

# **Five Year Housing Land Supply Position**

1 April 2020

# 1. Introduction

- 1.1 Paragraph 73 of the 2019 National Planning Policy Framework (NPPF) requires Local Planning Authorities (LPAs) to *identify and update annually a supply of specific deliverable sites sufficient to provide a minimum five years' worth of housing against their housing requirements.*
- 1.2 The purpose of this note is to update the Lewes District Council's (the Council's) five year housing land supply position to reflect its status as at 1<sup>st</sup> April 2020. The five year period covers the period between 1<sup>st</sup> April 2020 and 31<sup>st</sup> March 2025. This note supersedes the 1<sup>st</sup> April 2019 position note.
- 1.3 In updating the housing land supply position the Council has considered the outcomes of relevant planning appeal decisions, the NPPF, the publication and subsequent updates of Government's National Planning Policy Guidance (PPG), the current status of relevant development plan documents (i.e. Local Plan and neighbourhood plans), recent case law and legal advice.
- 1.4 This note concludes that, as at 1<sup>st</sup> April 2020, the Council has a supply of deliverable housing land equivalent to <u>5.42 years</u> (a surplus of 151 units) outside the South Downs National Park (SDNP). The Council is therefore able to demonstrate a five year housing land supply against its disaggregated housing requirement figure; 5,494 net dwellings. As such, relevant policies within the Local Plan are considered up-to-date. Decision making on planning applications should therefore be made against policies within the adopted development plan.
- 1.5 In preparing this note the Council has sought to identify the potential impacts of the Covid-19 pandemic and reflect these in the housing trajectory. However, due to the ongoing certainties it is difficult to establish the effects beyond the immediate year or two. Further detail is provided in Section 2 below.

### Neighbourhood Plans and Housing Delivery Test

#### Neighbourhood Plans

1.6 On the 12<sup>th</sup> December 2016 Government published a Neighbourhood Planning: Written Ministerial Statement1 (WMS). The aim of the WMS was to redress the balance where positively prepared neighbourhood plans may be vulnerable to speculative development because higher level Local Plans are considered out-of-date due to the lack of a five year housing land supply. The WMS set out certain criteria that neighbourhood plans must meet if they are to be considered up-to-date.

<sup>1 12</sup> December 2016 Neighbourhood Planning: Written Statement – HCWS346

- The criteria is now contained within paragraph 14 of the 2019 NPPF (previously 1.7 paragraph 11 of the 2018 NPPF) along with an additional fourth criterion:
  - (a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
  - (b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
  - (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 73); and
  - (d) the local planning authority's housing delivery was at least 45% of that required [assessed against the HDT, from November 2018 onwards] over the previous three years.
- 1.8 For Lewes district the above is relevant for the following 'made' (adopted) neighbourhood plans:
  - Newick Neighbourhood Plan (adopted 16<sup>th</sup> July 2015);
  - Ringmer Neighbourhood Plan (adopted by the Council 25<sup>th</sup> February 2016) and by SDNPA 21<sup>st</sup> January 2016);
  - Wivelsfield Neighbourhood Plan (adopted 7<sup>th</sup> December 2016);

  - Plumpton Neighbourhood Plan (adopted 2<sup>nd</sup> May 2018);
    Newhaven Neighbourhood Plan (adopted 27<sup>th</sup> November 2019); and
  - Seaford Neighbourhood Plan (adopted 24<sup>th</sup> February 2020).

Hamsey Neighbourhood Plan is also now more than two years old (adopted by the Council 21<sup>st</sup> July 2016 and by SDNPA 14<sup>th</sup> July 2016). However, the plan does not identify housing site allocations and therefore is not afforded the same protection by paragraph 11 in the event that the Council cannot demonstrate a five year housing land supply.

#### Housing Delivery Test

- 1.9 The 2018 NPPF introduced the Housing Delivery Test (HDT). The HDT is used to determine a local planning authority's performance of housing delivery against its housing requirement over the previous three years. The three year period relevant to this five year housing land supply update is 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2019.
- 1.10 The HDT establishes whether there has been a "significant under delivery" of housing. If a significant under delivery is found then a 20% buffer, rather than the minimum required 5%, must be applied to the five year housing land supply calculation. LPAs are also required to produce and publish an Action Plan to identify causes for under delivery and intended actions to increase delivery if their HDT is below 95%.
- 1.11 The 2019 HDT results were published in February 2020 stating Lewes' figure to be 93%. The Council is therefore required to ensure its Action Plan is updated

and published. Further information is provided in Section 2 under 'Additional Buffer'.

