



Proof of Evidence

**Town and Country Planning Act 1990 (as amended)
Section 78**

**Appeal against the non-determination of a planning application by Mid
Devon District Council**

**Outline application for the proposed extension to the existing business park for up to
3.9ha of employment land and up to 150 residential dwellings with associated open space
and infrastructure (with means of access to be determined only)**

Address: Land at NGR 298976 112882 (Hartnoll Farm) Tiverton Devon

**LPA Reference: 21/01576/MOUT
PINS Reference: APP/Y1138/W/22/3313401**

Proof of Evidence on behalf of the Local Planning Authority

Compiled by:

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1. Summary

- 1.1. This proof of evidence sets out how the Council is able to demonstrate a five year land supply position for housing in accordance with the National Planning Policy Framework and National Planning Practice Guidance. The Council's five year housing land supply is set out in full at Appendix A (1-4). In summary the Council's position is as follows:

A	Local Plan Review annual housing requirement	393
B	Total requirement over plan period to date 2013-2022 (A x 9)	3537
C	Completions over plan period to date 2013-2022	3124
D	Shortfall over plan period to date 2013-2022 (B - C)	413
E	Basic 5 year requirement 2022-2027 (A x 5)	1965
F	5 year requirement with shortfall 2022-2027 (E + D)	2378
G	5 year requirement with shortfall applying 5% buffer (F x 1.05)	2497

NB Requirement figure shown here is rounded to the nearest whole number

TABLE 2: Five year housing supply 2022-2027

A	Unconsented allocations	140
B	Consented allocations	1605
C	Consented windfalls	670
D	Communal accommodation with planning consent [^]	9
E	Windfall allowance	274
F	Total five year supply (A + B + C + D + E)	2698

[^] Individual residential unit equivalent released by provision of bed spaces in communal establishments (see below for further details)

Five year housing land supply figure:

5.40

2. Introduction

- 2.1. My name is Arron Beecham. I am a Principal Housing Enabling and Forward Planning Officer employed at Mid Devon District Council. I have a bachelor's degree in Geography and Environmental Management and a Master's degree in Urban Planning, both obtained from the University of the West of England. I am also a licentiate member of the Royal Town Planning Institute. I confirm that this proof of evidence represents my true and professional opinion and has been prepared and is given in accordance with the guidance of my professional institution.
- 2.2. I have visited the appeal site and the locality in connection with this appeal and am consequently familiar with both.
- 2.3. The appeal is made on the basis of the non-determination by Mid Devon District Council of an application in respect of outline planning permission for the proposed extension to the existing business park for up to 3.9ha of employment land and up to 150 residential dwellings with associated open space and infrastructure (with means of access to be determined only) at Hartnoll Farm, Tiverton.
- 2.4. The application was subsequently refused on 19 January 2023. At the time of the decision, an appeal had been made to the Planning Inspectorate, although officers had not received notification that it was valid. As such determination of the application remained with the local planning authority. There were six reasons for refusal, which are set out in the Decision Notice (CD2).
- 2.5. My Proof of Evidence relates solely to the first reason for refusal and sets out how the Council is able to demonstrate a five year land supply position for housing in accordance with the National Planning Policy Framework and National Planning Practice Guidance. All other matters in relation to that reason for refusal and the interpretation of policy as they apply to the appeal application are dealt with in the proof of Tony Aspbury.

3. The Appellant's Case

- 3.1. The appellant's argument is that that the local planning authority is not able to demonstrate the existence of a five year housing land supply and therefore the policies which are most important for determining the application are out of date. The appellant contends that the tilted balance is engaged and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole (paragraph 11 d) ii).
- 3.2. Specifically, the appellant contends (as set out in their Response to Council's Putative RfR - CD5) that:
 - For supply component A (unconsented allocation) there is no substantive evidence that supports the inclusion of these 153 units.
 - For supply component B (consented allocations) the appellant requires time to investigate each of the sites relied upon by the Council and has commenced this work. It will update its position once this work has been completed (via the SoCG process).

