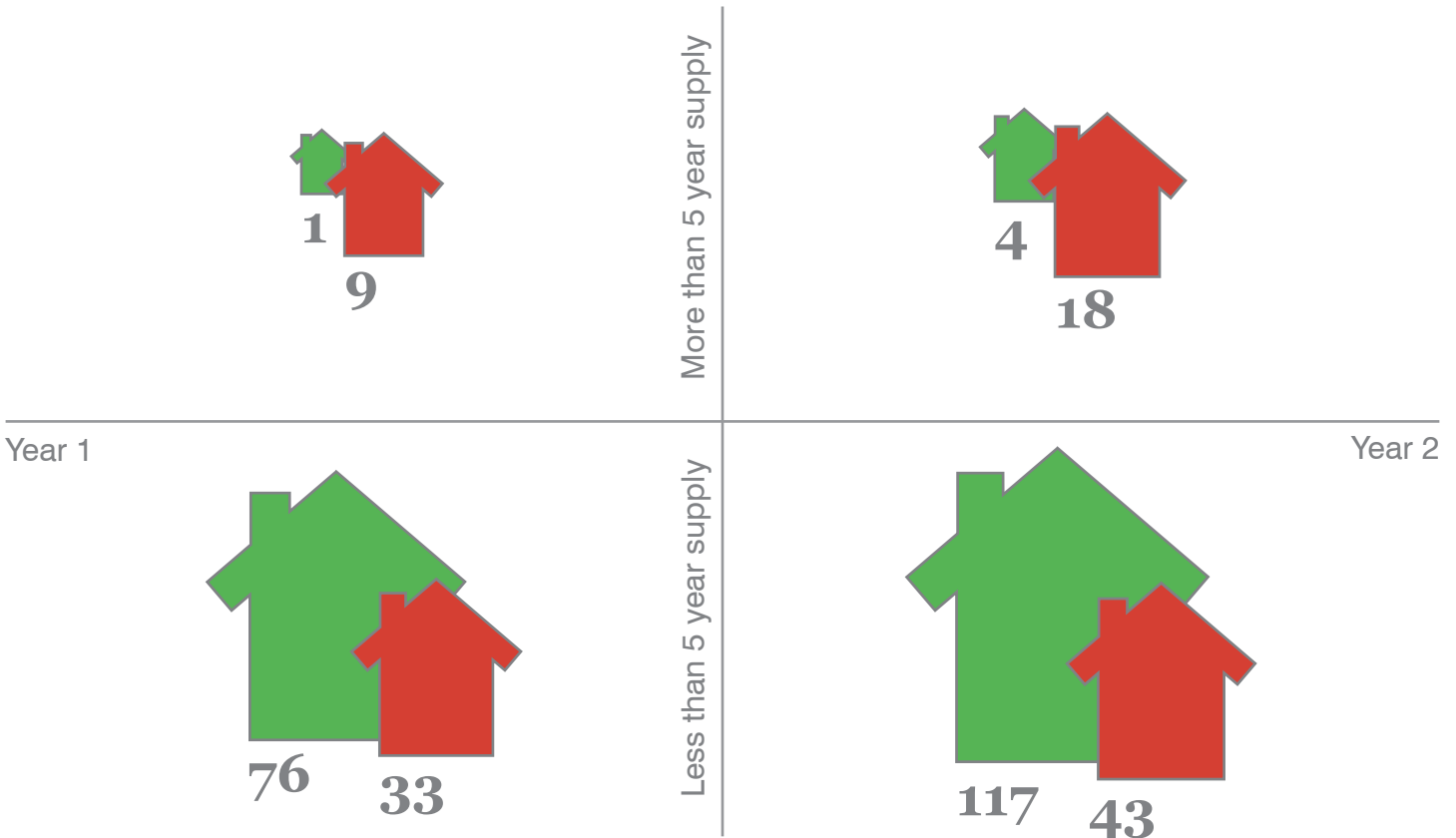
⁶⁶ See Turley, 2014, p.1

⁶⁷ Glenigan (on behalf of the Home Builders Federation), 2014

- 5.2.5 More than half of the appeals (162) involved cases where it is possible to determine whether a buffer figure had been applied to the five year supply. In appeals where a buffer was applied, the majority of these (64%, or 103 of the 162) applied a 20% buffer to the five year supply figure. This suggests that in these cases, the Local Authority had demonstrated a record of 'persistent under delivery' in the terms set by the NPPF. It is worth noting that 26% of appeals were dismissed in areas where a 20% buffer has been applied but an local planning authority has not been able to demonstrate a five year housing supply, which indicates that other policies and issues are being taken into account when considering appeals.
- 5.2.6 The Secretary of State recovered 15% of the appeals, with twice as many recovered in year two post NPPF than year one, at 31 compared to 17 respectively. The Secretary of State overturned 13% of Inspectors' decisions, all of which were in locations where a Council has been unable to demonstrate a five year housing supply. However, there has not been a consistent approach to these overturned decisions, with the Secretary of State approving 50% and dismissing 50%.
- 5.2.7 The quantitative analysis shows that the majority of appeals where there is no five year housing supply are being allowed, although there does not appear to be a consistent approach to appeal or inquiry decisions. Approximately a third of applications within locations where the Council cannot demonstrate a five year housing supply have been dismissed and almost a fifth of applications in areas where the Council can demonstrate a five year housing supply have been approved⁶⁸. Applications are considered on a case by case basis and it is clear that a wide range of issues will be taken into account in the decision making. In order to get a better understanding of some of the issues affecting the outcome of appeals the following section presents eight case studies demonstrating points of interest from the quantitative analysis.

⁶⁸ See Table 3, Appendix A

Decisions by year of NPPF



 Allowed  Dismissed

Most appeals have taken place where the council is unable to demonstrate a five year supply. This graph shows the number of appeals allowed and dismissed in both years of the NPPF where housing supply is known or was an issue.

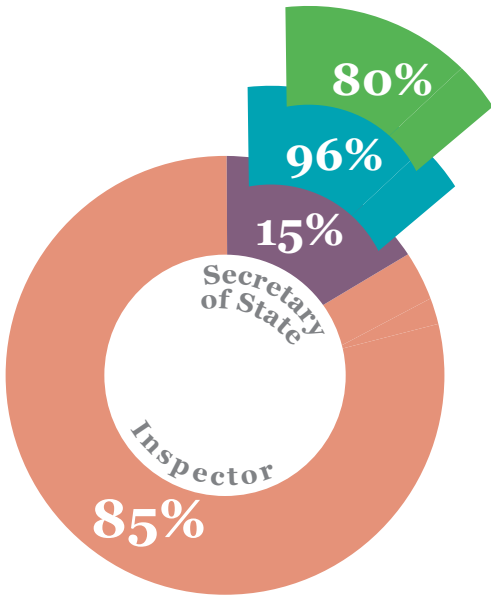
Five year land supply



72%

Of those appeals where the council could not demonstrate a five year supply, 72% were allowed.

Decisions made by the Secretary of State



15% of all appeals (48 in total) have been recovered by the Secretary of State.

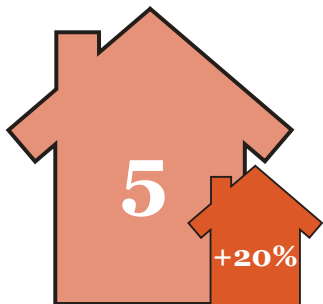
96% of these (46 in total) have been cases where the council could not demonstrate a five year supply.

80% of these (37 in total) have been allowed.



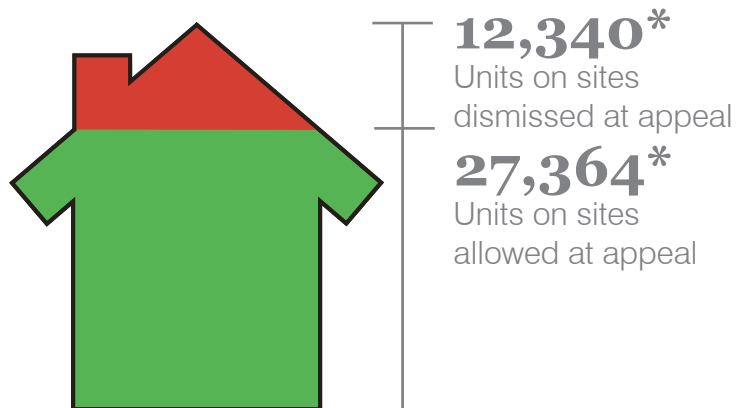
The Secretary of State has overturned the inspectors recommendations in six cases. In three instances he allowed the appeal, and in three instances he dismissed the appeal.

Housing supply buffer



In 103 appeals a 20% buffer was applied to the five year supply.

Housing units on site at appeal



40,323

Units on sites subject to planning appeal

**(Also 349 units on two sites at appeal which were split and part allowed, part dismissed)*

5.3 Case studies

5.3.1 Appeals are assessed by the Planning Inspectorate on a case by case basis, and while the NPPF provides a framework for considering these, there will be numerous local issues that will impact on the decision making process. In this section we look at eight case studies to understand how the relevant decisions have been made.

5.3.2 The case studies selected from the list of 309 referred to above reflect a variety of circumstances, as summarized in Table 1. The case studies have purposely been selected as they do not represent typical examples, and they are not intended to be representative. Case studies 1-4 look at appeals that have been dismissed despite the Council having less than five years housing supply, and in the case of 1 and 3 have an out of date development plan. These case studies also represent different approaches to buffers being applied to housing supply, Case Study 2 has a 5% buffer, Case Study 3 has a 20% buffer and Case Study 4 did not have an adequate supply before the application of a buffer. Case study 5 is an appeal that was allowed on an unallocated site, despite the Council having a demonstrable five year housing supply and a Local Plan adopted post-publication of the NPPF. Case Studies 6 and 7 are both appeals that were recovered by the Secretary of State and subsequently dismissed, despite the Council having less than five year housing land supply. Case Study 6 demonstrates a case where the Secretary of State agreed with the Inspector's recommendation, while Case Study 7 demonstrates a case where the Secretary of State overturned the Inspector's recommendation. Finally Case Study 8 demonstrates the most common appeal outcome, where it has been allowed in light of the fact the Council did not have a five year housing supply.

Table 1: Summary of selected case studies

	Summary	Location	Number of units proposed	NPPF Year 1 or 2	Years housing land supply	Year Local Plan adopted
1	Appeal dismissed despite the Council having less than five year housing land supply and an out-of-date development plan.	Craven, Yorkshire	53	2	Less than 5	1999
2	Appeal dismissed despite the Council having less than five year housing land supply (including a 5% buffer). The Council did however have an NPPF complaint local plan.	Luton, East of England	217	2	2.22 (or less)	2006
3	Appeal dismissed despite the Council having less than five years housing land supply (including a 20% buffer) and an out of date development plan.	Chichester, South East	100	2	4	1999
4	Appeal dismissed despite the Council having less than five years housing supply (even before the application of a buffer).	Herefordshire, West Midlands	14	2	4.6	2007

	Summary	Location	Number of units proposed	NPPF Year 1 or 2	Years housing land supply	Year Local Plan adopted
5	Appeal allowed on an unallocated site despite the council having a 5.56 year housing supply (including 20% buffer) and a local plan adopted post publication of the NPPF.	Blaby, East Midlands	150	2	5.56	2013
6	An appeal recovered by the Secretary of State that was dismissed despite the Council having less than five year housing land supply and an out of date development plan. The decision was in line with the Inspector's recommendation.	North West Leicestershire, East Midlands	1420	1	Less than 5	2002
7	An appeal recovered by the Secretary of State that was dismissed despite the Council having less than five year housing land supply and an out of date development plan. The decision went against the Inspector's recommendation.	Castle Point, East of England	165	1 and 2 ⁶⁹	0.7	1998
8	Appeal allowed where the Council demonstrated less than five year housing land supply and had an out of date development plan.	Wiltshire, South West	154	1	Less than 5	2006

5.3.3 The case studies provide a number of learning points. Perhaps the most significant issue raised is that the simplification of policy in the NPPF and the lack of detailed guidance on its application have left the implementation of the framework open to a wide degree of interpretation. This in turn has resulted in the lack of a consistent approach and creates uncertainty, which is the antithesis of the Government's intentions in its overhaul of the planning system. A summary of some of the key messages is presented below.

5.3.4 Appeals are often decided based on weighing up the benefits and adverse impacts of a scheme, which can often be based on subjective opinions resulting in different interpretations. For example, the planning officers in Craven District Council originally recommended granting planning permission on the basis that the Council did not have a five year housing supply, and the contribution towards meeting housing needs was considered to outweigh the adverse impacts of the proposal. The recommendation was overturned at Planning Committee, and the application was refused. At the subsequent appeal, the Inspector agreed with the members and dismissed the appeal. While the Inspector acknowledged that in order to meet

⁶⁹ Inspector's report issued in year 1 and Secretary of State's decision issued in year 2.