# 2. Housing Land Supply and Requirement

#### Lewes District Local Plan and Housing Requirement Figure

- 2.1 The Lewes District Local Plan is made up of 2016 Local Plan Part 1: Joint Core Strategy (LPP1) and 2020 Local Plan Part 2: Site Allocations and Development Management Policies (LPP2), as well as any retained 'saved' policies not yet superseded by neighbourhood plans.
- 2.2 The South Downs National Park Authority (SDNPA) subsequently adopted the LPP1 on the 23<sup>rd</sup> June 2016. LPP1, along with 'made' neighbourhood plans, forms the development plan for the Lewes district.
- 2.3 Spatial Policies 1 (*Provision of Housing and Employment Land*) and 2 (*Distribution of Housing*) of the JCS set out the housing requirement of a minimum 6,900 net additional dwellings (equivalent to 345 dwellings per annum), for the district over the Plan period, between 2010 and 2030. However, in fact, the figures against each element of Spatial Policy 2 total 6,926 dwellings. It is therefore this slightly higher housing figure which is the starting point for the five year housing land supply.
- 2.4 Subsequent to the adoption of the LPP1 a judicial review was lodged. The judgement concluded with the quashing of Spatial Policies 1 and 2, insofar as they relate to the SDNP. The challenge was out of time to affect the status of the Plan for outside the SDNP. As such, only the housing numbers and distribution to settlements within the areas outside the SDNP remain part of Spatial Policy 2.

Table 1: Separ	ated 6,926	6 housing	require	ment figure	Э			
	Completions between 2010- 2015	Commitments (as at 1 April 2015)	Strategic Sites	Subsequent allocations	Windfall	Rural exception sites	SP2 (3)'Floating' 200	Total
Housing <u>inside</u> the National Park	220	142	655	235	132	48	0	1,432

2.5 The below table shows how the 6,926 housing requirement figure has been separated between the two local planning authorities.

2.6 Consequently, in terms of testing the housing delivery against the housing requirement it is considered reasonable and practicable for only the areas outside the SDNP, for which Lewes District Council is the local planning authority, to apply to the five year housing land supply and HDT calculations.

#### Housing Land Supply Methodology

- 2.7 Footnote 32 and Annex 2 of the NPPF state that for sites to be considered deliverable they should: "be available now; offer a suitable location for housing development now; and be achievable with a realistic prospect that housing will be delivered on site within five years. In particular:
  - a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).
  - b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years."
- 2.8 Paragraph ID: 68-007-20190722 of the PPG states that robust and up to date evidence is needed to demonstrate a five years' worth of deliverable housing sites. It goes on to state that further evidence will be required for sites highlighted in part (b) of the definition, namely those sites which:
  - "have outline planning permission for major development;
  - are allocated in a development plan;
  - have a grant of permission in principle; or
  - are identifies on a brownfield register."

The evidence to demonstrate deliverability 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
- Clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for largescale infrastructure funding or other similar projects."
- 2.9 The above definition and guidance has fed into the Council's consideration of sites qualifying for inclusion with the five year supply.. It is worth noting here that the Council does not interpret the types of sites stated in the definition and guidance as finite; it is not considered a 'closed list'. This is supported by the recent High Court decision whereby the Secretary of State now accepted that the definition of deliverable was not a closed list<sup>2</sup>.
- 2.10 As such, careful consideration is given to which sites are included within the five year supply calculation.
  - Large and small sites with extant Planning Permission as at the 1<sup>st</sup> April 2020;
  - Sites with a resolution to approve subject to section 106 as at 1<sup>st</sup> April 2020;
  - Housing allocations within the adopted Development Plan (including 2016 LPP1, 2020 LPP2 and neighbourhood plans);
  - Specific deliverable sites; and
  - Allowance from windfall sites (small sites without planning permission).

For all of the above only sites outside of the SDNP are included with the five year housing land supply.

#### Impacts of Covid-19

- 2.11 As stated in Section 1, this update to the Note has sought to reflect the potential impacts of the pandemic. On 23<sup>rd</sup> March 2020 Government announced that the UK was to go into lockdown with an unspecified date as to when activities could return to normal.
- 2.12 At the time, the Council were still contacting developers and site proponents as part of the annual monitoring process. From these discussions the Council was able to confirm that many of the construction sites had closed and were unable to provide a restart date. Other sites that were due to start were also unable to confirm a timetable going forward.