- For supply component C (consented windfalls) there is a plethora of small consents and, invariably, not all will be implemented within the 5 year period. Therefore the appellant has made provision for a 10% non-implementation allowance and reduced the figure of 635 units by 63.5 units. For windfalls of 5+ units individual sites are being analysed and will be reported to the Council (and PINS) in due course via the SoCG process.
 - For supply component D the appellant accepts the Council's figure of 9 units.
 - For supply component E (windfall allowance), there is no substantive evidence to support the inclusion of these 274 units.
- 3.3. A schedule of specific sites disputed by the appellant are set out within the Supplementary Statement of Common Ground (Housing) (CD8).
- 3.4. The appellant also contends that the Council's information on affordable housing need information was incorrect and that the situation today is worse than that considered by the Council. Data from Devon Home Choice is regularly updated and therefore it is common for the level of need to change, and indeed the nature of that need. For clarity, the latest data available (at the time of writing) is attached at Appendix F. Nevertheless, it is clear that there is a significant affordable housing need. This proof does not undertake an assessment of planning balance or consider the weight to be attributed to the proposed affordable housing and custom and self-build provision. These matters will be addressed in the proof of evidence of Tony Aspbury.

4. The requirement to demonstrate a five year housing land supply

- 4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets the statutory status of the development plan as the starting point for decision making. It states that a planning determination must be in accordance with the development plan unless material considerations indicate otherwise. This sets a logical framework for the decision maker. The statutory basis of the development plan and its function as the starting point for decision making is acknowledged in paragraphs 11 and 12 of the NPPF.
- 4.2. The NPPF (July 2021), which is a material consideration, sets out national policy in regard to the supply of land for housing with Chapter 5 dealing with delivering a sufficient supply of homes. Paragraph 74 requires Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
- 4.3. Paragraph 11 of the NPPF, which should be read alongside footnotes 7 and 8, is clear that *"where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date"* permission should be granted unless *"i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole"*. Footnote 8 sets out what being out-of-date includes, *"situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74)"* being one such circumstance. If it is found that the Council is unable to demonstrate a five year housing land supply, then the tilted

balance will apply unless the provisions of paragraph 11d (i) and (ii) of the Framework are engaged. It is not suggested that the 'clear reasons' set out in Footnote 7 are applicable and therefore, if there is found to be no five year housing land supply, where the benefits of granting planning permission are significantly and demonstrably outweighed by the harms of the proposal permission should not be granted. The adverse impacts associated with the appeal proposals are assessed within Tony Aspbury's proof of evidence.

- 4.4. It is material that the Government intends to end the obligation on local authorities to maintain a rolling five-year supply of land for housing where their plans are up-to-date. On 6th December 2022 the Rt Hon Michael Gove issued a ministerial statement (together with a subsequent consultation on proposed reforms stating that:

*"We will end the obligation on local authorities to maintain a rolling five-year supply of land for housing where their plans are up-to-date. Therefore for authorities with a local plan, or where authorities are benefitting from transitional arrangements, the presumption in favour of sustainable development and the 'tilted balance' will typically not apply in relation to issues affecting land supply"*¹

- 4.5. This ministerial statement is a clear intention from the Government, and is a material consideration of particular relevance to this planning appeal where five year housing land supply is the matter to be examined. The ministerial statement also signals a clear intention, where a development plan is up-to-date, to move away from the level of scrutiny and onus placed on LPAs to demonstrate housing land supply.
- 4.6. The Mid Devon Local Plan 2013 – 2033 was adopted in July 2020 and is therefore less than five years old. It carries full weight in the determination of planning applications. The Local Plan examining Inspector concluded in his report² that "the plan provides for a rolling five-year supply of housing, in accordance with national policy, with a significant surplus in later years of the plan."
- 4.7. It is acknowledged that the Government has made clear that its proposed changes to the NPPF are delayed until at least September 2023. While the date for the publication of a new NPPF is not known, it is likely that this will be published during the course of this appeal. It will be highly relevant to the determination and must be taken into account as a material consideration if published before the Inspector finalises their conclusions and publishes their report of the appeal decision.