- the local shortfall in housing supply the Council would need to release greenfield sites for development, he noted that not all such sites would be appropriate for development. The appeal was dismissed due to unacceptable impacts on the identity of neighbouring settlements and the role and function of the designated Green Wedge. For further information see Case Study 1.
- 5.3.5 Similarly, in the recovered appeal relating to development on the Green Belt in Castle Point, the Secretary of State disagreed with the inquiry Inspector's conclusions relating to the impact of the development. The Inspector recommended the application be approved as he believed that the proposal would result in limited harmful impacts on the Green Belt and considered the benefits of the scheme in contributing to a housing land shortfall in the area would outweigh any adverse impacts on the Green Belt. However, while the Secretary of State agreed with the issues identified by the Inspector associated with the impact on the Green Belt, he believed they would result in a moderate adverse impact on the Green Belt, and that in his view the benefits would not outweigh this harm and so he refused the appeal. For further information see Case Study 7.
- 5.3.6 The NPPF states that there is a presumption in favour of sustainable development (para 14) and that development that is sustainable should be approved without delay (para 15). Paragraph 49 emphasises these points with regard to applications relating to housing development, stating: "*Housing applications should be considered in the context of the presumption in favour of sustainable development.*"
- 5.3.7 However the meaning of sustainable development is open to wide interpretation. In considering an appeal relating to residential development in a designated Green Wedge in North West Leicestershire (see case study 6) the Inspector noted that there is no simple answer in considering whether or not a development is sustainable. In this particular case the Inspector concluded that the proposal had a number of benefits that could be considered sustainable, including good access to services but, in light of the impact on the Green Wedge, it was considered that, on balance, the development could not be viewed as being sustainable.
- 5.3.8 It is recognised in a number of the appeal case studies that good design is intrinsically linked to sustainability. Poor quality design has resulted in the dismissal of appeals in Luton (see case study 2), Chichester (see case study 3) and Herefordshire (see case study 4), despite the principle of the development of the site being agreed. This represents a broader definition of sustainability than is normally used. A typical response appears to just consider sustainability in terms of environmental issues or transport choices. For example, in the case of Herefordshire, planning officers had recommended the application for approval as they had considered the proposal represented a sustainable development as the location promoted sustainable transport modes, but they did not consider the role of design in contributing to sustainability. The application was subsequently refused at Committee and the appeal was eventually dismissed. The publication of the NPPF led to the cancellation of a whole raft of detailed design guidance, which provided local planning authorities with the guidance and confidence necessary to refuse applications on design grounds. In light of the strong emphasis on the need for good design in the NPPF, and through discussion of these matters at appeal, it would be beneficial to provide updated detailed national design guidance.
- 5.3.9 From the quantitative analysis it is clear that in making appeal decisions the obligation for local planning authorities to significantly boost the supply of housing and the presumption in favour of "sustainable development" can outweigh wider policy considerations. For example, an appeal on a site in Blaby was allowed on an unallocated greenfield site in the countryside as it was considered to represent a sustainable development, despite the fact the Council had a recently adopted local plan and more than five years housing land supply including a 20% buffer (see case study 5).
- 5.3.10 At an appeal in Wiltshire (see case study 8) the Inspector also resolved to approve an appeal relating to the provision of housing in the open countryside, despite local policy resisting such development. Here the Council did not have a five year housing land supply, and it was considered that the proposal represented a sustainable development and would make a significant contribution to meeting housing needs.
- 5.3.11 The lack of guidance is also creating the potential for other matters to be challenged at appeal. Housing trajectories established by councils were challenged in three of the appeal

case studies (Castle Point, Blaby and Chichester). In each case the Inspector, at least in part, took on the recommendations of the appellant, in the absence of any evidence to the contrary, and reduced the housing trajectory figure due to issues of lead in time and viability. Such challenges expose the Council to losses at appeal and the provision of developments that do not align with their strategic vision. There is a need for greater clarity on calculating housing trajectories to ensure a consistent and robust approach that provides further certainty for local planning authorities. Furthermore, there is a need for a greater understanding of the progress of developers with planning permission and for local authorities to increase their knowledge base relating to realistic build out rates.

CASE STUDY 1: Focus of the case study

Craven District Council has an out of date local plan, dating from 1999, and is unable to demonstrate a deliverable five year housing supply. Despite this, an outline application for 53 homes was dismissed at appeal in the second year post publication of the NPPF. The Inspector concluded that the Council's policies cited in the decision notice were out of date, and assessed the application solely using the NPPF. He considered that the adverse impacts of the proposal outweighed the benefits when assessed against the policies of the NPPF as a whole. Specifically he considered the impacts of the development on the character and identity of the adjoining settlements and the character and appearance of the area as a whole outweighed the benefits this development would have in terms of contribution to local housing supply.

Summary messages

- In using the NPPF to assess planning appeals, policy relating to five year housing supply should not be the only consideration.
- The NPPF enforces the importance of the environmental role of planning, including the role in enhancing the natural environment and the need for good design.
- While it is acknowledged that in some locations, such as the adjoining settlements in this case, there will be a requirement to look beyond the existing settlement boundary in order to meet housing needs, it does not mean that all such sites will be suitable.

Key information

Appeal site	Land to the west of Holme Lane, Sutton in Craven, North Yorkshire
Summary of proposal	Outline planning application for 53 dwellings
Local authority	Craven
Appeal reference	APP/C2708/A/12/2187311
Weblink	http://bit.do/Jj9R
Appeal decision	Dismissed
Date of appeal decision	26/06/2013 (NPPF year 2)
Nature of appeal	Hearing
Year's supply of land	Less than five
Date of Local Plan	Local plan adopted 1999 (pre-2004 legislation)

Discussion

On 22nd November 2011 Barratt and David Wilson Homes submitted an outline application for 53 homes, with appearance and scale reserved, outside of the settlement boundary on an identified Green Wedge separating the settlements of Sutton in Craven and Glusburn. Following almost a year in the decision making process, Craven District Council refused planning permission on 1st November 2012.

Despite the planning officers recommending to approve planning permission, the Planning Committee resolved to refuse planning permission on the grounds that it was contrary to the saved policies of the 1999 local plan, and particularly the objectives of the Green Wedge. In consideration of the NPPF, the Committee resolved that the negative impacts of the development on the Green Wedge would significantly outweigh the benefits of the proposal.

The Appellants submitted an appeal under section 78 of the Town and Country Planning Act 1990 against the refusal to grant planning permission on the grounds that:

- The planning officers originally recommended to grant planning permission, subject to a S106 agreement.
- The District council does not have a five year housing supply.
- The local plan is out of date and the emerging policies have no weight in planning decisions.
- The adjoining villages of Sutton in Craven and Glusburn already coalesce.
- There are no outstanding technical objections to the proposal from statutory consultees.
- The development will result in opening up this currently inaccessible site and provide public access and recreational value.
- The visual impact will only have a localised impact and will be mitigated by landscaping.

The appeal was dismissed by the Inspector on 26th June 2013. The Inspector agreed that the local plan policies were out of date and so the application should be only assessed against the NPPF. The Inspector noted that the NPPF makes clear that planning not only has a social and economic role, but also has an environmental role, and stated:

“To achieve sustainable development, the economic, social and environmental roles of the planning system should not be undertaken in isolation, as they are mutually dependent” (para 10 of the Appeal Decision).

With regard to impacts on the environment, the Inspector referred to Paragraph 17 of the NPPF relating to *“the need to take account of the different roles and character of different areas, recognise the intrinsic character and beauty of the countryside and to conserve and enhance the natural environment”* and Section 7 of the NPPF relating to good design⁷⁰.

The Inspector considered that the Green Wedge had an important role in providing a distinct separation of the two settlements. While it was acknowledged the development would include a narrow strip of undeveloped land to retain part of the separation of the settlements, the Inspector considered the overall reduction in the openness of the site and the erosion of the gap between settlements would have an unacceptable impact on the individual character and identity of the settlements and have an adverse impact on the overall character and appearance of the area.

In considering the advantages and disadvantages of the proposal the Inspector gave considerable weight to the contribution the development would make to meeting housing needs in the area and addressing the shortfall in the five year housing supply. He acknowledged that in this area, in order to meet housing needs it is likely to be necessary to develop greenfield sites outside of the defined settlement boundary, but he highlighted that not all greenfield sites would be suitable for development. In this case the Inspector concluded that the adverse impacts the proposal would have on the character and appearance of the area and the individual identity of the settlements would outweigh any benefits.

⁷⁰ Para. 11 of the Appeal Decision

Signposting

Other cases where the appeal has been dismissed, despite the lack of a five year supply of housing and the Council having an out-of date local plan (in these instances, adopted pre-2000), include:

OS parcel 4100 adjoining and to the south of Milton Road, Adderbury, Oxon:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2168102&coid=2167076>

Land to the South of Boughton Road, Moulton, Northamptonshire:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2202009&coid=6401>

CASE STUDY 2: Focus of the case study

An appeal relating to an outline application for 217 residential units within Luton Borough Council was dismissed in February 2013. The Local Authority had less than half of the five year housing supply (including a 5% buffer), however the Inspector concluded that the substantial harm afforded by the development on the character and appearance of the area, combined with the significant strain on education and waste management would outweigh any benefits of the scheme in contributing to local housing need.

Summary messages

- An existing precedent for development on a site should not result in the acceptance of any future proposal.
- The NPPF makes clear that good design is indivisible from good planning and is a key aspect of sustainable development.
- Developments should contribute positively to making places better for people. In order to make a development acceptable, inappropriate strains on public and community infrastructure should be adequately mitigated.

Key information

Appeal site	Newlands Road, Luton, Bedfordshire
Summary of proposals	Outline application for 217 flats in 3,4 &5 storey blocks plus 13 houses
Local authority	Luton
Appeal reference	APP/B0230/A/12/2184128
Weblink	http://bit.do/Jkc4
Appeal decision	Dismissed
Date of appeal decision	08/08/2013 (NPPF year 2)
Nature of appeal	Public Inquiry
Year's supply of land	Less than five years (2.22 years), with 5% buffer applied
Date of Local Plan	Local plan adopted 2006 in accordance with 2004 legislation

Discussion

On 2nd February 2012, Templeview Developments submitted an outline application for the development of 217 residential units on a largely undeveloped site, apart from a pair of semi-detached cottages and ancillary buildings. The site had no designations and benefitted from an extant planning permission on part of the site for the development of a bowling alley with associated parking.

Luton Borough Council refused the application on 5th July 2012. There were three reasons for refusal, as follows:

- Consideration that the proposal represented an over-intensive form of development that would be inappropriate to its context and would not be able to adequately integrate into or

complement its surroundings.

- Insufficient commuted sum payment offered to contribute to off-site affordable housing.
- Unacceptable financial contributions towards the provision of educational facilities and waste management, which would mean the impacts of the development on these services, would not be satisfactorily mitigated.

Templeview Developments subsequently submitted an appeal against the Council's decision and an inquiry opened on 19th February 2013. It was agreed at the start of the Inquiry that the Council were not opposed to the principle of residential development on the site, but rather were opposed to the design and impacts on character of the area, the inadequate financial contributions and the consideration that the harm caused outweighed any potential benefits of the development.

The Inspector gave weight to relevant existing adopted local planning policy, despite the local plan being adopted in 2006. She stated that as the policies were in general conformity with the NPPF, they continue to carry full weight. Even in the absence of a five year housing supply she continued to give Policy H2 of the local plan weight, despite the fact this related to the provision of housing, as she believed Policy H2 supported housing development subject to a number of conditions, such as impact on environment, which conformed with the thrust of the NPPF.

The Inspector agreed with the Council that the proposed development, which would comprise buildings of three to five storeys in height, would represent overdevelopment and would not provide an appropriate response to its setting. The site has extensive frontage on to the Stockwood Country Park, and the Inspector noted that the large scale development would be inappropriately intrusive on the rural feel and open nature of the Country Park.

With regard to the financial contributions, the Inspector sided with the appellant in relation to the affordable housing provision, noting that the viability assessment did not allow for a the provision of affordable housing on-site or an equivalent financial contribution. However, she concluded that the payments required by the council to mitigate impacts on education and waste management was justified and by not paying this the development would place undue strain on the existing services which would be in conflict with the NPPF and relevant local plan policies.

The Inspector adopted the appellant's position that there was a significant shortfall of housing land in the area. In consideration of Paragraph 14 of the NPPF, she concluded that the adverse impacts of the development, with regard to impact on character and appearance of the area and strains on education and waste management services, would outweigh any benefits of the development on housing supply and short term employment opportunities. In light of this evidence, the appeal was dismissed.

Signposting

Other cases where the appeal was dismissed, despite the Council having less than five years' supply of land for housing (including a 5% buffer), but where the local plan was adopted in accordance with the 2004 regulations, include:

Land at Fowler's Park, Hawkhurst, Kent:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2198919&coid=34179>

Land to the rear of Wincanton Community Hospital, Dancing Lane, Wincanton:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2170082&coid=2102432>

CASE STUDY 3: Focus of the case study

Chichester District Council has an out of date local plan, a record of 'persistent under-delivery' of housing within the terms set by the NPPF, and less than five years demonstrable housing land supply (including a 20% buffer). However, in January 2014 an appeal relating to the development of 100 dwellings was dismissed due to poor quality design and layout, inappropriate distribution of tenures and failure to adequately meet housing needs. The Inspector gave weight to existing adopted policy, emerging policy and the NPPF in considering the application.

Summary messages

- The greater the level of consultation on emerging or informal policies, the greater weight that should be applied to them.
- The NPPF requirement for a five year housing supply will outweigh arguments relating to prematurity where local plans are at a formative stage, unless the development is considered to prejudice proper planning.
- The design of developments should contribute to meeting local housing needs and facilitate the creation of inclusive communities.