<sup>2</sup> East Northamptonshire v Secretary of State for Housing, Communities and Local Government. CO/917/2020

- 2.13 For proposals at the planning application stage most applicants were progressing, although this varied depending on whether staff had been furloughed. Applications awaiting Planning Application Committee (PAC) were delayed until emergency decision making procedures were implemented and until PAC could resume virtually.
- 2.14 The timing of the start of lockdown; at the end of the monitoring year, means that it is unlikely to have had a particular impact on the level of completions for 2019/20. However, a lower number of completions will most likely be seen in 2020/21 as construction sites closed delaying the delivery of houses. The extent of the delay to completions is unknown at this stage. If construction is unable to 'catch up' then the impacts on delivery could extend beyond 2020/21.
- 2.15 In light of the above, the Council has taken a cautious approach and included a six month delay for the majority of sites within the housing trajectory.

#### <u>Commitments</u>

#### Sites with extant planning permission

- 2.16 Large and small sites with planning permission, as at 1<sup>st</sup> April 2020, which are expected to contribute to completions within the next five years, are included in the five year housing land supply calculation.
- 2.17 As at 1<sup>st</sup> April 2020 a total of 1,640 net units on large sites (6 net units or more) had extant planning permission. Discussions with relevant parties (such as Development Management Case Officers, Building Control officers and site proponent/ developers), fed into determining a site's delivery and the extent to which it will contribute to the five year supply. This exercise was undertaken on a site by site basis.
- 2.18 In cases where a site proponent is unable to provide anticipated phasing, or the Council wishes to check the information provided, then a local comparable, completed, development might be used as a benchmark.
- 2.19 Where sites have been brought forward from the previous published housing land supply position the Council has sought to ensure timings of delivery remain realistic and reasonable. Previous advice from developers and officers and/ or relevant information obtained through the SHELAA process, is compared to the current position. This has enabled the Council to consider if and why there might have been a possible delay in a site's commencement or completion and, if necessary, modify the forthcoming five year delivery trajectory. The comparison between housing land supply updates also helps assess and moderate delivery timeframes anticipated by developers/

proponents for existing and future sites. The results of these considerations are reflected in the housing trajectory (Appendix 1).

- 2.20 The Council takes a site by site approach to considering a site's deliverability rather than applying a flat percentage discount to the total number of units with planning permission on large sites. This approach provides a more accurate position of a site's delivery status. As such, of the 1,640 net units with planning permission on large sites 1,260 net units are expected to be delivered within the next five years and are therefore included in the five year housing land supply calculation.
- 2.21 Small sites (5 net units or less) provide a consistent source of supply within the district. This source of supply is expected to continue to contribute to the district's delivery of housing over the remaining Plan period. However, it is recognised that a proportion of small site approvals have not been implemented in the past. To reflect this going forward, a 25% discount is applied to the total number of units on small sites with extant planning permission as at 1<sup>st</sup> April 2020. The percentage discount was established by examining how many units on permitted small sites were delivered. This determined the proportion of implemented approvals on small sites.

Table 2: Po	ercentage o	f small sites	delivered		
Year	Granted	Built	Expired	% Built	% Not Built
2004/05	92	74	18	80.43%	19.6
2005/06	84	64	20	76.19%	23.8
2006/07	98	71	27	72.45%	27.6
2007/08	124	82	42	66.13%	33.9
2008/09	75	53	22	70.67%	29.3
2009/10	50	36	14	72.00%	28.0
2010/11	66	57	9	86.36%	13.8
2011/12	61	46	15	75.41%	24.59

2.22 As at 1<sup>st</sup> April 2020 174 units, on small sites, had extant planning permission outside the SDNP. Applying the 25% discount, 130 units on small sites are included in the five year supply calculation.

Sites with Resolution to Approve Subject to S106

2.23 As at 1<sup>st</sup> April 2020 six large sites across the district, totalling 225 units, had been granted a resolution to approve subject to section 106 legal agreement sign off. 191 units are considered deliverable within the next five years. As with the large sites with extant planning permission each of the sites within this

category are considered on a site by site basis to ascertain their anticipated delivery.

#### Housing site allocations and deliverable sites

- 2.24 In addition to the above, the five year housing supply calculation also contains other sites which are considered capable of at least contributing to the Council's five year housing supply. This includes:
  - Local Plan allocations (168 units);
  - Neighbourhood plan allocations (76 units); and
  - Sites considered deliverable (6 units).