5. Mid Devon Housing Requirement

- 5.1. Planning Practice Guidance stipulates that '*Housing requirement figures identified in adopted strategic housing policies should be used for calculating the 5 year housing land supply figure where: the plan was adopted in the last 5 years, or; the strategic housing policies have been reviewed within the last 5 years and found not to need updating. In other circumstances the 5 year housing land supply will be measures against the area's local housing need calculated using the standard method*'³.

¹ [Written statements - Update](#) on the Levelling Up Bill – Statement made on 6 December 2022

² [local-plan-report-mdlpr-final.pdf \(middevon.gov.uk\)](#)

³ Paragraph 005 Reference ID: 68-005-20190722

- 5.2. In accordance with the NPPF, Mid Devon’s housing supply is assessed against the housing requirement in the adopted Local Plan 2013 – 2033 of 393 dwellings per year. The basic requirement for the next five year period (2023 – 2028) is therefore 5 x 393 = 1965. This is common ground between the Council and the Appellant.

Addressing past shortfall

- 5.3. The NPPG requires the local planning authority to consider past shortfalls in housing completions against planned requirements. The level of shortfall is calculated from the base date of the adopted plan (2013) and should be added to the plan requirements for the next five year period (the ‘Sedgefield’ approach)⁴. The table below compares annual completions since 2013 against the 393 annual target.

Monitoring year	Net completions	Local Plan Requirement
2013/14	320	393
2014/15	316	393
2015/16	288	393
2016/17	304	393
2017/18	502	393
2018/19	432	393
2019/20	425	393
2020/21	335	393
2021/22	238	393
TOTAL	3,160	3,537

- 5.4. The above table shows that total completions over the plan period to date (2013 – 2022) were 3,160. Against a total requirement of 3,537 over the same period, this represents a shortfall of 377 which has been added to the basic requirement for the next five year period (See Appendix A).
- 5.5. This matter is not in contention between the Council and the Appellant and is therefore set out within the Housing Statement of Common Ground.

Application of buffer based on NPPF and Housing Delivery Test Results

- 5.6. Paragraph 74 the NPPF requires local planning authorities to ‘identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old.’ The supply of specific deliverable sites should, in addition, include a buffer (moved forward from later in the plan period) of:
- 5% to ensure choice and competition in the market for land; or
 - 10% where the local planning authority wishes to demonstrate a 5 year supply of deliverable sites through an annual position statement or recently adopted plan to account for any fluctuations in the market during that year; or
 - 20% where there has been significant under delivery of housing over the previous 3 years, to improve the prospect of achieving the planned supply.

⁴ Paragraph: 031 Reference ID: 68-031-20190722

- 5.7. Significant under delivery is determined on the basis of the Housing Delivery Test. Where this test indicates that delivery is below 85% of the housing requirement over the previous three years, a 20% buffer will apply. The most recently available Housing Delivery Test results released on 14 January 2021 demonstrate that Mid Devon’s housing delivery over the past three years was 127% of the housing requirement⁵. A 20% buffer is therefore not applicable for the purposes of demonstrating Mid Devon’s housing land supply position.
- 5.8. The Council has not, to date, sought to produce a formal annual position statement. Therefore, in line with the above NPPF requirements, a 5% buffer is applied to the housing requirement in setting out the Council’s current five-year housing land supply position.

6. Mid Devon Housing Land Supply

Identifying deliverable sites

- 6.1. As set out above, the NPPF requires local planning authorities to identify ‘deliverable’ sites sufficient to provide at least five years’ worth of housing supply. The NPPF defines ‘deliverable in this context as follows (Annex 2):

To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

- a) Sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for this type of units or sites have long term phasing plans).*
- b) Where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.*

- 6.2. NPPG sets out examples of the kind of evidence that can be used to demonstrate the deliverability of a site which may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;
- firm progress with site assessment work; or

⁵ [Housing Delivery Test: 2021 measurement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/housing-delivery-test-2021-measurement)

- Clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.

Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites.

