

# Five-Year Housing Land Supply Review: Update

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**Our ref** 67258/01/MS/IT1  
**Date** 3 January 2024  
**To** Stockplace Investments Ltd  
**From** Lichfields

## Subject Land at Chelmsford Road, Hartford End

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### 1.0 Introduction

- 1.1 On behalf of our client, Stockplace Investments Ltd ('Stockplace'), we have prepared this note as an update to our previous 'Five-Year Housing Land Supply Review Report' (dated 19<sup>th</sup> Sep 2023). This report was submitted by Stockplace as part of its Section 62a ('S62a') application for a residential development at 'Land off Chelmsford Road, Hartford End' (ref. S62A/2023/0028).
- 1.2 This note deals with relevant updates to the Uttlesford District Council's ('UDC') 'Five Year Housing Land Supply' ('5YHLS') position pertinent to the determination of our clients pending application in the context of the below since our report was prepared:
- 1 Publication of UDCs updated 'Five-Year Housing Land Supply Statement and Housing Trajectory' note (dated 9<sup>th</sup> Oct 2023);
  - 2 Publication of the decision in relation to the S62a application at 'Land Known as Bull Field, Warish Hall Farm, Takeley, Essex' (decision issued 15<sup>th</sup> Dec 2023) (ref. S62A/2023/0019);
  - 3 Publication of the 2022 Housing Delivery Test Results (19<sup>th</sup> Dec 2023); and
  - 4 Publication of updates to the National Planning Policy Framework (19<sup>th</sup> Dec 2023).
- 1.3 This note summarises the implications of the above for UDCs 5YHLS position for the determination of Stockplace's application and updates the conclusions of our previous report where relevant.

### 2.0 Uttlesford's Updated 5YHLS Position

- 2.1 Following on from our review of the then latest UDC December 2022 'Uttlesford District Council 5-Year Land Supply Statement and Housing Trajectory' note – as detailed in our 19<sup>th</sup> September report – the Council published a revised position on the 9<sup>th</sup> October 2023.
- 2.2 The updated UDC 'Five-Year Housing Land Supply Statement and Housing Trajectory' note purported that the Council was now able to demonstrate a housing supply of 5.14 years over the new five-year period from 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2028; up from 4.89 years in the previous position (as per Table 1 below).

Table 1 Uttlesford DC's Stated 5YHLS Position (Based Date: 1<sup>st</sup> April 2023; Published 9<sup>th</sup> October 2023)

Uttlesford DC 5YHLS	
Five-Year Requirement	3,591
Deliverable Supply	3,695
Five-Year Housing Land Supply	5.14 years
Shortfall/Surplus	+ 104

Source: Table 3, Uttlesford District Council 'Five-Year Housing Land Supply Statement and Housing Trajectory' note (09/10/23)

- 2.3 Following this notes publication on 15<sup>th</sup> December 2023, the Planning Inspectorate published a decision notice in relation to a S62a application at 'Land Known as Bull Field, Warish Hall Farm, Takeley' (ref. S62A/2023/0019). In Para 69 of the decision, the Inspector confirmed their view that UDC could demonstrate a 5YHLS and that this latest position was undisputed at the hearing.

### 3.0 Implications of the Revised NPPF & 2022 HDT

- 3.1 On 19<sup>th</sup> December 2023 (i.e. after the Takeley decision), the Government published the latest 'Housing Delivery Test' ('HDT') results for 2022 alongside a revised National Planning Policy Framework ('NPPF') (Dec 2023). The revised NPPF (Dec 2023) changes the operation and calculation of housing land supply. The implications of these for the Council's housing land supply position and the application of Para 11(d) are summarised below.

#### 1. The 'titled balance' of Para 11(d) applies to UDC notwithstanding the Council's housing supply position

- 3.2 As a starting point, UDC recorded a measurement of 58% in the latest 2022 HDT<sup>1</sup>. Given this figure is below 75% the presumption in favour of sustainable development applies to UDC (i.e. Para 11(d)) in accordance with both Para 79 and Footnote 8 of the revised NPPF (Dec 2023). This applies irrespective of the Council's housing land supply position.