#### Additional Buffer

- 2.25 To date, the Council has applied a 5% buffer to the five year housing land supply calculation as required by paragraph 73 of the NPPF. The buffer is to ensure choice and competition in the market for land. This buffer increases to 20% where LPAs have a "significant under delivery" of housing over the previous three years.
- 2.26 "Significant under delivery" is defined as where housing delivery falls below 85% of the housing requirement (footnote 39 of the NPPF and Housing Delivery Test).
- 2.27 In February 2020 Government published the 2019 HDT results, see table 3 below. The 93% result enables the Council to retain a 5% buffer within its five year calculation.

Table 3:	Table 3: Lewes' 2019 HDT result										
Number	of homes r	equired	Total	Number o	of homes o	lelivered	Total	HDT result			
2016/17	2017/18	2018/19		2016/17	2017/18	2018/19					
275	275	275	824	167	285	311	763	93%			

2.28 The Council's HDT is calculated using housing figures, disaggregated postadoption of LPP1, following a legal challenge which resulted in the quashing of Spatial Policies 1 and 2, so far as they relate to the SDNP. This disaggregation has been agreed through a Statement of Common Ground with the SDNPA.

#### Windfall allowance

- 2.29 Paragraph 70 of the NPPF allows LPAs to include an allowance for windfalls in the five year supply so long as it can be demonstrated that windfalls have been, and will continue to be, a reliable source of supply. It also states that any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment (SHLAA), historic windfall and expected future trends, and should not include residential gardens.
- 2.30 As stated in paragraph 24 above, small site completions have provided a consistent source of windfall supply and completions in the district and are anticipated to continue to be reliable source of supply. This position was strongly supported by the LPP1 Inspector who considered that within the district, based on past performance and the strength of the local housing market, windfalls are very likely to be a continual source of supply.
- 2.31 To determine an appropriate level of windfall contribution to the five year supply an assessment of past completions on small sites was undertaken, see table below. The windfall contribution of 50dpa is based on average small site completions within the five year period prior to the economic downturn, 2004/05 to 2008/09. This reflects a period of housing growth within the district that is more typical of the district's overall performance and potential.

Table 5: Historic	windfall completi	ons	
Year	Total small site net completions	Net windfall exc. garden land	Percentage of small site completions on windfall excl garden land sites
2004/05	65	45	26.47
2005/06	85	65	24.53
2006/07	65	40	13.51
2007/08	88	61	14.70
2008/09	49	39	15.18
2009/10	62	39	22.29
2010/11	47	25	15.53
2011/12	45	23	9.31
2012/13	46	31	14.22
2013/14	44	30	26.55
2014/15	65	51	17.83
Total completions since 04/05	661	449	17.35
Completions in 5 year period pre-recession	352	250	17.82

- 2.32 The 600 windfall figure has been disaggregated based on the proportion of small site completions inside/ outside the SDNP within the first five years of the Plan period (2010/11 to 2014/15).
- 2.33 22% of small site completions (approximately 55 units) in the five years up to 2015/16 were within the Park. Taking the 22% as a proportion of the 600 equates to approximately: 132 units <u>inside</u> the SDNP and 468 units <u>outside</u> the Park. These figures have been applied to the relevant five year calculations, see Table 5 below. The windfall allowance is staggered for three of the first five years to avoid the risk of double counting with completions on already permitted small sites.

# 3. Five Year Housing Land Supply Calculation

3.1 Table 6 below sets out the five year housing land supply calculation, as at 1<sup>st</sup> April 2020, for outside the SDNP. For all supply calculations the 5% buffer and Liverpool Approach<sup>3</sup> to meeting any shortfall accumulated in the early part of the Plan are applied.

Та	Table 6: Lewes (outside the Park) 5YHLS							
		Units						
Α	Local Plan housing requirement figure (Local Plan figure annualised)	<b>5,494</b> (274.75)						
В	Net Completions (2010/11 to 2019/20)	2077						
С	Residual Requirement (Residual annualised)	<b>3,417</b> (341.7)						
D	Residual 5 year requirement (341.7 x 5)	1,708.5						
Е	NPPF 5% buffer (0.05 x 1,708.5)	85.4						
F	<b>Total 5 year requirement figure</b> (Annualised over 5 years)	<b>1,793.9</b> <i>(</i> 357)						
G	<b>Commitments</b> Large and small sites with planning permission Sites subject to Section 106 Local Plan Allocations Neighbourhood Plan housing allocations Deliverable sites LDC owned land Windfall allowance	<b>1,945</b> 1,390 191 168 76 0 6 114						
Н	<u>Supply</u> Years	5.42						

<sup>3</sup> The 'Liverpool Approach' spreads any shortfall over the remainder of the Plan period, whereas the 'Sedgefield Approach' seeks to meet the shortfall in the next five years.