Paragraph: 007 Reference ID: 68-007-20190722

- 6.3. In *East Northamptonshire Council v Secretary of State for Housing, Communities and Local Government* (Claim No. CO/917/2020)(Appendix E), the Secretary of State, in the Statement of Reasons attached to a Consent Order, confirmed that the proper interpretation of the definition of deliverable is “that any site which can be shown to 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’ will meet the definition; and that the examples given in categories (a) and (b) are not exhaustive of all the categories of site which are capable of meeting that definition. Whether a site does or does not meet the definition is a matter of planning judgement on the evidence available.”
- 6.4. The Council’s position has also been informed by the judgment of the Supreme Court on this matter (*Hopkins and Richborough* judgement – Appendix E). In his Lordship’s Judgment at paragraph 78, Lord Gill states that:
- “These requirements, and the insistence on the provision of “deliverable” sites sufficient to provide the five years’ worth of housing, reflect the futility of authorities’ relying in development plans on the allocation of sites that have no realistic prospect of being developed within the five-year period.”*
- 6.5. The Council has fully assessed sites for inclusion in the five year housing land supply in accordance with the definition of ‘deliverable’ and evidence requirements set out above. This assessment has considered the potential deliverability of all housing sites with planning permission or allocated for development in the Local Plan based on the evidence available. The assessment of this evidence in light of the NPPF and NPPG requirements has informed the delivery timescales and projected site build-out set out in the housing trajectory in Appendix A. The trajectory sets out the evidence used to inform the delivery projections for each site. The housing trajectory provides the basis from which the overall contribution of all **deliverable** sites to the five year housing supply is determined.
- 6.6. Evidence has been gathered from developers, site promoters and landowners in relation to the anticipated timescales and build out rates for their sites. Where applicable, this has informed the delivery projections set out in the housing trajectory. Relevant parties were initially contacted by the Council over the period May – August 2022; although the Council’s evidence has been continuously updated as further information has become available. Further details of the information request sent out to developers, site promoters and landowners, including the letter template and survey pro-forma are provided in Appendix B. Detailed responses received are attached in full at Appendix C.
- 6.7. To supplement evidence provided by other parties, the Council has reviewed the current planning status, historic delivery rates and other site-specific data gathered through the

Council's monitoring records. Information from Development Management Case Officers has also helped inform the evidence for certain sites.

- 6.8. In cases where there is evidence to indicate that a site is deliverable within five years but there is some uncertainty as to exactly how the site will build out within the five year period, the trajectory is guided by the HELAA Methodology⁶. This provides 'baseline' assumptions for the expected build out of sites according to size and planning status. This approach is based on historical evidence of delivery in the Local Housing Market Area (Exeter HMA) and is endorsed by representatives from the housebuilding industry who sit on the independent HELAA panel. Where additional evidence is available, such as past delivery rates or developer's anticipated delivery trajectories, this will supersede the HELAA build out rate assumptions.
- 6.9. The appellant has made reference to an appeal decision at land at Caddywell/Burwell Lane, Great Torrington, Devon (attached as Appendix 2 to the appellant's response to the RFR – CD5). Within the appeal decision, the Inspector stated:
- 'Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are the planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute 'clear' evidence. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward'.*
- 6.10. The decision referred to above is acknowledged and it is agreed that it is not appropriate to wholly rely upon an email or completed pro-forma from a developer or agent without further interrogation. This does not mean that information cannot be provided in such a format, if upon such interrogation it is considered that sufficient information has been provided constituting clear evidence. As Inspector Stephens articulates within his report, 'clear evidence' must be something cogent, as opposed to mere assertions. The Council's HLS as set out in Appendix A is entirely consistent with this approach.
- 6.11. In respect of developers reducing competition, the reverse is also true in that developers and landowners are incentivised to provide overly cautious assumptions of delivery to invite and encourage opportunities to progress other development sites in their ownership/control on the basis of housing land supply challenges. Research undertaken by Bradley (2020)⁷ argues that the 'accounting processes for a 5 year housing land supply in England normalises land speculation as the condition for housebuilding whilst instituting perverse incentives for landowners and developers to reduce the supply of new homes'. Clearly, local planning authorities have little genuine influence over the pace at which any given development is built out, beyond a grant of planning permission and timely discharge of conditions nor indeed any immediate control over prevailing market conditions. Indeed, *St Modwen (Appendix E)* indicates that local planning authorities should not be penalised if under-delivery was due to wider market conditions where the

⁶ [HELAA Methodology - May 2021 \(middevon.gov.uk\)](https://www.middevon.gov.uk/HELAA-Methodology-May-2021) – See Appendix 2: Market conditions model for calculating housing delivery rates.