Key information

Appeal site	Land North West of Park Road, Selsey, West Sussex
Summary of proposals	Planning application for 100 dwellings
Local authority	Chichester
Appeal reference	APP/L3815/A/13/2202575
Weblink	http://bit.do/JkeR
Appeal decision	Dismissed
Date of appeal decision	21/02/2014 (NPPF year 2)
Nature of appeal	Hearing
Year's supply of land	Less than five years (4 years), with 20% buffer applied
Date of Local Plan	Local plan adopted 1999, pre-2004 legislation

Discussion

Pye Homes Limited submitted a full planning application to Chichester District Council for 100 homes, along with associated landscaping and infrastructure, on 12th April 2013. The site comprised almost 7 hectares of undeveloped land located adjacent to the existing settlement boundary of Selsey and within the Selsey-Pagham strategic gap, where development is only allowed in exceptional circumstances under the saved policies of the 1999 local plan.

The application was refused on 15th July 2013 for the following reasons:

- Unacceptable housing mix biased towards large detached dwellings that does not meet local needs identified in the SHMA.

- The number of new dwellings exceeds the recommended number for Selsey set out in the *Interim Policy Statement on Housing – Facilitating Appropriate Development (FAD)*.
- The development would be very low density, which would be contrary to policy requiring efficient use of land.
- Unacceptable housing layout, concentrating all affordable housing on one part of the site.
- Failure to provide adequate mitigation for Pagham Harbour (an SPA/ SSI/ RAMSAR site).
- Inadequate infrastructure provision.

The applicant submitted an appeal against the refusal on 18th September 2013. Prior to the Informal Hearing a S106 Agreement was drawn up and agreed by all parties which included adequate mitigation measures relating to Pagham Harbour and infrastructure requirements, therefore the Council removed these reasons for refusal. In light of this, the Inspector considered the application with regard to the scale of the proposed development, the standard of layout and design and the mix of dwellings and contribution towards meeting local needs.

With regard to scale, the Inspector noted that the FAD stated extensions of no more than 50 units would be acceptable in Selsey, however he concluded that the FAD could only be assigned limited weight as it was an informal policy that had not been subject to public consultation. A Selsey Neighbourhood Plan was also in production at the time of examination. However this was only at a draft stage and while it had been subject to a period of consultation, which demonstrated the appeal site was the least favoured housing site candidate, these responses had not yet been integrated in the Plan. As a further stage of consultation would be required prior to submission for examination and subsequent referendum, the Inspector considered this should only be given limited weight. He considered the emerging Chichester Local Plan carried more weight in light of its advanced stage of preparation, being at submission draft at the time of the appeal. This document promoted extensions providing up to 150 homes in Selsey with site allocations being made through the Neighbourhood plan process. As no site allocations had been formally made, the Inspector concluded the development would accord with this policy. Due to the formative stage of the Neighbourhood Plan, and as the Inspector did not consider the application would undermine the plan making process for the area, he agreed with the principle of the scale of development proposed.

However, with regard to the design, layout and distribution of housing, the Inspector agreed with the Council that the proposal would concentrate poor quality, affordable housing in one part of the site, which would risk creating two distinct communities and would conflict with the NPPF's objectives for achieving high quality design, facilitating social integration and creating inclusive communities. Furthermore, the Inspector gave some weight to the SHMA in considering the contribution of the proposed housing mix to local needs and found that the proposed high proportion of large dwellings would conflict with the findings of the SHMA which found a need for further smaller homes to meet the needs for younger households.

In summary, while the Inspector agreed with the principles of the location and scale of development, he found that the adverse impacts of permitting a low quality scheme that failed to meet local housing needs would outweigh the benefits of contributing to meeting the five year housing supply.

Signposting

Other cases where the appeal was dismissed, despite the Council having less than five years' supply of land (including a 20% buffer) and an adopted local plan prepared in advance of the 2004 regulations, include:

Land at The Woodgate Centre, Woodgate Road, Westergate, West Sussex:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2163208&coid=512>

Land off Stockwell Way, Milton Malsor, Northampton:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2188768&coid=2097408>

CASE STUDY 4: Focus of the case study

An appeal relating to the development of 14 housing units in Herefordshire was dismissed in November 2013. Herefordshire Council had less than five years supply of housing land even before the application of a buffer and the site was considered a sustainable location for development. However the appeal was dismissed due to the impact on the appearance and character of the local setting and the wider context of the Area of Outstanding Natural Beauty it sits within.

Summary messages

- Proposals on greenfield sites that are potentially considered acceptable for development should still demonstrate high quality design that is influenced by the character and identity of its surroundings.
- Planning officers should have greater confidence in the ability to defend refusals at appeal on the grounds of design, creating a sense of place and impact on the character and appearance of the surrounding area.
- Design considerations should be given adequate weight in weighing up the harmful impacts of a development against the benefits.

Key information

Appeal site	Land south of Greytrees Road, Greytrees, Ross-on-Wye, Herefordshire
Summary of proposals	Planning application for 14 semi-detached and detached dwellings
Local authority	Herefordshire
Appeal reference	APP/W1850/A/13/2200142
Weblink	http://bit.do/Jkgw
Appeal decision	Dismissed
Date of appeal decision	01/11/2013 (NPPF year 2)
Nature of appeal	Hearing
Year's supply of land	Less than five years (4.6 years). No buffer applied because the supply of land would still be below five years
Date of Local Plan	Local plan adopted 2007, in accordance with 2004 legislation

Discussion

K.W. Bell Group Ltd. Submitted an application to Herefordshire Council on 8th January 2014 for full planning permission for 14 dwellings on an undeveloped, elevated site within the defined settlement boundary of Greytrees and in a residential setting. Despite the planning officers recommending the development for approval, the application was refused at committee and a decision notice was issued on 15th May 2013.

The officers recommended the application for approval in light of the lack of a demonstrable five year housing supply and as they considered the site represented a sustainable location, having good access to existing services and facilities by sustainable modes of transport. However, the committee

voted to refuse the application on the grounds of design. The applicant subsequently made an appeal against the decision.

At appeal, in addition to the Council's concern over the design, the Inspector considered the impacts of the proposal on the amenity of residential properties and highways, which were raised by the local community.

The Inspector noted that the 2007 adopted Unitary Development Plan (UDP) policies relating to housing supply and delivery should be considered out of date due to the inability to demonstrate a five year housing supply in line with the NPPF. However, she agreed that the policies relating to design, landscape, protection of open space and relevant to the AONB are generally consistent with the NPPF and so should be given weight in considering the application.

In terms of the principle of the development, the Inspector acknowledged that as the site lies within the settlement boundary, has no specific designation for protection and has not been recognised as having any particular landscape sensitivity, it is appropriate for development. While, the Inspector admitted that the officer's Committee Report did not express objections to the design of the proposal, she stated that she agreed with the case presented by the officers at the hearing, relating to:

- Inadequate landscaping to mitigate the visual impact of the development.
- Unimaginative response to layout which does not make the most of the topography.
- Monolithic design, within an area characterised by a diversity of development.
- Use of standard house designs would not create a sense of place.

Overall she considered that the design did not achieve the high standards that are promoted in the NPPF and would be expected on such a prominent site. While it was recognised that Greytrees was not an architecturally distinguished settlement, it was considered that the poor design would have a negative impact on the streetscape and would fail to take advantage of improving the character and quality of the area, particularly in views beyond Greytrees from the wider AONB.

Regarding neighbouring amenity, while the Inspector agreed with the appellant in that the proposal would not have any significant impacts on neighbouring privacy she noted that one of the plots would have an overbearing shadow on the garden, conservatory and part of the photovoltaic panels on the neighbouring Belle Vue property, which contributed to the unacceptability of the schemes layout.

With regard to highways, the Inspector noted the concerns raised by residents with regard to impact on local parking and highways safety, however she concluded that as no objections had been raised by the highways authority this was not a reason for refusal.

In summary, the Inspector considered the negative impacts of the design and layout of the development would outweigh any benefits of the proposal.

Signposting

Other cases where the appeal was dismissed, despite the lack of a five year supply of housing, and where a buffer was not applied to the calculation, include:

Land at Hunting Butts Farm, Swindon Lane, Cheltenham, Gloucestershire:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2164597&coid=65856>

Land to the West of Idstone Road, Ashbury:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2200819&coid=32931>

CASE STUDY 5: Focus of the case study

Blaby District Council adopted its local plan in February 2013 and has more than five years demonstrable housing supply, including a 20% buffer. Despite this, an appeal relating to an outline application for the development of up to 150 dwellings on a greenfield site that was not formally allocated in the Development Plan was permitted at appeal due to the consideration that it represented a sustainable location.

Summary messages

- The thrust for increasing housing supply in the NPPF can be interpreted as having precedence over local policy conflicts.
- Disputes over delivery rates of large housing sites with significant lead in time can expose five year housing supply targets to dispute at appeal without proper monitoring of development progress.
- The Council must prepare satisfactory evidence to defend decisions to refuse planning applications where it is considered the harm outweighs the benefits of providing residential development.

Key information

Appeal site	Land east of Springwell Lane, Whetstone, Leicestershire and Land off Countesthorpe Road
Summary of proposals	Planning application for 150 dwellings
Local authority	Blaby
Appeal reference	APP/T2405/A/13/2193758
Weblink	http://bit.do/Jkh9
Appeal decision	Allowed
Date of appeal decision	01/08/2013 (NPPF year 2)
Nature of appeal	Hearing
Year's supply of land	More than five years (5.56 years), with 20% buffer applied
Date of Local Plan	Local plan adopted 2013, in accordance with 2004 legislation

Discussion

David Wilson Homes submitted an outline application with all matters reserved for up to 150 dwellings (equating to approximately 30 dwellings per hectare) to Blaby District Council on 22nd November 2012. The application site is located on the edge of Whetstone, and sits within the area designated as countryside where proposals will only be permitted where they can demonstrate that they will not have a significantly adverse impact on the appearance or character of the landscape. This policy had resulted in previous applications and subsequent appeals on the site being refused.

The applicant resolved to appeal on the grounds of non-determination, as the applications were not decided within the prescribed time frame. Following the submission of the appeal the application was considered at committee in March 2013, and the Council resolved that it would have refused planning permission on the grounds that *“the residential development of this Greenfield site located within countryside (and its associated construction access road) would cause significant harm to the character and appearance of the landscape and thus would be contrary to... the Blaby District Local Plan (1999) and... the Blaby District Local Plan (Core Strategy) Development Plan Document (Adopted February 2013)”*.

The Inspector set out the main issues for consideration of the application related to whether a five year housing supply had been demonstrated and the effect of the development on the character and appearance of the countryside.

While the Council’s housing trajectory demonstrated a 6.2 year housing supply, including a 20% buffer and excluding the consideration of windfall sites, this position was challenged by the appellant. Firstly, the appellant suggested that the housing trajectory relating to the delivery of the Sustainable Urban Extension was incorrect, and in light of the lead in time required to provide the necessary infrastructure in order to release this site, it would be more realistic to assume that just 650 homes would be delivered on this site within five years, as opposed to 1,000 stated by the Council. The Inspector agreed with this argument and states that on this basis the deliverable housing supply was reduced to 5.56 years (including a 20% buffer).

The appellant attempted to further reduce the deliverable land supply by stating that the previous shortfall in housing delivery should be included in consideration of the five year housing land supply, in line with the ‘Sedgefield approach’⁷¹. However, in light of the recent adoption of the local plan, the Inspector considered it would not be appropriate to take a different approach to housing supply than that outlined in the Examination Inspector’s Report. Therefore the Inspector considered that the Council satisfactorily demonstrated more than five year deliverable housing supply.

With regard to the impact of the development on the character and appearance of the countryside, the appellant had produced a Landscape and Visual Appraisal demonstrating that the proposal would not result in any significant impacts. However, it was noted by the Inspector that the Council had not carried out a similar appraisal to defend its position. The Inspector concluded that the proposed landscaping would satisfactorily mitigate the visual impacts of the development.

The Inspector also considered the wider benefits of the proposal. He noted that it represented a sustainable location, being easily accessible to a range of facilities in Whetstone. The SHMA indicates that there is a shortage in delivery in affordable housing in the area, which the proposal would make a significant contribution to as it included 25% affordable housing. The implementation of the proposal would result in exceeding the minimum annual housing target for Whetstone by 30%. The Inspector stated this would not be excessive given the sustainable location and, given the previous shortfall, would contribute to significantly boosting the supply of housing in line with the objectives of the NPPF.

The Inspector also noted a number of concerns raised by local communities. Firstly the impact on wildlife, which had been included as a reason for refusal at a previous appeal. However, as the applicants had addressed this issue in an ecological report and since neither the Council nor Natural England had raised this as a concern, the Inspector concluded the issue had been satisfactorily addressed. Secondly the community had concerns over the loss of agricultural land, however the Inspector noted that there had been no evidence to show the importance of the land for agriculture he could not give this issue any weight. Finally, the community raised the issue of flood risk. While it was noted that some areas would be liable to flooding, the Inspector again noted that as he had not been

⁷¹ See Section 6 of this report for a definition of the Sedgefield approach.

given substantive evidence relating to potential harm from flood risk, he could not use this as a reason for refusal. Furthermore, as the issue had not been raised by the Council and the Environment Agency had not objected, he assumed the issue had been satisfactorily addressed.