#### 2. UDC is still required identify and annually update a supply of specific deliverable sites and need to demonstrate 5 years' worth of supply

- 3.3 Para 76 of the revised NPPF (Dec 2023) states that Local Planning Authorities ('LPAs') with a plan adopted in the past five years are no longer required to identify and update annually a housing land supply (where an Inspector concluded a 5YHLS existed at the point of examination). This provision does not apply to UDC as the Council's latest plan was adopted in 2005.

<sup>1</sup> [https://www.gov.uk/government/publications/housing-delivery-test-2022-measurement?utm\\_campaign=govuk-notifications-topic&utm\\_content=immediately&utm\\_medium=email&utm\\_source=dfdc072b-319a-4951-85e7-ff0bbbc2e5f8](https://www.gov.uk/government/publications/housing-delivery-test-2022-measurement?utm_campaign=govuk-notifications-topic&utm_content=immediately&utm_medium=email&utm_source=dfdc072b-319a-4951-85e7-ff0bbbc2e5f8)

- 3.1 Given the above, UDC are still required to identify and update a supply of specific deliverable sites in accordance with Para 77 of the revised NPPF (Dec 2023). However, this Paragraph states that the supply must be a minimum of five-years' worth or only four-years' worth if Para 226 applies. Para 226 of the revised NPPF (Dec 2023) states that:
- “From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, **including both a policies map and proposed allocations towards meeting housing need.** This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.” (our emphasis).*
- 3.2 In November 2023, UDC consulted on its latest Reg.18 version of its emerging Local Plan. This plan<sup>2</sup>:
- Did contain proposed allocations towards meeting housing need; albeit, non-strategic allocations below 100 homes were still to be identified in a future Reg.19 version; but
  - Did not have a corresponding 'policies map'. While there are maps in the plan, these do not appear to constitute a 'policies map' and there are references throughout the Reg.18 plan to a 'Policies Map', which indicates that the intention is to produce a separate map for this purpose in the future, to be adopted alongside the plan.
- 3.3 Therefore, as a starting point, we do not consider that the provisions of Para 226 apply meaning that UDC needs to demonstrate five years' worth of supply rather than four.
- 3.4 Notwithstanding, the Reg.18 draft Local Plan does contain a series of maps within the plan itself and its appendices. For example, a 'Key Diagram' is included on Page 32 as well as 'Framework' plans (i.e. Figure 5.3 'Saffron Walden Framework', page 58) conveying key strategic allocations. Alongside this are plans within the appendices detailing the geographic extent of certain policies (i.e. Appendix 6 – Strategic Transport Schemes Safeguarded land). It may be considered that these maps – either individually or collectively – constitute a 'policies map' in the context of Para 226.
- 3.5 Para 226 is new policy and there is no supporting guidance as to what a 'Policies Map' is in the context of the policy. However, the "Town and Country Planning (Local Planning) (England) Regulations 2012/767" currently defines what the form and content of an adopted policies map should be<sup>3</sup>. This states that:

<sup>2</sup> Available here: <https://www.uttlesford.gov.uk/article/8883/The-Draft-Local-Plan>

<sup>3</sup> The 'Levelling Up and Regeneration Act' (2023) will amend the definition of a 'policies map' but relevant sections of this Act are not yet in force.

*“(1) The adopted policies map must be comprised of, or contain, a map of the local planning authority's area which must—*

*(a) be reproduced from, or be based on, an Ordnance Survey map;*

*(b) include an explanation of any symbol or notation which it uses; and*

*(c) illustrate geographically the application of the policies in the adopted development plan.”*

3.6 When considering the above tests, the ‘Key Diagram’ does not in and of itself constitute a ‘policies map’ as it does not illustrate the application of the policies in the plan. By way of example, Core Policy 8 ‘Safeguarding of Land for Strategic Transport Schemes in the North Uttlesford Area’ states that the area relevant to this policy will be ‘shown on the Policies Map’. Nor does it show the extent of proposed allocations.

3.7 We also do not consider that the Key Diagram in combination with other maps contained within the plan and its appendices collectively constitute a ‘Policies Map’. Again, this is because not all policies within the plan are shown on the maps within it. For example, Core Policy 4 sets out employment allocations for the District which are not shown in full on maps (i.e. Chesterford Research Park employment allocation is not shown). Moreover, a policies map is defined as “*a map of the local planning authority’s area*”: this is written as a singular not a plural. Therefore, a series of separate maps containing some but not all relevant policies should not be able to form a ‘policies map’ collectively, especially as those maps do not add up to present a complete picture of the policies the plan will seek to apply.