⁷ Bradley, Q (2020) The financialisation of housing land supply in England. Available from: [The financialisation of housing land supply in England - Quintin Bradley, 2021 \(sagepub.com\)](https://www.sagepub.com/journalsPermissions.nav?lang=en&path=/journals/urban-studies/article/doi/10.1080/00420132.2020.1811111)

LPA had made a supply of sites available that had a realistic prospect of delivery, as demonstrated through this Proof of Evidence. Ultimately, it is therefore a necessary (but not exclusive) component of the Council’s evidence that local planning authorities gather evidence from the development industry by way of a completed pro-forma or email.

- 6.12. This is not the Council’s sole source of evidence and at no point does the Council’s housing land supply calculation rely wholly on the basis of a written submission from an agent/developer taken at face value. Instead, the assumptions contained within the Council’s trajectory are based on a robust, well-rounded evidence base that takes into account all aspects of Planning Practice Guidance. Whilst confirmation from a developer forms part of the evidence, the Council has also taken into account a sites current planning status, progress made towards submission of an application, site assessment work and any relevant information about site viability, ownership constraints or infrastructure provision.
- 6.13. It is evident that the Council has adopted a highly cautious approach to housing land supply. This is clear from both the inclusion of sites and the exclusion of other key allocations from the 5yhls. It is for the reasons above that no delivery is included for key strategic sites such as Phase 2 of the North West Cullompton Urban Extension or Culm Garden Village. Whilst there remains a genuine realistic prospect of delivery from some of these sites within the 5yhls, they are not included owing to a level of uncertainty over exact timescales.

Windfall commitments (unallocated sites with planning permission or under construction)

- 6.14. Paragraph 69 c) of the Framework advocates that local authorities should “support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”. The adopted Local Plan (Policies S10 – S14) supports development on windfall sites and sets appropriate strategic policy to guide decisions.
- 6.15. In Mid Devon, a significant proportion of all housing in Mid Devon is delivered on unallocated sites (See paragraph 6.22 of this proof).
- 6.16. The appellant contends that a 10% non-implementation allowance should be deducted from the consented windfall supply. The Council has already deducted stalled sites or others where there is evidence (or a lack of evidence) that suggests that these are not likely to be delivered in a five-year period from the housing land supply summary. This results in a reduction of 63 dwellings from the trajectory (See Appendix A (3) - 456-63 = 393), which in effect acts as a non-implementation allowance of more than 10%. It is therefore not necessary to include any additional deduction.
- 6.17. To aid understanding of how the deliverability of sites have been assessed in accordance with the NPPF/NPPG requirements, sites in the housing trajectory (Appendix A) have been assigned one of the categories set out in the table below. For each category, this table sets out the basis on which the deliverability of sites has been assessed and the sources of evidence used to inform delivery timescales.