In summary, the Inspector considered the proposals would not result in any impacts on the character and landscape of the area, and, since the benefits of the scheme would outweigh any harm as a result of the loss of countryside, the application should be allowed.

Signposting

Other cases where the appeal was allowed despite the Council having a five-year supply of land for housing and a recently adopted local plan include:

Land off Elmwood Avenue, Essington:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2189442&coid=2189442>

Area 10, Old Sarum, Salisbury:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2200877&coid=34080>

CASE STUDY 6: Focus of the case study

In 2013 the Secretary of State recovered an appeal relating to an outline application for 1,420 homes on a greenfield site in a designated Green Wedge within the jurisdiction of North West Leicestershire District Council. Despite the Council having an adopted local plan dating from 2002 and not having a demonstrable five year housing supply at the time, the Secretary of State agreed with the conclusions of the appeal Inspector and dismissed the case and refused the application.

Summary messages

- The important role and function of green infrastructure should be given adequate weight in the consideration of applications relating to undeveloped sites.
- The potential impacts of major developments being considered in advance of the preparation of relevant planning policy should be considered in terms of potential impact in undermining the plan-led system.
- The definition of sustainable development covers a wide variety of issues and is therefore open to interpretation.

Key information

Appeal site	Land north of A511 Stephenson Way, Coalville, Leicestershire
Summary of proposals	Outline planning application for 1,420 dwellings comprising an urban extension. Including a proposed village centre
Local authority	North West Leicestershire
Appeal reference	APP/G2435/A/11/2158154
Weblink	http://bit.do/JkkH
Appeal decision	Dismissed
Date of appeal decision	20/08/2012 (NPPF year 1)
Nature of appeal	Recovered by the Secretary of State, who agreed with his Inspectors recommendation
Year's supply of land	Less than five years
Date of Local Plan	Local plan adopted 2002, pre- 2004 legislation

Discussion

On 23rd December 2010 Jelson Limited and Davis Limited submitted an outline application for the development of 1,420 homes, a new village centre and associated infrastructure on a site comprising a large part of the Green Wedge on the edge of Coalville.

The applicant appealed against non-determination on 3rd August 2011. Subsequent to this, the Council confirmed that they would have refused the application on the grounds on the basis of five reasons:

- The proposal is premature to the adoption of the Core Strategy and would prejudice the outcomes of the Core Strategy.
- Unacceptable impact on the Green Wedge.
- Negative impacts on the identified Air Quality Management Area (AQMA) on the western boundary of the site.
- Loss of grade 3a agricultural land and unacceptable impact on biodiversity and amenity value of the land.
- Inadequate S106 contributions towards healthcare, policing, libraries, civic amenity waste facilities and long term management of allotments.

In a letter dated 11th August 2011 the Secretary of State recovered the appeal on the basis that *“it involves proposals of more than 150 units or on sites of over 5 hectares, which would significantly impact on the Government’s objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.”*

The appeal hearing took place in February 2012 and the Inspectors Report was published in June 2012. In between these dates the NPPF was adopted and superseded all national planning policy the applications had previously been assessed against. While the NPPF became a significant material consideration with most weight in preparing the final decision, the Inspector concluded it would be appropriate to retain references to out of date policies in the final report as this had been the basis of the cases of both the appellant and the Council at the Inquiry. In addition, weight was also given to the East Midlands Regional Plan, which remained extant at the time, and relevant saved policies of the 2002 local plan. Only limited weight was given to the merging Core Strategy, as the pre-submission consultation draft document was published following the close of the Inquiry.

The Secretary of State did not set out any particular issues to consider in determining the case, but the Inspector established the main issues as:

- Impact on the Green Wedge.
- Impact on air quality.
- Loss of high quality agricultural land.
- Prematurity of the proposal in light of the emerging Core Strategy.
- Whether the adverse impacts outweighed the need for housing, and in particular the need to demonstrate a five year housing supply.
- Whether the scheme represents a sustainable development.

The Inspector considered the site provided an important role in separating the settlements of Coalville and Whitwick. It was agreed that the site appeared fairly unremarkable, but the current land remained intact and unspoilt, providing unobstructed and pleasant views and, crucially, provided a clear visual separation between the two settlements. While the development would not result in the coalescence of the two settlements, the Inspector concluded that the significant scale would undermine the purpose of the Green Wedge and have an unacceptable impact on its character and identity.

In terms of air quality, the inspector noted the only AQMA in Coalville was adjacent to the site. While it was conceded that any major housing development in the area is likely to impact on the vehicular traffic in this location, it was considered that in light of the designation, this did not represent an appropriate site for a large and “potentially polluting housing development”, and so should be counted against the appeal scheme.

Approximately a third of the site comprises best and most versatile agricultural land (grade 3a). The

Inspector noted that much of this would not be developed as part of the proposal, and instead would remain as grass playing fields which could be reconverted in the future. However, in light of the fact that other greenfield sites of lower agricultural value could potentially come forward for development this could count against the proposal, though on its own would not warrant refusal of the proposal.

The Inspector concluded that in consideration of guidance set out in *The Planning System: General Principles* the proposal should be regarded as premature since the scale of the development would prejudice the outcome of the Core Strategy. The Council had confirmed at the time that the designation of the role of the site as an area to limit and control the form of the settlements would be carried forward in the Core Strategy, which would be redundant if the appeal were allowed. Further to this an alternative strategic site would be identified in the Core Strategy to meet the housing needs.

It was agreed by all parties that that the Council could not demonstrate a five year land supply. It was noted that the NPPF places stronger emphasis on housing delivery than its predecessor Planning Policy Statement 3, and strengthened the case in favour of allowing the appeal.

The Inspector noted that there is no simple answer in considering whether the scheme represents a sustainable development. The site has a number of positives, having good accessibility to a range of services and facilities in Coalville and achieving a high CABE Building for Life rating. However, in light of the impact on the Green Wedge and loss of agricultural land, on the balance the proposal could not be considered sustainable.

In conclusion the Inspector considered the adverse impacts of the proposal outweighed the benefits of the scheme in terms of contribution to housing numbers. The Secretary of State agreed with all of the Inspector's reasonings and conclusions and the appeal was dismissed.

Signposting

Other cases where the Secretary of State dismissed the appeal and which concern proposed urban extensions include:

Sty Lane, Micklethwaite Lane, Crossflats, Micklethwaite, Bingley, West Yorkshire:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2161990&coid=43270>

Land Off Waddington Road, Clithroe:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2194601&coid=67584>

CASE STUDY 7: Focus of the case study

In June 2013 the Secretary of State refused planning permission for 165 dwellings in Castle Point Borough Council, against the recommendation of the Planning Inspector who held the Public Inquiry. The Borough Council had less than one year's demonstrable housing land supply (including a 20% buffer) and an out of date local plan. The Secretary of State's decision was based on impact on the Green Belt, and the potential for the proposal to set a precedent that would undermine national Green Belt Policy.

Summary messages

- The absence of detailed guidance relating to what constitutes “very special circumstances” for developing on the Green Belt potentially makes this a subjective decision, which can result in different outcomes. Green Belt boundaries should be assessed through an up-to-date Local Plan.
- Inadequate guidance on calculating five year housing supply and addressing previous shortfall can open up housing targets to debate at appeal.
- Housing trajectories should be based on robust evidence in order to stand up against objective assessment.

Key information

Appeal site	At Land off Glebelands, Thundersley, Essex
Summary of proposals	Outline planning application for 165 dwellings
Local authority	Castle Point
Appeal reference	APP/M15020/A/12/2177157
Weblink	http://bit.do/Jkoc
Appeal decision	Dismissed
Date of appeal decision	26/06/2013 (NPPF year 2)
Nature of appeal	Recovered by the Secretary of State, who overturned his Inspectors recommendation
Year's supply of land	Less than five years (0.7 years), with 20% buffer applied
Date of Local Plan	Local plan adopted 1998, pre- 2004 legislation

Discussion

Fox Land and Property Limited submitted an outline application to Castle Point Borough Council on 3rd January 2012 for the development of 165 dwellings and associated works on a large area of agricultural land in the Green Belt. The application was refused in April 2012 for three reasons: inappropriate development on the Green Belt; unacceptable impacts on wildlife; and inadequate affordable housing contribution. The applicant subsequently submitted an appeal against the decision.

The appeal was recovered by the Secretary of State in a letter dated 20th June 2012 on the grounds that the proposal was for a development of more than 150 units and it represented a significant development in the Green Belt. A Public Inquiry was held by a Planning Inspector in December 2012, following which the Inspector prepared a report for the Secretary of State summarising the key issues recommending the application be approved.

The Inspector considered the main planning issues associated with the case related to impact on the character and function of the Green Belt and whether any harm is outweighed by benefits of the development, concerns of the local community relating to effects on wildlife and biodiversity, impacts on traffic, local services and flooding, the supply of housing and the provision of affordable housing.

While designated as Green Belt and located outside the existing settlement boundary, the site's location between the edge of Thundersley and the A130 mean that it is effectively cut off from the wider countryside. In light of this, the Inspector concluded the development would not represent urban sprawl, but rather would appear to be a natural extension of the settlement infilling an existing gap. The Green Belt on the other side of the A130 would continue to provide sufficient protection from the coalescence of the neighbouring settlement, and as the site is cut off from the wider rural area by the dual carriageway, it would not appear to encroach on the countryside. Furthermore, although the site is currently undeveloped, its setting is characterised by urban development, which compromises the sense of openness, and therefore the Inspector considered the development of this site would not impact the character of the site. In summary, the Inspector did not believe the development would result in any harm to the function or appearance of this piece of Green Belt, however he did accept the development would cause harm by resulting in inappropriate development on the Green Belt and loss of openness.

With regard to other issues, the Inspector considered:

- The mitigation measures proposed would allow for adequate protection and enhancement of biodiversity and wildlife.
- In the absence of any evidence to the contrary, the impacts on highways would be acceptable.
- The site is well located for access to local facilities, and in light of a lack of objection from service providers there is no evidence to suggest that the development would result in acceptable impacts on social and community infrastructure.
- In light of responses from Anglian Water and the Environment Agency, the development would not be likely to exacerbate any existing flooding issues.

Castle Point had a significant shortfall in the development of houses in the borough, which the Inspector concluded represented an urgent need and should be added to the existing requirement. In the absence of a local plan, the Inspector concluded this represented an appropriate objective assessment, and resulted in the increase of the five year supply from the Council's target of 1,200 homes (including a 20% buffer) to 2,350 (including the backlog of 1,150 dwellings). The Council's housing trajectory showed a land supply of 1,285 dwellings, however the Inspector considered the actual supply to be significantly lower. In total the Inspector considered 904 of the dwellings in the Council's trajectory were not deliverable for various reasons, and so in fact the Council just had 333 units representing a realistic and deliverable supply, accounting for just 0.7 years in consideration of the Inspector's requirement for 2,230 dwellings. The Secretary of State agreed with this conclusion.

The proposal included provision for 35% affordable housing, in line with planning policy at the time of submission. As there were no policies in place at the time of the appeal relating to affordable housing, the Inspector considered this represented an acceptable offer. The Council's case assumed that this did not represent a viable offer and would not be delivered. However, in light of any evidence to the contrary, the Inspector concluded there was no reason not to accept the affordable housing offer here.

In conclusion, the Inspector considered the limited harmful impacts on the Green Belt were significantly outweighed by the overall benefits of the scheme. However, the Secretary of State disagreed with the conclusions of the Inspector relating to impact on Green Belt. The Secretary of State believed the proposal would in fact lead to moderate harm in respect of urban sprawl, encroachment on the countryside, coalescence of settlements and the visual appearance of the Green Belt, this combined with the harm as a result of inappropriate development on the Green Belt and complete loss of openness would result in a considerable level of harm. In light of this, on the balance the Secretary of State did not believe the benefits of the proposal outweighed the impacts on the Green Belt and so refused the application.

The decision was subsequently upheld at a High Court challenge, however it was noted in the judgment that *"In the absence of concerted and effective progress (on the Local Plan) the outcome of the present process may prove to be more of a temporary reprieve than a durable future for the appeal site"*⁷².

Signposting

Other cases where the Secretary of State dismissed the appeal on the grounds of harm to the green belt or green wedges, despite the lack of a five year supply of land for housing, include:

Land off Stockwood Lane, Whitechurch, Somerset:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2199958&coid=69760>

Land to the South of Manor Road, Saltford:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2195351&coid=88192>

⁷² <http://www.castlepoint.gov.uk/main.cfm?Type=N&news=17538>

CASE STUDY 8: Focus of the case study

In September 2012 an appeal relating to an outline application for up to 154 dwellings on the edge of a small town in Wiltshire was allowed. The application site was located on an undeveloped site outside of the existing settlement boundary. The Council was unable to demonstrate a five year housing land supply and it was concluded that the benefits of the scheme would outweigh any harm as a result of the development.

Summary messages

- Significant evidence of the potential harmful impacts of a development is required in order to outweigh the benefits in contributing to a current five year housing land supply shortfall.
- The requirement for a five year housing supply and the need to find developable sites can prevail over policies restricting development on open countryside or existing greenfield sites.
- Prematurity cannot be raised as an issue in cases where drafting of a plan or consultation has not begun.