### **3. UDC needs to apply a 20% buffer**

3.8 The revised NPPF (Dec 2023) has made changes to what buffer should be added to a Council’s 5YHLS calculation. 5% and 10% buffers are no longer applicable; instead, only a 20% buffer is applicable depending on an LPAs HDT measurement. For reference, in the Council’s latest 5YHLS position UDC applied a 5% buffer.

3.9 UDC recorded a measurement of 58% in the latest 2022 HDT<sup>4</sup>. Given this figure is below 85%, the Council has recorded a ‘significant under delivery of housing’ as defined by Para 77 and Footnote 43 of the NPPF (Dec 2023). Consequently, UDC needs to apply a 20% buffer paragraph 77 of the NPPF requires a 20% buffer to be included in the five-year housing land supply.

### **Summary**

3.10 From the above, the titled balance is engaged by virtue of UDCs latest HDT measurement. In respect of land supply, the Council must continue to identify and annually update a housing land supply sufficient to provide five years’ worth and apply a 20% buffer in that calculation.

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<sup>4</sup> [https://www.gov.uk/government/publications/housing-delivery-test-2022-measurement?utm\\_campaign=govuk-notifications-topic&utm\\_content=immediately&utm\\_medium=email&utm\\_source=dfdc072b-319a-4951-85e7-ff0bbbc2e5f8](https://www.gov.uk/government/publications/housing-delivery-test-2022-measurement?utm_campaign=govuk-notifications-topic&utm_content=immediately&utm_medium=email&utm_source=dfdc072b-319a-4951-85e7-ff0bbbc2e5f8)

- 3.11 Table 2 below shows that when applying a 20% buffer across the five-year period the Council can only demonstrate a 4.50-year supply (a shortfall of 0.5 years, or some 409 homes). Therefore, the Council cannot demonstrate a 5YHLS as required by Para 77 of the revised NPPF (Dec 2023).

Table 2 Uttlesford DC's 5YHLS Position Including 20% Buffer

Uttlesford DC 5YHLS	
Five-Year Requirement (including 20% buffer)	4,104
Deliverable Supply	3,695
Five-Year Housing Land Supply	4.50 years
Shortfall/Surplus	-409

Source: Uttlesford District Council/Lichfields analysis.

- 3.12 Notwithstanding the above, should a different view be taken on the application of Para 226 or should a separate policies map be published alongside a further Reg.18 or Reg.19 consultation ahead of determination, UDC would be unable to demonstrate a 'four-year housing land supply' in any case.
- 3.13 Our reading of Para 77 and Para 226 is that where Para 226 applies it requires a Council to demonstrate a four-year supply against four years' worth of a housing requirement. Para 77 states certain LPAs must demonstrate "a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply". Therefore, if Para 226 applied and said LPA is required to demonstrate four-years' worth of supply, it is tested over a four-year periods' worth of housing requirements in the same manner as the test of five-years' worth of supply is compared against five years' worth of a requirement; noting that the policy wording is the same for both (and is consistent with the previous wording of the five-year test in former Para 74 in the Sep 2023 NPPF<sup>5</sup>).
- 3.14 This is different to a Council being able to demonstrate more than four-years' worth of supply against five-years' worth of a requirement. Such a provision was included in the previous NPPF (Sep 2023) in Para 14(c) which stated "*c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74);*". Para 77 and 226 of the revised NPPF (Dec 2023) are not worded in this manner.
- 3.15 Consequently, based on (1) the annual requirement over a four year period' (2) the application of a 20% buffer (as required by Para 77 and Para 226); and (3) noting the supply expected to come forward in the next four-year period (as per the trajectory at Appendix 1 of the UDC Five-Year Housing Land Supply Statement): UDC is only able to demonstrate a 3.63 year supply against the four-year housing land supply requirement – as set out in Table 3 below.