Category	Basis for assessment of site deliverability and sources of evidence for projected delivery timescales and build out rates.
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Unconsented Allocations at 31/3/2022	Sites allocated in the adopted Local Plan (adopted 29/7/20) but did not have planning permission or permission pending as of 31/3/2022. These are only included in the initial five years of trajectory where evidence indicates site is deliverable in accordance with NPPF/NPPG. Delivery timescales and projected build out provided by developers or site promoters where applicable. Approvals which are subject to a Section 106 agreement are included in this category until the formal decision notice is issued. Refer to notes in trajectory for the evidence applicable to each site.
Consented Allocations	These allocated sites have either outline, full or reserved matters approval as at 31/3/22. Full or RM applications are deliverable in accordance with the NPPF/NPPG requirements, except in a small number of cases where more recent evidence indicates that schemes will not progress as proposed . Evidence from developers and other sources is used to inform delivery timescales and projected build out. With regards to sites with outline planning permission only, these are only included in the initial five years of the trajectory where evidence indicates the site is deliverable in accordance with NPPF/NPPG.
Windfall sites (1-4)	<p>Non-major windfall development with full or outline permission. A deduction has been made to remove small windfall sites that have stalled or not progressing for any reason. This results in a deduction of 63 homes from the windfall calculation.</p> <p>These sites are deliverable within 5 years in accordance with the NPPF/PPG, unless evidence indicates otherwise (e.g. sites under construction for >5 years excluded unless evidence of recent progress or indication of intention to progress with development.)</p> <p>Once the stalled sites has been deducted, build out is then assumed over a three year period.</p>
Windfall sites (5+)	Windfall sites of 5 or more dwellings with full or outline planning permission as of 31/3/2022. The sites in this category are only included in the initial five years of the trajectory where evidence indicates site is deliverable in accordance with NPPF/NPPG.

- 6.18. In addition to deliverable sites identified in the housing trajectory (Appendix A), there are other sources that contribute to the five year housing land supply. These additional sources are proposed new communal accommodation in residential institutions with planning consent; and an ‘allowance’ for future completions on windfall site (excluding sites with existing planning consent)

Inclusion of a windfall allowance

6.19. In addition to the elements of the housing supply identified above, in accordance with the NPPF, an additional windfall allowance is included to account for the future delivery of currently unconsented windfall developments.

6.20. Paragraph 71 states that:

“Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends...”

6.21. An allowance for windfall sites beyond those already identified as ‘commitments’ (with planning permission or under construction) is added to years 4 and 5 of the housing land supply (to avoid double counting since build out of windfall commitments is distributed over the first three years).

6.22. The authority’s monitoring data demonstrates that windfall sites have consistently formed a significant element of housing completions within the district even through periods of economic recession and therefore there is every reason to expect that they will continue to provide a reliable source of supply. The Council’s historic windfall sites provision is as follows (See also Appendix D):

Monitoring Year	Total Completions	Windfall Completions	%
2015/16	288	165	57%
2016/17	304	192	63%
2017/18	502	262	52%
2018/19	432	199	46%
2019/20	425	170	40%
2020/21	335	153	45.6%
2021/22	278	114	41%

6.23. The 5YHLS includes an allowance of 274 dwellings distributed across years 4 and 5 of the trajectory based on Appendix 4 (Page 21) of the HELAA methodology (i.e. 137 per annum) (CD22). The monitoring data shown in the table above demonstrates it has shown that with the sole exception of 2021/22 where overall completions were also low, the figure of 137 has consistently been exceeded (See also Appendix D). The Council therefore maintains that its housing land supply position and associated evidence base, is fully robust.

Communal accommodation

6.24. The NPPG Paragraph: 035 Reference ID: 68-035-20190722 indicates that local planning authorities should count housing provided for older people, including residential institutions in use class C2, as part of their housing land supply. Where there is planning consent for self-contained residential accommodation for older people (e.g. flats that

form part of a care complex), this would be assessed in terms of its deliverability as part of the regular housing supply and included in the housing trajectory as applicable. However, the housing trajectory does not account for planned provision of new residential accommodation for older people in communal settings such as care homes and other residential institutions in use class C2. There are a number of proposed developments in Mid Devon that will result in new residential accommodation within communal establishments such as these.

- 6.25. Therefore, in assessing the current housing supply, there is a need to take account of any proposed developments which will provide additional accommodation (in the form of new bed spaces) for older people in communal establishments such as care homes. Appendix A(4) identifies proposed developments of this type in Mid Devon which have full planning permission and are expected to be completed within the next five year period, therefore contributing to the five year housing land supply. In accordance with the NPPG Paragraph: 041 Reference ID: 68-041-20190722, an appropriate ratio is applied to the proposed number of new bed spaces to establish the amount of accommodation released into the housing market (i.e. the equivalent number of new residential units). As set out in Appendix A(4), it is expected that the proposed new developments of communal accommodation for older people would result in the release of the equivalent of 9 new dwellings into the housing market which contribute to the housing supply in the next five years.
- 6.26. The quantum of equivalent new residential units (communal accommodation) expected to be delivered in the next five years is not disputed between the Council and the Appellant.