Key information

Appeal site	Land off Silver Street & White Horse Way, Calne, Wiltshire
Summary of proposals	Outline planning application for 154 dwellings
Local authority	Wiltshire
Appeal reference	APP/Y3940/A/12/2171106
Weblink	http://bit.do/Jkqv
Appeal decision	Allowed
Date of appeal decision	18/09/2012 (NPPF year 1)
Nature of appeal	Hearing
Year's supply of land	Less than five years
Date of Local Plan	Local plan adopted 2001, pre- 2004 legislation

Discussion

C.G. Fry & Son Ltd. submitted an outline application for 154 dwellings and associated works on an undeveloped site outside of the settlement boundary of Calne. Wiltshire Council did not provide a decision notice on the application and subsequently the applicant appealed against non-determination.

The Inspector considering the appeal identified two key planning issues associated with the appeal: the principle of the development; and whether the adverse impacts significantly and demonstrably outweigh the benefits.

With regard to the principle of the development, the Inspector noted that the only extant policy in the existing saved local plan policies (originally adopted in 2006) that related to the site were those that restricted development on open countryside. Policies relating to housing numbers were out of date, and the Inspector noted that while the Core Strategy was at an advanced stage in the preparation process, the extent of unresolved objections relating to the adequacy of housing provision cast doubt over the consistency of the document with the NPPF. Furthermore the Council could not demonstrate a five year housing supply, and so the Inspector concluded that significant weight must be given to the NPPF's objective to considerably boost the supply of housing and the presumption in favour of sustainable development. Therefore it was considered that the principle of residential development was acceptable.

With regard to potential harm, the Inspector noted that the layout appeared to mitigate any potential negative impacts on character and appearance. In addition, while local residents had raised concerns over impacts on highways, it was agreed by the highways authority that the development would not result in a material worsening of the existing situation.

The development was considered to have a number of benefits. It is located in close proximity to local services allowing good access by sustainable modes of transport to a range of facilities. The proposal included the provision of allotments and the extension of a park.

The issue of prematurity was raised by the Council, and particularly with regard to a proposed Neighbourhood Plan. However, since this document was not yet in preparation the Inspector stated that the case for prematurity could not be made. In addition, he did not believe that the approval of this application would prejudice the outcomes of any future plans for the town.

In conclusion, the Inspector considered the harmful impacts of the development would be very limited, and would not outweigh the benefits of the scheme. In light of this he resolved to allow the appeal, and the application was approved subject to conditions.

Signposting

Other cases which have been allowed where there is less than five years' supply of land and where the local plan is out of date (that is, it was adopted in advance of the 2004 regulations), include:

Land north of Hampton Drive, Kings Sutton, Northamptonshire:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2194278&coid=21060>

Bradley Road, Bovey Tracey, Devon:

<http://www.pcs.planningportal.gov.uk/pcsportal/ViewCase.asp?caseid=2191841&coid=2183648>

6 Calculating the five-year supply

This Chapter considers the debate around the approach to identifying and calculating the five year supply in more detail. We discuss the various approaches used. It calls for greater transparency in the process and a better understanding of build-out rates, the lead-in time for development to start, what is meant by 'persistent under delivery' of housing by local planning authorities and when this should come into effect.

6.1 Introduction

- 6.1.1 It is clear from the review of planning appeals that a major focus of debate is around the five year supply of land for housing and how this is calculated. The NPPF introduced a new emphasis on significantly boosting the supply of housing. In order to achieve this, it goes further than previous policy guidance to automatically make any policy (even that recently adopted) out of date if a local planning authority cannot demonstrate a five year housing supply. In such cases, housing development is to be considered with a presumption in favour of sustainable development.
- 6.1.2 In this chapter we provide an overview of different approaches used to calculate the five year supply and issues inherent in it. This is particularly pertinent given the experience in Cheshire East where different Inspectors have reached a series of different conclusions over the authority's housing land supply⁷³.

6.2 Accounting for shortfalls and previous undersupply of housing in the plan period

- 6.2.1 At the outset of the local plan the housing requirement is distributed across the plan period, usually with an equal amount of new homes being required to be built each year. However, if the number of new homes required is not being delivered this could result in a shortfall of development over the plan period. This shortfall, and how it should be met during the remainder of the plan period, is often the focus of debate at appeal. The two most common ways of addressing this are known as the Sedgefield and Liverpool methods.
- 6.2.2 In the Sedgefield method the entire undersupply or shortfall from the plan period to date is factored into the next five years. In the Liverpool method the shortfall is spread across the remainder of the plan period.
- 6.2.3 Using the Sedgefield method increases the immediate need for housing sites and thus the five year housing target that should be met.
- 6.2.4 Both methods have been successfully used at appeal though it is the Sedgefield method that planning inspectors generally agree best meets the objectives of the NPPF. At the Moira Road appeal in Ashby-de-la-Zouch⁷⁴ the Inspector took the view that *"to boost significantly implies a substantial and immediate effect, above and beyond the normal provision. For that reason I consider the Sedgefield method of recovering the shortfall to be the most effective way of meeting the Framework objective"*.
- 6.2.5 Furthermore, at an appeal in Honeybourne, Worcestershire⁷⁵, the Inspector stated that in his view, *"it is inconsistent with planning for growth and the NPPF paragraph 47 to meet any housing shortfall by spreading it over the whole plan period. Clearly it is better to meet the shortfall sooner rather than later"*.
- 6.2.6 The Sedgefield approach was also used at an appeal in Glebelands, Castle Point⁷⁶. In this instance there had been a significant shortfall against housing targets for the plan period 2001-12. The Inspector noted:

⁷³ <http://www.planningresource.co.uk/article/1305236/councils-plea-ministers-decide-appeals-rebuffed>

⁷⁴ Appeal reference APP/G2435/A/13/2192131

⁷⁵ Appeal reference APP/K2420/A/12/2188915

⁷⁶ Appeal reference APP/M15020/A/12/2177157

'There is no evidence that those needs [the housing needs] have gone away, or been met elsewhere'.

'It therefore seems to me that to leave the backlog untouched would be simply storing up more problems for the future, and contributing to a worsening of the serious housing shortage that is well-known to exist at national level, as well as locally'.

'The backlog represents needs which are already urgent, having been unmet during the period when they arose, and will become more so as time goes on. I can therefore see no proper reason why the whole of the backlog should not be added to the five year requirement, following the so-called Sedgfield method'.

- 6.2.7 The Liverpool method has been used in a recent High Court judgment relating to a site in Hinckley and Bosworth⁷⁷ and an application decision in Blaby (undertaken by the Planning Inspectorate under special measures)⁷⁸. Both Councils are actively promoting Sustainable Urban Extensions, which will accommodate a significant proportion of housing targets in the plan period. In these cases, it was considered that the Liverpool method represented a pragmatic approach to assessing future housing supply, given the time periods needed to deliver these large scale developments. In addition, in the case of Hinckley and Bosworth the Inspector noted that this method represented an appropriate approach where there is not a severe shortage of supply.
- 6.2.8 Requiring past undersupply to be met within the next 5 years can result in an annual housing target being set which far exceeds completion rates that have been achieved in the recent past. Regardless of why a previously set housing target was not met, it might not be reasonable to achieve a significant increase over and above this figure (accounting for previous undersupply). A flexible mechanism is required to allow for realistic targets to be met. In order to support this, a method of understanding why past build rates occurred is also needed.

6.3 What buffer should be applied?

- 6.3.1 The NPPF, at paragraph 47, requires local planning authorities to identify sufficient deliverable sites to provide five years' worth of land to accommodate their housing requirement. On top of this, a margin of five per cent should also be added to allow for choice and competition. Where there is evidence that the authority has 'persistently under delivered' against their housing target, the margin, or buffer, rises to twenty per cent. The question here is how 'persistently under delivered' is defined and if and how it is being interpreted consistently across the country⁷⁹. Writing in Planning Resource, Ian Tant of Barton Willmore comments⁸⁰:
- "How many councils will readily accept that they are persistently failing to deliver, even where their Annual Monitoring Reports tell a different tale? Their instinct will be to look to measure delivery over ever longer periods, disguising under-delivery in recent years. Persistent under-delivery is likely to prove a contentious point – and it may take appeal decisions to establish whether the 20 per cent buffer should be in force"*.
- 6.3.2 Despite that, the database of all appeals for residential development on greenfield land since the publication of the NPPF shows that, of the 162 cases where it is clear which buffer has been used, almost two thirds (103) of the time a 20% buffer was applied to the five year housing supply calculation.
- 6.3.3 In an appeal at Burton-upon-Trent, Staffordshire⁸¹, the Inspector reported:
- "With regard to whether a 20% buffer should be applied for persistent under-delivery... the Council has not reached its target figure in any of the last five years.... This is clearly a 20% authority"*.

⁷⁷ http://www.landmarkchambers.co.uk/news-high_court_rules_on_liverpool_vs_sedgfield_and_some_other_nppf_housing_int

⁷⁸ <http://majorapps.planningportal.gov.uk/wp-content/uploads/documents/2425527/S62A-2014-0001%20-%20Statement%20of%20Reasons.pdf>

⁷⁹ See Section 4.2 of this report for further discussion on this point.

⁸⁰ <http://www.planningresource.co.uk/article/1125476/nppf-means-for-housing-land-supply>

⁸¹ Appeal reference: APP/B3410/A/13/2197299

- 6.3.4 At the Moira Road appeal in Ashby-de-la-Zouch⁸² the Inspector also sought to grapple with the definition of ‘persistent under delivery’. They took their view that although ‘persistent under delivery’ is not defined, “*since the Framework [the NPPF] requires the assessment of future housing delivery to look forward five years, looking back five years to assess the record of past delivery seems to me a reasonable approach*”. Specifically in relation to the housing supply in this case the Inspector went on to comment:

“In fact, the provision of 388 dwellings [the required annualised housing target] has been achieved in none of the past seven years, from the start of the CS plan period. The annual average provision over these years was about 70%, leading to the cumulative shortfall of 829. Furthermore, taken against the RS requirement of 510 dwellings per annum, arguably more applicable to these years before its revocation in April 2013, the annual average was little more than 50%. That is by any standard a record of persistent under delivery”.

6.4 What sites should be included in the supply?

- 6.4.1 The NPPF states that the five year supply of land for housing should comprise of ‘specific deliverable sites’. The NPPF provides the following definition of deliverable site:

“To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.”⁸³

- 6.4.2 The deliverability of sites within the five year supply is often debated at appeal, with appellants challenging local authorities over the progress of individual sites. In many of the appeals the local authorities’ calculation of the five year supply has been based upon the best information available to them, but this will not always be up-to-date or accurate. As noted in the Inspectors decision of an appeal in Surrey⁸⁴:

“There is some merit in the Council’s argument that a forensic analysis of almost every factor and assumption in a housing land supply assessment would be to overstate the exercise required of a local planning authority. This would also be a very time consuming and ‘resource hungry’ process. However, for large sites especially, it is important that these factors and assumptions are able to withstand close scrutiny so as to ensure credibility and public confidence in position statements relating to the supply of housing.”

- 6.4.3 The decision letter continues:

“The Council takes in good faith the information it is provided by those seeking to develop land within the Borough... However, those seeking to obtain planning permission and have their sites included / retained as part of the Council’s five year supply of housing may be inclined to present overly-optimistic predictions for the delivery of housing. On the other hand, others may seek to ‘downplay’ predicted delivery rates on a competitor’s site in an attempt to release another site for housing”.

- 6.4.4 This would appear to support a recommendation that applications granted planning permission should be subject to a condition requiring an annual update on progress, which could help avoid costs of further research at appeal.
- 6.4.5 Other developable sites should be identified but should form longer term locations of growth beyond the initial five year period. These include, for example, site allocations that do not have the benefit of a planning application. The NPPF defines developable sites as:

⁸² Appeal reference APP/G2435/A/13/2192131

⁸³ See NPPF para 47, footnote 11

⁸⁴ Appeal Reference: APP/L3625/A/13/2193350

“To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged.”⁸⁵

- 6.4.6 In locations where such sites have been included in the five year supply the Inspector has tended to take the view that these should be removed. For example, at the Glebelands appeal in Castle Point⁸⁶, the Inspector commented on a series of proposed allocations in the emerging local plan:

“None of these sites has planning permission, and none are allocated for development in an adopted, or even a draft development plan. The Council’s resolution to include these sites as allocations in the forthcoming local plan, carries very little weight, because as yet no draft plan has appeared, and no consultation has taken place regarding these sites... it seems to me that there is a long way to go before any of these four sites can be regarded as deliverable”.

- 6.4.7 Elsewhere, Inspectors have considered the impact of lapsed permissions and sites yet to receive planning permission. At an appeal in Guisborough⁸⁷, the Inspector notes in his report:

“The fact that a permission has lapsed indicates that there may be some difficulty with a site even if it is simply that the site is suited to development but the landowner isn’t proactively seeking to implement it. Additionally, once permission has lapsed there would be some inevitable delay to development as a consequence of needing to seek planning permission, possibly with the need for new supporting documentation and survey work. Nonetheless, such sites might well come forward, albeit later within the five year period so I do not consider it appropriate to discount them altogether.”