<sup>5</sup> Available here:

<https://web.archive.nationalarchives.gov.uk/ukgwa/20230929144819/https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Table 3 Uttlesford DC 4YHLS Including 20% Buffer

Uttlesford DC 4YHLS	
Annual Requirement	684
Four-Year Requirement	2,736
Four-Year Requirement including 20% buffer	3,283
Deliverable Supply over next four years (as identified from Appendix 1 of the Oct 23 5YHLS Statement)	2,984
Four-Year Housing Land Supply	3.64 years
Shortfall/Surplus	-299

Source: Uttlesford District Council/Lichfields analysis.

## 4.0 Conclusions and Relevance to this Application

- 4.1 This note has set out the relevant updates to UDC’s 5YHLS position since we prepared a report (dated 19<sup>th</sup> September 2023) reviewing the Council’s then latest December 2022 5YHLS position. This report was submitted as part of Stockplace’s S62a application for a residential development at ‘Land off Chelmsford Road, Hartford End’ (ref. S62A/2023/0028).
- 4.2 Since the publication of our previous report, UDC has published an updated 5YHLS position that purports a supply of 5.14 years. A decision issued on 15<sup>th</sup> December by PINs in relation to a different S62a application (ref. S62A/2023/0019) confirmed that the Council could demonstrate a five-year housing land supply at that time. However, this position is no longer up-to-date following the Government’s publication of the revised NPPF and the 2022 HDT measurement on the 19<sup>th</sup> December 2023.
- 4.3 The key implications of the revised NPPF and the 2022 HDT to this S62a application are:
- 1 Irrespective of the Council’s housing land supply position, Para 11(d) of the NPPF (Dec 2023) is engaged by virtue of the UDCs latest HDT measurement: 58%. This is below the 75% threshold as per Para 79.
  - 2 The Council still needs to identify and annually update a supply sufficient to provide five-years’ worth of housing. In accordance with Para 79 of the NPPF (Dec 2023), the Council needs to apply a 20% buffer in calculating its housing land supply given its low HDT measurement.  
  
Applying the 20% buffer means that over a five-year period, the Council can only demonstrate a 4.50-years’ worth of supply. This again triggers Para 11(d) of the NPPF. This position represents a significant shortfall of 409 homes.
  - 3 It may be contented that Para 226 applies to UDC. Whilst we consider it does not apply, even if it were to do so, the Council is unable to demonstrate a four-years’ worth of housing against four-years’ worth of its requirement (including a 20% buffer). Over the next four-year period, UDC can only demonstrate a supply of 3.63 years: with a significant shortfall of 299 homes.

- 4.4 Therefore, for the determination of this S62a application, UDC is unable to demonstrate a 5YHLS as required by Para 77 of the NPPF (Dec 2023) and there is a significant shortfall of 409 homes. The conclusions regarding the weight to be given to this shortfall as per our September 2023 report are enhanced given:
- The Council’s 5YHLS is assessed against a capped local housing need figure, and the ‘true’ need for housing is significantly greater at 769 dpa (2023 base date, 2022 median affordability ratio);
  - The Council’s median affordability ratio has increased from 10.76 in 2005 (i.e. the date of adoption of its Local Plan) to 13.18 in 2022. This is significantly higher than the national average of 8.28 in England and just above the South East average of 10.75;
  - The Council’s waiting list for affordable homes was 1,272 households at 31 March 2022. This highlights the pressing need for more homes in the District and the development would deliver 20 additional affordable homes to help meet this need (including affordable rent, shared ownership, and First Homes).
  - UDC remains in ‘special measures’ due to the poor quality of decision-making on applications for planning permission for major development. Inadequate decision-making in recent years is likely to have delayed the delivery of much needed new housing;
  - The Local Plan was adopted in 2005 and is severely out of date. While the Council is preparing a new Local Plan, this process was previously put on hold in September 2022 and a new plan is not expected to be adopted until at least Spring 2026. Therefore, the Council is reliant on unallocated development – such as the proposed development by Stockplace – for housing delivery to meet needs for market and affordable homes; and
  - The latest 2022 Housing Delivery Test shows that the recent housing delivery is so poor – at 58% of the housing required – that the Para 11(d) is engaged;
- 4.5 In summary the five-year housing land supply shortfall is significant, and that should be weighed in the tilted planning balance in respect of the benefits and any potential disbenefits of the proposal.