7. Ensuring a robust and sufficient level of supply

- 7.1. Finally, it should be noted that the Council employs a number of mechanisms to ensure that a flexible, pragmatic and responsive approach is taken to maintaining a healthy supply of land for housing. Policy S4 b 'Ensuring housing delivery' sets cumulative housing completion action levels below which the release of contingency sites would be implemented. The policy makes clear that this applies where cumulative completions since 2013 fall below the expected completions total by over two years' worth of the annual target (as expressed in the defined action level for that year) or a five year supply of deliverable sites cannot be demonstrated. To date, cumulative housing completions within the plan period (2013 – 2033) amount to 3,160 homes⁸, against a target of 3,537 (the 2021/22 action level defined in Policy S4). This represents a shortfall of 377 homes, which is less than one years' worth of completions, thus not triggering the requirement for further intervention. Should housing completions in the future fall below the expected cumulative completions total by over two years' worth of the annual target, the Council will work proactively to bring forward allocations or outstanding planning consents. If this is insufficient then the Council will release a contingency site.

⁸ Completions 1st April 2013 – 31st March 2018 are published in Table 6, page 18 of the adopted Mid Devon Local Plan [Mid Devon Local Plan Review 2013-2033](#) (CD12)

Completions 1st April 2018 – 31st March 2020 are published in the Council's [Housing Land Supply Update 2019-20](#) (middevon.gov.uk)

Completions 1st April 2020 – 31st March 2022 are taken from the Council's current Residential Land Monitor database.

- 7.2. In the event that a shortfall in housing land supply is identified, the Court of Appeal (Appendix E: Hallam Land Management Ltd v Secretary of State for Communities and Local Government – Case No: C1/2017/339) has made clear that the weight given to the benefits of new housing development is likely to depend on factors such as the ‘broad magnitude of the shortfall, how long it is likely to persist, what the local planning authority is doing to reduce it, and how much of it the development will meet’.
- 7.3. The Council’s monitoring data confirms a pipeline of 1,652 homes in total, of which 639 have commenced and 1013 remain unimplemented with planning permission. Whilst much of this is factored into the Council’s housing land supply position, it is evidence of a strong pipeline of development that is coming forward in Mid Devon. Therefore, should it be found that the Council is unable to demonstrate a five year housing land supply, this is unlikely to persist for an extended period, particularly when taking into account the flexibility mechanisms set out above. The Council already works proactively to accelerate housing delivery in the district, including proactive masterplanning for key strategic allocations, securing infrastructure funding and positive engagement with landowners and developers.
- 7.4. Consequently, there is no housing land supply justification for speculative, open market led housing developments such as that proposed by the appeal scheme. This would fundamentally conflict with the plan led process under section 38(6) of the Planning and Compulsory Purchase Act 2004.

8. Conclusions

- 8.1. This Proof of Evidence sets out the basis for assessing five year supply in Mid Devon. It demonstrates that the required supply exists with appropriate buffers, based on a precautionary and risk-averse approach. The Council is therefore able to demonstrate 5.40 years of housing land supply. As such there is no basis for the overturning of adopted policy in relation to the supply of housing. The appeal should therefore be determined against adopted policy, and given the location of the development within the countryside as designated under Policy S14, where residential development is strictly controlled, the appeal should be respectfully dismissed.

Appendix A: Mid Devon Housing Land Supply

- Appendix A(1) Unconsented Allocations
- Appendix A(2) Consented Allocations
- Appendix A(3) Windfall 1-4
- Appendix A(3) Windfall 5+
- Appendix A(4) Communal Accommodation

Appendix B: Template Information requests to developers, site promoters and landowners and template survey form.

Appendix C: Developer Evidence

Appendix D: Windfall evidence

Appendix E: Relevant Case Law and Appeal Decisions

Appendix F: Devon Home Choice Data for Tiverton and Halberton