- 6.4.8 The Inspector continues:

“In terms of sites yet to achieve planning permission it is not so straightforward. Allocations, for instance, are likely to be deliverable given that they should have been assessed, even if they do not have extant permission, and there may be other sites which developers are keen to promote within a reasonable likelihood of development in a five year period. Being pragmatic therefore I do not consider all sites without current permission should be discounted. Nonetheless, the Council’s approach here of identifying the sites and saying they are deliverable where a significant number in the five year supply period have no planning permission and have not been thoroughly assessed or discussed with main stakeholders appears over optimistic”.

6.5 Reflecting build out rates

- 6.5.1 The calculation of the five year supply requires housing numbers rather than just sites to be interrogated. Sites of course vary in size as does the ability of different size sites to contribute to the five year supply. A smaller site, of say ten to 50 units could feasibly contribute entirely to the five year supply. However, a larger, more complex site of 250 units or more will take longer to build out. It is possible that not all of the units on such a site will be completed within a five year period and thus recorded as contributing to the five year supply.
- 6.5.2 When calculating the five year supply it is thus important to understand development and build out rates so that completions from a given site can be spread across the plan period and therefore give more rigour to the assessment of supply.
- 6.5.3 A report for the DCLG Housing Markets and Planning Analysis Expert Panel⁸⁸ looked into the various factors affecting build-out rates for housing. This found that build rates were often influenced by sales rates. On greenfield sites the research found *“that the typical housebuilder aims to build and sell one unit a week”*.
- 6.5.4 More recently, a study undertaken by Thurrock Council into the potential redevelopment of the Lakeside area⁸⁹ reported that the rate of development is driven by sales. The study

⁸⁵ See NPPF para 47, footnote 12

⁸⁶ Appeal reference: APP/M15020/A/12/2177157

⁸⁷ Appeal reference: APP/V0728/A/13/2190009

⁸⁸ DCLG and University of Glasgow for the DCLG Housing Markets and Planning Analysis Expert Panel, February 2008, Factors Affecting Housing Build-out Rates

⁸⁹ SKM Colin Buchanan for Thurrock Council, February 2012, Soft Market Testing of Housing Development Options within the

interviewed active housebuilders in the area, including those that operate nationally, to test the Council's aspirations for change, development and new housing in the area. In regard to build out rates, the report notes *"housebuilders say that these currently average one a week per site"*. This equates to approximately 50 units per year per site. Despite the fluctuations in the market since the DCLG report was published, the build-out rate appears to have remained fairly consistent.

- 6.5.5 This would imply that a site of 250 units could take five years to build out. However, initial site works may slow the build out rate, at least in the first year. The approach taken by Cheshire East Council is to assume a build out rate on any single site of 25 units in the first year and 50 per year thereafter. Based on this a 250 unit site would take five and a half years to complete. Such an approach would avoid unrealistic assumptions about the potential dwelling yield from individual sites in the five year period being made.

6.6 Lead in time for development to start

- 6.6.1 It may sometimes be claimed that a site, either proposed or within the local plan, can contribute wholly towards the five-year supply of land for housing. However, depending on the status of the site within the planning process it may not be possible for the entire site to contribute towards the five year supply. The lead-in time that it takes between a development being granted planning permission and starting on site should be more clearly understood if calculations as to the five year supply of land can be seen to be robust and defensible.
- 6.6.2 Research by the Local Government Association⁹⁰ showed that during 2012/13, the time from obtaining full planning permission through to starting on site was an average of twelve months. However, 32 per cent of all schemes took longer than this to start on site
- 6.6.3 The same research has shown that during the period 2007/08 to 2012/13, the mean time taken for a scheme to progress to completion having obtained planning permission had increased from twenty to 27 months. However, 37 per cent of all completed schemes in 2012/13 took longer than 27 months.
- 6.6.4 The research breaks this information down by site size (see Table 2): the larger and more complex the site the longer the lead-in and development time taken.

Table 2: Average time taken to progress schemes from permission to completion by number of units per scheme (2012/13)

Site size	Average time from permission to start on site (months)	Average time from start on site to completion (months)	Average time from permission to completion (months)
Fewer than 10 units	11	11	22
10-49 units	12	13	25
50-99 units	10	22	31
100-249 units	12	26	38
250 or more units	15	34	47
All schemes	12	16	27

Source: Local Government Association, 2013

- 6.6.5 This analysis does not account for the time taken to navigate the planning system though, including, for example, moving through submission of a planning application, from outline, to negotiation of options agreements with landowners, to submission and approval of reserved matters. As the HBF note⁹¹, *"when the time taken to progress through planning is factored in*

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⁹⁰ LGA, October 2013, An analysis of unimplemented planning permissions for residential dwellings 2013

⁹¹ HBF, May 2014, Permissions to Land: Busting the myths about house builders and 'land banking'

this could easily extend the total period to three years or so as an average [from the average of 27 months quoted above]. However this average hides the fact that for larger sites, with more units, it can take several years to obtain an implementable planning permission, and then it will take many more years to build and sell all the dwellings on the site.”

6.6.6 In earlier work undertaken by the Government’s former National Housing and Planning Advice Unit (NHPAU, now abolished)⁹², it was suggested that “a broad rule-of-thumb average measure would be that it takes sites around a year to achieve development control approval, excluding pre-application discussions and the time required to discharge conditions attached to permissions”.

6.6.7 They go on to state:

“The time required for development control represents a major barrier in getting sites up and ready for significant increases in aggregate house building levels, which requires the mobilisation of significant numbers of large sites subject to long periods of time in development control”.

6.6.8 Some understanding of development lead in times is required, therefore, in order to decide whether a site can conceivably contribute to the five year supply and, if so, how many of the units within that scheme might form part of the supply. Just because a site is being debated at appeal in the context of a five year supply argument does not mean that development can start right away. The likelihood is that there will be a time-lag between development being granted permission and starting on site. This should be factored into the assessment.

6.7 Unimplemented permissions

6.7.1 The LGA research referenced above also investigates the breakdown of unimplemented planning permissions in England. These are defined as:

- Sites with planning approval where schemes have yet to be started on site (unstarted permission), or
- Schemes which have been started, but where units remain to be completed (permissions under construction).

6.7.2 The research found that although the number of unimplemented planning permissions has decreased since 2008, this is reflective of the overall reduction in the number of planning permissions being granted in this period.

6.7.3 The research highlights that the majority of schemes that are granted planning permission are in the order of 10-49 units in size. In 2012/13 these accounted for 62% of all residential schemes granted permission. The 10-49 unit size schemes also account for the greatest proportion of unimplemented permissions (64%).

6.7.4 There are a variety of reasons why smaller schemes are less likely to come forward than larger ones. The Molior report for the GLA, published in 2012⁹³, and recently updated, suggests these reasons might include access to finance, alternative proposals coming forward for the land, and the inability to get vacant possession of the land. It was also reported that nearly half of the residential planning permissions in the capital were secured by non-housebuilders and that, for a range of reasons, they are unlikely to actually implement these permissions. As such, the full potential of the pipeline is unlikely to be realised. Although focused on the London property-market and thus unlikely to be representative of the country as a whole, it does suggest that estimates of housing supplies could potentially be inflated.

6.7.5 The proportion of unimplemented schemes on sites of 250 units or more in size is low, amounting to just four per cent of the total. This suggests that those sites which have been actively promoted through the plan-making process and which comprise strategically important developments are more likely to proceed. However, the timescales and lead-in

⁹² NHPAU, January 2010, Housing supply and planning controls: The impact of planning control processing times on housing supply in England

⁹³ Molior, for the Mayor of London, December 2012, Barriers to Housing Delivery: What are the market perceived barriers to residential development in London? Also see update to this, dated July 2014.

periods for development to start on such sites will be longer. The ability to deliver them may be undermined by smaller, potentially ad-hoc and unallocated sites coming forward through the appeal process.

- 6.7.6 What this really points to is the need for developers and successful applicants to keep the council informed of development progress. All sites with planning permission should form part of the five year supply as they are, by definition, deliverable sites. Councils have no reason to think otherwise based on the information available to them. It should not be left to the appeal process to debate the merits of individual sites and whether they will progress or not. Rather, this should be recorded in a transparent manner on an annual basis and be directly informed by those developers benefitting from planning permissions.

6.8 Summary messages

- 6.8.1 There are two main aspects to the calculation of the five year supply. First, what is the housing requirement, and second, what sites are available and how many units will they yield over the five year period. Taking these in turn:

The housing requirement

- 6.8.2 Planning appeals can be heard at any time and do not conveniently coincide with the plan-making process. The effect of both this and the policies in the NPPF is that when an appeal is heard, and where there is disagreement about the supply of land for housing within the authority area, the five-year supply is being reviewed and recalculated. Two key areas of discussion appear to be around shortfalls in the plan period to date and whether a 20% buffer should be applied or not.
- 6.8.3 It is clear from the review of policy and appeal decisions that policy is being interpreted in a way that any shortfalls in the plan period should be made up as early as possible within the plan period: that is, they should be added to the five year supply rather than being spread across the remainder of the plan period. This is what is commonly known as the 'Sedgefield' approach.
- 6.8.4 All local planning authorities are required to add a 5% buffer to the five-year supply of land for housing, allowing for choice and competition. Some will be required to add 20% because of 'persistent under delivery'. This is not defined in the NPPF and thus is open to interpretation. Some guidance on what is meant by persistent under delivery and when it should be triggered would be welcome. Reviews of appeal decisions outlined above have taken the approach that where housing delivery has been below the requirement year-on-year for the previous five years then this should classify as persistent under delivery and thus trigger a need for the 20% buffer to be added to the next five years.

Sites and units

- 6.8.5 The NPPF and appeal cases state that only those sites that are considered deliverable should be included within the five year supply of land for housing. This means in theory those sites with planning permission or allocated sites which have been fully tested and assessed through the plan making process and which have a very realistic prospect of being implemented in the five year period. If this is not the case, then sites should form part of the longer term supply of land. In practice, the deliverability of sites within the five year supply has often been challenged. In many instances the sites within the supply are there because they have been promoted by landowners and developers, or have a valid planning permission, and it is these that are being challenged, rather than the local authority, who are often only working with the best evidence available to them.
- 6.8.6 However, although sites may well be deliverable in the five year period and thus contribute towards the housing requirement for that period, they may not be entirely completed within the five years. To avoid unrealistic assumptions being made consideration should be given to lead-in times for development to start and then, when it does start, what the build-out rate (in terms of housing units per annum) might be. Some assessment of this has been made in various research papers including those by DCLG and the LGA for example. It is clear that the larger the site the longer it will take for development to commence and be completed. This should be reflected and phased accordingly across the five year period and beyond.

- 6.8.7 Where local planning authorities are calculating their housing supply then the general rules of thumb outlined above in regard to the time delay and build out rates could suitably be used as a ready-reckoner. However, where planning permission has been granted then it would perhaps be reasonable for the developer to keep the local authority informed of progress.

7 Conclusions and recommendations

This Chapter presents the conclusions of the report and sets out a number of recommendations.

7.1 Discussion

- 7.1.1 It is generally agreed that the key to ensuring an efficient, democratic and proactive planning system is to ensure robust and effective local plans are in place. However as of March 2014, the profile of local plan progress across England was as follows⁹⁴:
- Only 13.1% of local planning authorities had a local plan found sound or adopted post NPPF;
 - 55.1% had a pre-NPPF local plan or no local plan;
 - 24.7% had a published draft local plan or had submitted their local plan for Examination; and
 - The remaining 7.1% had a local plan found sound or adopted following the publication of the draft NPPF.
- 7.1.2 The need for an up-to-date and effective local plan is summed up well in the Inspectors report of the appeal at Glebelands in Castle Point⁹⁵. When discussing housing shortfalls during the plan period (which ran from 2001) the Inspector concludes:
- “There is no evidence that the shortfall during this period was in any way due to developers failing to implement on sites where planning permission was in place. If that were the case, it is likely that there would still be a long list of sites with unimplemented or lapsed permissions. In fact, the Council’s land supply table shows that, as of 31 October 2012, sites with existing permissions amounted to only 33 units. This suggests that the problems have been due much more to a lack of sites coming through the planning system.”*
- “It is difficult to escape the conclusion that this must be related to the lack of any up-to-date or adopted local plans”*
- 7.1.3 In the absence of up to date policy in the majority of local authorities it is necessary to provide a framework, as is established in the NPPF, to allow decision making to continue and release land for development. However, the simplification of policy through the NPPF places too much emphasis on short term targets, which constrains the potential for local planning authorities to drive forward sustainable development on sites with longer lead in times, such as brownfield land or major developments requiring significant infrastructure.
- 7.1.4 The lack of detailed standard approaches to objectively assessing housing need, setting out a five year housing supply and how to effectively carry out the duty to co-operate is also having significant impacts on the timescale for local plans to be found sound and decision making at appeal.
- 7.1.5 There are growing concerns at the proportion of successful appeals which is being seen to undermine the plan-led system and contradict the spirit of localism. The simplicity of the NPPF and the lack of detailed guidance in the NPPG allows for a considerable amount of interpretation in decision making at appeal or by the Secretary of State. This appears to be creating a system of establishing precedent by appeal or at examination rather than having well defined definitions and guidance. This creates uncertainty, and in some circumstances is generating contradictory outcomes, which is in direct conflict with the aspirations of the planning reform and the calls from many in the business community for more certainty in the planning system.
- 7.1.6 There is a need to ensure decisions continue to be informed by local circumstances, environmental constraints and other issues. Part of this will be through speeding up the local plan process, which could be achieved through providing more detailed guidance on calculating housing targets and on how to successfully carry out the duty to cooperate.

⁹⁴ Nathaniel Lichfield and Partners, 2014, p. 1

⁹⁵ Appeal reference: APP/M15020/A/12/2177157

- 7.1.7 CPRE is concerned about the number of appeals being allowed on greenfield sites, particularly where there is no five year housing supply. The quantitative analysis in this report demonstrates shows that almost three quarters of appeals relating to housing development on greenfield sites in areas without a five year housing supply have been approved since the NPPF was published.
- 7.1.8 Whilst the majority of appeals that have taken place where the local planning authority has not had a five year supply have been allowed, there is a growing pool of appeal cases where they have been dismissed. In these instances, matters such as environmental impact, strain on infrastructure and design quality have carried significant weight. In decision making, a consistent approach to the consideration of all policy constraints should be taken in order to avoid overdue weight being given to the five year housing supply.

7.2 Messages

- 7.2.1 A number of key messages have emerged from this assessment. The paradox of the NPPF appears to be that it has sought to simplify the planning system but at the same time the lack of guidance has made decision making more complicated and introduced further uncertainty at appeal and examination of local plans. Since the publication of the NPPF plan making has slowed and there have been a greater number of appeals (and proportion of appeals allowed). However, this is perhaps to be expected as people adjust to the complete overhaul of the planning system (and not dissimilar to the impact the 2004 regulations had on the speed of plan making). The key thing is to ensure the plan-led process is not undermined, and the suitability of sites is determined through the plan making process rather than at appeal in order to ensure they best represent the local visions and aspirations for places.
- 7.2.2 The NPPF provides a high level strategic framework for the consideration of planning applications and appeals. It should not be used to undermine local policies that have been developed in consideration of specific local issues and constraints. The main problems at the moment appear to be in the lack of detailed supportive guidance or definitions of certain terms, which is opening up the implementation of the NPPF to interpretation and precedent appears to be being determined at appeal.
- 7.2.3 The debate around the provision of a five year housing land supply appears to be the prime reason there has been an increase in appeals. Based on the appeals reviewed for this research, almost nine out of 10 (88%) were in locations where the Council could not demonstrate a five year housing supply and, of these, nearly three quarters (72%) were allowed. Conversely, in locations where a five year housing supply could be demonstrated, just 15% of proposed greenfield residential developments were allowed (which comprised less than 2% of the total appeals).
- 7.2.4 The SHMA and SHLAA process provides the evidence base for understanding local housing needs and the potential for land to come forward for development. These documents are not adopted policy but are given significant weight by Inspectors in considering the appropriateness of local housing targets and the five year housing supply trajectory. Where local planning policies propose a housing target that is lower than the objectively assessed needs set out in the SHMA, significant justification is required, along with a realistic proposal for how the shortfall will be made up. There appears to be significant scope for improving the robustness of the SHMA and the housing targets emerging from the plan making process. This is because there is currently no standard (or rather detailed) method for the production of these documents, which could potentially be overcome by the provision of further guidance.
- 7.2.5 It is acknowledged that housing market areas tend to cross administrative boundaries, and it is common practice for neighbouring authorities to prepare joint evidence base documents. As part of the duty to cooperate authorities are obliged to discuss how to address strategic cross boundary planning issues, but it is clear they do not have a duty to agree. Under the current system then, the duty to cooperate can be satisfied without the strategic planning requirements being addressed. The definition of cooperation is to work together towards the

same end⁹⁶, and the process is pointless without an agreed outcome that satisfies the objectives.

- 7.2.6 Councils do appear to have accepted that there is a pressing need to increase housing supply in the short term. Furthermore the Sedgefield approach has become the precedent for how previous shortfall should be dealt with, ensuring the delivery of housing as soon as possible by including this figure as part of the five year housing supply. However, as noted in Section 6.2 of this report, the Liverpool method has been considered appropriate where there isn't a severe undersupply of housing or where a Council is actively promoting large sustainable development with longer lead in times.
- 7.2.7 Housing trajectories presented by local planning authorities are often subject to successful challenges at appeal. There is a lack of clear detailed guidance on what should be included in the five year housing supply and how it should be presented to allow for transparency and limit opportunities for challenge. Only sites that are realistically deliverable should be included in the trajectory, taking into account lead in times and viability issues. In addition, only housing numbers that can be genuinely delivered within the five year time period should be included, so build out rates should be carefully accounted for.
- 7.2.8 The case studies demonstrate how a local planning authority can successfully refuse inappropriate greenfield developments in the absence of a five year housing supply. Some of the lessons learnt from this are as follows:
- Five year supply is just one of many policy considerations in the NPPF, other issues should be afforded equal weight, including for example, avoiding unnecessary greenfield development and enhancing and maintaining the quality of the natural environment.
 - Major developments should come through the plan making process rather than at appeal to ensure proper plan making is not prejudiced.
 - Sustainability is a wide, all-embracing term and all aspects should be weighted equally, including the importance of good design and impact on the landscape.
 - Impacts on services and infrastructure should be adequately addressed and mitigated.
 - Reasons for refusal should be properly evidenced.

7.3 Recommendations

7.3.1 This report identifies a number of areas for consideration. We recommend five key areas are given further thought, which are set out as questions for discussion below. These are supported by several sub-recommendations, suggestions and areas for further research:

1) Should further clarification and guidance in relation to housing policies and how they are interpreted be provided at a national level?

- There is a need for further detailed guidance to be provided in support of the National Planning Policy Framework (NPPF). For example, could the NPPF Glossary be expanded to provide specific definitions of words and phrases that have been open to interpretation, such as “persistent under-delivery” with regard to when the 20% buffer should be applied, “very special circumstances” for development in the Green Belt and “objectively assessed need”?
- Would it be useful for National Planning Practice Guidance (NPPG) to provide guidance on very special circumstances for developing on the Green Belt and preparing five year housing supply trajectories?
- Could the existing NPPG on the production of Strategic Housing Market Assessments (SHMAs) and Strategic Housing Land Availability Assessments (SHLAAs) be expanded to provide more detailed guidance?

⁹⁶ <http://www.oxforddictionaries.com/definition/english/cooperation>

- Design is a key consideration in decision making on applications and appeals. Could an updated form of detailed national guidance on design be reintroduced?
- 2) Can a wider definition of sustainability underpin plan making and decision making?**
- The NPPF makes clear that decisions relating to housing development “*should be considered in the context of the presumption in favour of sustainable development*”. How can planning policy ensure that issues within the definition of “sustainability”, such as avoiding unnecessary greenfield development, maintaining and enhancing the quality of the natural environment and good place-making are afforded equal weight as the delivery of housing and the five-year supply?
 - How can policy be clearer that SHMAs are not policy documents and objectively assessed need does not always represent an appropriate housing target for an area?
- 3) Can cross boundary issues be resolved through a more proactive approach to the duty to cooperate?**
- Further research should be carried out on the performance to date of the duty to cooperate.
 - Many local plans are being withdrawn because of the failure to meet the duty to cooperate. Potential solutions could include mediation or the introduction of an objective facilitator role to enable agreement between parties before a Local Plan is submitted for examination. Where a housing market area crosses administrative boundaries could local planning authorities be encouraged to prepare a joint plan, at least in terms of its strategic elements? Where this is not practicable, could an alternative be to set up a committee of representatives from relevant authorities who have signed a Memorandum of Understanding? This could agree an appropriate method for assessing housing needs and the identification of land for housing.
- 4) How can policy makers ensure that the suitability of sites is determined through the plan making process rather than through appeal?**
- The focus on short term targets has the potential to undermine the delivery of strategic and sustainable sites that may require long lead in times due to infrastructure constraints. Is there room for a flexible approach to be applied to five year housing supply in local authorities that can demonstrate they are taking a proactive approach to promoting large scale, sustainable developments? Such developments will take longer to deliver but will make a significant contribution to meeting housing needs and wider place making principles.
 - A robust plan-led system provides more certainty to local planning authorities and developers, and critically would help to ensure the credibility of the planning system to local communities. How can planning policy ensure that where an up to date Local Plan is in place, and a pro-active approach to meeting the five year housing supply can be demonstrated, development of inappropriate and unallocated sites will not be permitted at appeal.
- 5) How can planning policy enable a clear and transparent approach to maintaining a five year supply be prepared by local authorities on an annual basis?**
- In order to ensure housing trajectories are robust and stand up to challenge at appeal there is a need for improved transparency. Could a standardised housing supply database be introduced which Local Authorities are required to update on an annual basis? It could include a clear method and assumptions on progress of development and lead-in times. Linked to this, it could also be helpful to reintroduce the publication and monitoring of national completion rates.
 - How can local planning authorities have a better understanding of development timeframes and build out rates, so as not to include unrealistic assumptions in the five year supply? Should this be a condition on planning permissions?

- How can developers provide local planning authorities with regular, consistent data on build out rate to feed into housing trajectories?
- Further research should be carried out on the implications of the 20% buffer on five year housing land supplies. This should focus on how “persistent under delivery of housing” is determined, who is deciding this, and what impact the 20% buffer has had on planning decisions.

8 Appendix A: Analysis of Appeals

Table 3: Total appeals and breakdown of appeals based on cases where the Council was found not to have a five year supply of land for housing^{97 98}

TOTAL APPEALS	TOTAL	TOTAL	TOTAL	Total		Total						
	Appeals	Units	Appeals Allowed	units	Dismissed	units	part					
Total Appeals	309	40323	202	27634	105	12340	2	349				
Appeals in year 1 of NPPF	121	20943	78	12790	42	8098	1	55				
Appeals after year 1 of NPPF	188	19380	124	14844	63	4242	1	294				
	Less than	% of total		% with		Total	% with	Total	% with	Total		
	five year	appeals	Total units	less than	supply	Housing	less than	Housing	less than	Part	supply	Total
	supply			five year		units	five year	units	five year	supply		Housing
				supply			supply		supply			units
Total Appeals	271	87.70%	36546	193	71.22%	26679	76	28.04%	9518	2	0.74%	349
Appeals in year 1 of NPPF	110	90.91%	18982	76	69.09%	12575	33	30.00%	6352	1	0.91%	55
Appeals after year 1 of NPPF	161	85.64%	17564	117	72.67%	14104	43	26.71%	3166	1	0.62%	294
	More than	% of total		% with		Total	% with	Total	% with	Total		
	5 year	appeals	Total units	more than	supply	Housing	more than	Housing	more than	Part	supply	Total
	supply			five year		units	five year	units	five year	supply		units
				supply			supply		supply			units
Total Appeals	32	10.36%	3262	5	15.63%	524	27	84.38%	2738	0	0.00%	0
Appeals in year 1 of NPPF	10	8.26%	1881	1	10.00%	135	9	90.00%	1746	0	0.00%	0
Appeals after year 1 of NPPF	22	11.70%	1381	4	18.18%	389	18	81.82%	992	0	0.00%	0
	Unknown	% of total		% with		Total	% with	Total	% with	Total		
	supply	appeals	Total units	unknown	supply	Housing	unknown	Housing	unknown	Part	supply	Total
				supply		units	supply	units	supply			units
				supply			supply		supply			units
Total Appeals	6	1.94%	515	4	66.67%	431	2	33.33%	84	0	0.00%	0
Appeals in year 1 of NPPF	1	0.83%	80	1	100.00%	80	0	0.00%	0	0	0.00%	0
Appeals after year 1 of NPPF	5	2.66%	435	3	60.00%	351	2	40.00%	84	0	0.00%	0

⁹⁷ Based on information provided by CPRE.

⁹⁸ Details of all planning appeals may be found in Planning Inspectorate statistical reports: <http://www.planningportal.gov.uk/planning/planninginspectorate/statistics>

Table 4: Breakdown of appeals based on date of local plan

Date of Local Plan production	Pre-2004	% of total appeals	Less than 5 year supply	Allowed			Dismissed			Part	More than 5 year supply	Allowed			Dismissed			Part	Unknown supply	Allowed			Dismissed			Part
				Allowed	%	Dismissed	%	Part	Allowed			%	Dismissed	%	Part	Allowed	%			Dismissed	%	Part	Allowed	%	Dismissed	
on Appeals in year 1 of NPPF	55		52	35	67.31%	16	30.77%	1	3	1	33.33%	2	66.67%	0	0	0.00%	0	0.00%	0	0	0	0.00%	0	0.00%	0	
on Appeals in year 2 of NPPF	63		56	44	78.57%	12	21.43%	0	5	0	0.00%	5	100.00%	0	2	1	50.00%	1	50.00%	0	0	0.00%	0	0.00%	0	
Total	118	38.19%	108	79	73.15%	28	25.93%	1	8	1	12.50%	7	87.50%	0	2	1	50.00%	1	50.00%	0	0	0.00%	0	0.00%	0	
Date of Local Plan production	Post-2004	% of total appeals	Less than 5 year supply	Allowed	%	Dismissed	%	Part	More than 5 year supply	Allowed	%	Dismissed	%	Part	Unknown supply	Allowed	%	Dismissed	%	Part	Allowed	%	Dismissed	%	Part	
on Appeals in year 1 of NPPF	63		55	39	70.91%	16	29.09%	0	7	0	0.00%	7	100.00%	0	1	1	100.00%	0	0.00%	0	0	0.00%	0	0.00%	0	
on Appeals in year 2 of NPPF	122		102	70	68.63%	31	30.39%	1	17	4	23.53%	13	76.47%	0	3	2	66.67%	1	33.33%	0	0	0.00%	0	0.00%	0	
Total	185	59.87%	157	109	69.43%	47	29.94%	1	24	4	16.67%	20	83.33%	0	4	3	75.00%	1	25.00%	0	0	0.00%	0	0.00%	0	
Date of Local Plan production	2007 onwards	% of total appeals	Less than 5 year supply	Allowed	%	Dismissed	%	Part	More than 5 year supply	Allowed	%	Dismissed	%	Part	Unknown supply	Allowed	%	Dismissed	%	Part	Allowed	%	Dismissed	%	Part	
on Appeals in year 1 of NPPF	33		25	17	68.00%	8	32.00%	0	7	0	0.00%	7	100.00%	0	1	1	100.00%	0	0.00%	0	0	0.00%	0	0.00%	0	
on Appeals in year 2 of NPPF	52		35	22	62.86%	13	37.14%	0	14	3	21.43%	11	78.57%	0	3	2	66.67%	1	33.33%	0	0	0.00%	0	0.00%	0	
Total	85	27.51%	60	39	65.00%	21	35.00%	0	21	3	14.29%	18	85.71%	0	4	3	75.00%	1	25.00%	0	0	0.00%	0	0.00%	0	
Date of Local Plan production	2012 onwards	% of total appeals	Less than 5 year supply	Allowed	%	Dismissed	%	Part	More than 5 year supply	Allowed	%	Dismissed	%	Part	Unknown supply	Allowed	%	Dismissed	%	Part	Allowed	%	Dismissed	%	Part	
on Appeals in year 1 of NPPF	5		3	1	33.33%	2	66.67%	0	2	0	0.00%	2	100.00%	0	0	0	0.00%	0	0.00%	0	0	0.00%	0	0.00%	0	
on Appeals in year 2 of NPPF	14		5	5	100.00%	0	0.00%	0	8	3	37.50%	5	62.50%	0	1	1	100.00%	0	0.00%	0	0	0.00%	0	0.00%	0	
Total	19	6.15%	8	6	75.00%	2	25.00%	0	10	3	30.00%	7	70.00%	0	1	1	100.00%	0	0.00%	0	0	0.00%	0	0.00%	0	
Date of Local Plan production	Unknown	% of total appeals	Less than 5 year supply	Allowed	%	Dismissed	%	Part	More than 5 year supply	Allowed	%	Dismissed	%	Part	Unknown supply	Allowed	%	Dismissed	%	Part	Allowed	%	Dismissed	%	Part	
on Appeals in year 1 of NPPF	3		3	2	66.67%	1	33.33%	1	0	0	0.00%	0	0.00%	0	0	0	0.00%	0	0.00%	0	0	0.00%	0	0.00%	0	
on Appeals in year 2 of NPPF	3		3	3	100.00%	0	0.00%	0	0	0	0.00%	0	0.00%	0	0	0	0.00%	0	0.00%	0	0	0.00%	0	0.00%	0	
Total	6	1.94%	6	5	83.33%	1	16.67%	1	0	0	0.00%	0	0.00%	0	0	0	0.00%	0	0.00%	0	0	0.00%	0	0.00%	0	

Table 5: Breakdown of appeals based on buffer applied

	Where 5% added	% of total appeals	% based on total appeals where buffer known	Less than 5 year supply	Allowed	% Dismissed	%	Part	More than 5 year supply	Allowed	% Dismissed	%	Part	Unknown supply	Allowed	% Dismissed	%	Part	
5-year buffer																			
on Appeals in year 1 of NPPF	23			16	10	62.50%	6	37.50%	0	7	1	14.29%	6	85.71%	0	0	0.00%	0	0.00%
on Appeals in year 2 of NPPF	32			21	13	61.90%	8	38.10%	0	11	1	9.09%	10	90.91%	0	0	0.00%	0	0.00%
Total	55	17.80%	33.95%	37	23	62.16%	14	37.84%	0	18	2	11.11%	16	88.89%	0	0	0.00%	0	0.00%
5-year buffer																			
on Appeals in year 1 of NPPF	42			40	31	77.50%	8	20.00%	1	2	0	0.00%	2	100.00%	0	0	0.00%	0	0.00%
on Appeals in year 2 of NPPF	61			56	39	69.64%	17	30.36%	0	4	2	50.00%	2	50.00%	0	1	100.00%	0	0.00%
Total	103	33.33%	63.58%	96	70	72.92%	25	26.04%	1	6	2	33.33%	4	66.67%	0	1	100.00%	0	0.00%
5-year buffer																			
on Appeals in year 1 of NPPF	1			1	0	0.00%	1	100.00%	0	0	0	0.00%	0	0.00%	0	0	0.00%	0	0.00%
on Appeals in year 2 of NPPF	3			3	1	33.33%	2	66.67%	0	0	0	0.00%	0	0.00%	0	0	0.00%	0	0.00%
Total	4	1.29%	2.47%	4	1	25.00%	3	75.00%	0	0	0	0.00%	0	0.00%	0	0	0.00%	0	0.00%
5-year buffer																			
on Appeals in year 1 of NPPF	55			53	35	66.04%	18	33.96%	0	1	0	0.00%	1	100.00%	0	1	100.00%	0	0.00%
on Appeals in year 2 of NPPF	92			81	64	79.01%	16	19.75%	1	7	1	14.29%	6	85.71%	0	4	50.00%	2	50.00%
Total	147	47.57%		134	99	73.88%	34	25.37%	1	8	1	12.50%	7	87.50%	0	5	60.00%	2	40.00%

Table 6: Breakdown of appeals by determination by Inspector or Secretary of State

Determined by Inspector or Secretary of State	Total appeals by Inspector	% of total appeals	Less than five year supply	Less than five year supply			More than five year supply			Unknown supply			Average no. of units per site
				Allowed	% Total units	Dismissed	% Total units	Part	Total units	Allowed	% Total units	Dismissed	
on Appeals in year 1 of NPPF	104		95	64	67.37%	5734	30	31.58%	2492	1	55	87	
on Appeals in year 2 of NPPF	157		130	92	70.77%	6582	37	28.46%	2043	1	294	69	
Total	261	84.47%	225	156	69.33%	12316	67	29.78%	4535	2	349	76	
on Appeals in year 1 of NPPF			8	1	12.50%	135	7	87.50%	796	0	0	116	
on Appeals in year 2 of NPPF			22	4	18.18%	389	18	81.82%	992	0	0	63	
Total			30	5	16.67%	524	25	83.33%	1788	0	0	77	
on Appeals in year 1 of NPPF			1	1	100.00%	80	0	0.00%	0	0	0	80	
on Appeals in year 2 of NPPF			5	3	60.00%	351	2	40.00%	84	0	0	87	
Total			6	4	66.67%	431	2	33.33%	84	0	0	86	
on Appeals in year 1 of NPPF	17		15	12	80.00%	6841	3	20.00%	3860	0	0	713	
on Appeals in year 2 of NPPF	31		31	25	80.65%	7522	6	19.35%	1123	0	0	279	
Total	48	15.53%	46	37	80.43%	14363	9	19.57%	4983	0	0	421	
on Appeals in year 1 of NPPF			2	0	0.00%	0	2	100.00%	950	0	0	475	
on Appeals in year 2 of NPPF			0	0	0.00%	0	0	0.00%	0	0	0	0	
Total			2	0	0.00%	0	2	100.00%	950	0	0	475	
on Appeals in year 1 of NPPF			0	0	0.00%	0	0	0.00%	0	0	0	0	
on Appeals in year 2 of NPPF			0	0	0.00%	0	0	0.00%	0	0	0	0	
Total			0	0	0.00%	0	0	0.00%	0	0	0	0	

Table 7: Breakdown of appeal decisions made by Secretary of State

	Total decisions	Total overturned	%	Where inspector allowed but SoS dismissed	%	Where inspector dismissed but SoS allowed	%															
Decisions overturned by SoS	17	1	5.88%	0	0.00%	1	100.00%															
on Appeals in year 1 of NPPF	31	5	16.13%	3	60.00%	2	40.00%															
on Appeals in year 2 of NPPF	48	6	12.50%	3	50.00%	3	50.00%															
Total																						
Overturned decisions	Total decisions	Less than five year supply	%	Allowed	%	Dismissed	%	Where buffer 5%	Allowed	%	Dismissed	%	Where buffer 20%	Allowed	%	Dismissed	%	Where buffer unknown	Allowed	%	Dismissed	%
on Appeals in year 1 of NPPF	1	1	100.00%	1	100.00%	0	0.00%	0	0	0.00%	0	0.00%	0	0	0.00%	0	0.00%	1	1	100.00%	0	0.00%
on Appeals in year 2 of NPPF	5	5	100.00%	2	40.00%	3	60.00%	1	0	0.00%	1	100.00%	2	0	0.00%	2	100.00%	2	2	100.00%	0	0.00%
Total	6	6	100.00%	3	50.00%	3	50.00%	1	0	0.00%	1	100.00%	2	0	0.00%	2	100.00%	3	3	100.00%	0	0.00%

Table 8: Breakdown of appeals by geographical region

Appeals by Geographical Region	Total Appeals	% of districts with local plan adopted march 2007 - march 2012	% of districts with local plan adopted march 2007 - march 2013	Year 1	Pre 2004 Local Plan	%	Less than 5 year supply	Allowed	%	Dismissed	%	Part	More than 5 years supply	Allowed	%	Dismissed	%	Part	Unknown supply	Allowed	Dismissed	Part	
		2012	2013																				
East Midlands	54	30		24	13	54.17%	22	14	63.64%	8	36.36%	0	2	0	0.00%	2	100.00%	0	0	0	0	0	0
East of England	23	51		14	4	28.57%	12	9	75.00%	3	25.00%	0	2	0	0.00%	2	100.00%	0	0	0	0	0	0
National Parks	1	67		0	0	0.00%	0	0	0.00%	0	0.00%	0	0	0	0.00%	0	0.00%	0	0	0	0	0	0
North East	9	42		4	2	50.00%	3	1	33.33%	2	66.67%	0	1	0	0.00%	1	100.00%	0	0	0	0	0	0
North West	52	26		14	9	64.29%	13	10	76.92%	3	23.08%	0	1	1	100.00%	0	0.00%	0	0	0	0	0	0
South East	60	43		17	10	58.82%	17	12	70.59%	5	29.41%	0	0	0	0.00%	0	0.00%	0	0	0	0	0	0
South West	59	23		28	9	32.14%	25	18	72.00%	6	24.00%	1	3	0	0.00%	3	100.00%	0	0	0	0	0	0
West Midlands	33	33		11	2	18.18%	10	7	70.00%	3	30.00%	0	0	0	0.00%	0	0.00%	0	0	1	1	0	0
Yorkshire	18	29		9	6	66.67%	8	6	75.00%	2	25.00%	0	1	0	0.00%	1	100.00%	0	0	0	0	0	0
Total	309			121	55	45.45%	110	77	70.00%	32	29.09%	1	10	1	10.00%	9	90.00%	0	1	1	0	0	0
		% of districts with local plan adopted march 2007 - march 2012	% of districts with local plan adopted march 2007 - march 2013	Year 2	Pre 2004 Local Plan	%	Less than 5 year supply	Allowed	%	Dismissed	%	Part	More than 5 years supply	Allowed	%	Dismissed	%	Part	Unknown supply	Allowed	Dismissed	Part	
East Midlands			33	30	13	43.33%	24	17	70.83%	7	29.17%	0	5	1	20.00%	4	80.00%	0	1	0	1	0	0
East of England			57	9	4	44.44%	7	3	42.86%	4	57.14%	0	2	0	0.00%	2	100.00%	0	0	0	0	0	0
National Parks			67	1	0	0.00%	1	0	0.00%	1	100.00%	0	0	0	0.00%	0	0.00%	0	0	0	0	0	0
North East			42	5	4	80.00%	4	4	100.00%	0	0.00%	0	0	0	0.00%	0	0.00%	0	0	0	0	0	0
North West			41	38	5	13.16%	34	28	82.35%	6	17.65%	0	4	0	0.00%	4	100.00%	0	0	0	0	0	0
South East			53	43	20	46.51%	37	28	75.68%	9	24.32%	0	4	0	0.00%	4	100.00%	0	2	2	0	0	0
South West			31	31	11	35.48%	26	19	73.08%	6	23.08%	1	4	1	25.00%	3	75.00%	0	1	1	0	0	0
West Midlands			37	22	1	4.55%	19	12	63.16%	7	36.84%	0	3	2	66.67%	1	33.33%	0	0	0	0	0	0
Yorkshire			33	9	5	55.56%	8	5	62.50%	3	37.50%	0	0	0	0.00%	0	0.00%	0	1	0	1	0	0
Total				188	63	33.51%	160	116	72.50%	43	26.88%	1	22	4	18.18%	18	81.82%	0	5	3	2	0	0

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