# Appendix 1 – Lewes District Council Five Year Housing Trajectory, as at 1<sup>st</sup> April 2020

NB: Where '0' is shown against a site this indicates that, as at 1<sup>st</sup> April 2020, completions are not anticipated within the next five years.

Large sites	with planning per	mission						
Parish	Site address	Site/ application reference	Units within five years	2020 /21	2021 /22	2022 /23	2023 /24	2024 /25
South Heighton	The Old Rectory, Heighton Road,	LW/11/1078	0					
Seaford	1 - 10 Talland Parade, Seaford	LW/11/1321	10		5	5		
Seaford	34 - 40 High Street,	LW/12/0020	0					
Newhaven	Site 2, Newhaven Eastside, The Drove	LW/13/0630	0					
Ringmer	Boathouse Organic Farm shop, Uckfield Road	LW/14/0830	1	1				
Newhaven	The Bridge Inn, High Street	LW/15/0500	6	3		3		
Newhaven	Former Parker Pen site	LW/18/0826	145		45	50	50	
Hamsey	The Barn, Former Hamsey Brickworks	LW/18/0849	49	10	25	14		
Ringmer	North of Bishop's Lane,	LW/18/0331	94	10	50	34		
Seaford	Elm Court, Blatchington Road	LW/18/0404	0					
Wivelsfield	Remainder of Greenhill Way,	LW/16/0057 / SP5	53	20	33			
Ringmer	Lower Lodge Farm, Laughton Road	LW/15/0542 / RES11	30	7	15	8		
Newhaven	Rear of 1 Denton Drive	LW/16/0892	5	5				
Seaford	Sutton Leaze, Eastbourne Road	LW/17/0393	9			9		

Chailey	Gradwell End, Mill Lane	LW/17/0697	57	57				
Hamsey	Knights Court, South Road, South Common	LW/18/0850	6		6			
Newhaven	Marco Trailers, Railway Road	LW/17/0192	10		10			
Ringmer	Diplocks Yard, Bishops Lane	LW/16/0704 / RES4	10			10		
Newhaven	Unit 5, North Lane	LW/15/0453	13	13				
Newhaven	Land at Valley Road	LW/18/0406	85	20	45	20		
Seaford	Former Newlands Primary School, Eastbourne Road	LW/16/0800	183		10	65	75	33
Peacehaven	Lower Hoddern Farm	SP8 / LW/17/0226 & LW/19/0760	225	25	50	50	50	50
Seaford	Avondale Hotel, 4- 5 Avondale Road	LW/18/0614	0					
Plumpton	Land adjoining Oakfield House, Station Road	LW/17/0873	20		5	10	5	
Barcombe	Bridgelands, Barcombe Cross	LW/18/0627	6		6			
Peacehaven	138 South Coast Road	LW/18/0630	9		9			
Peacehaven	81-85 South Coast Road	LW/18/0366	9			9		
Seaford	6 Steyne Road	18SF / LW/12/0693	0					
Ringmer	Caburn Field	RG1/ LW/18/0808	77		17	30	30	
Newhaven	20 Fort Road	LW/19/0012 /H6	13	13				
Chailey	Glendene, Station Road	CH01 / LW/19/0054	11		11			
Newhaven	Land between Beach Road and Transit Road	LW/17/0205	39			14	25	
Newhaven	1-5 South Road	LW/19/0231	0					

Seaford	Land on south side of Sutton Drove	26SF / LW/16/0037	12		6	6		
Plumpton	Western end of Riddens Lane	Policy 5.1 / LW/18/0472	20			10	10	
Seaford	Homefield Place, Homefield Road	LW/19/0364	22			10	12	
Peacehaven	16-28 Cripps Avenue	LW/19/0398	31			15	16	
Seaford	51-53 Blatchington Road	LW/18/0647	0					
Total			1260	184	348	372	273	83

Sites with r	Sites with resolution for approval subject to S106								
Parish	Site address	Site/ application reference	Units within five years	2020 /21	2021 /22	2022 /23	2023 /24	2024 /25	
Peacehaven	1 South Coast Road	LW/15/0462	0						
Newhaven	Reprodux House, Norton Road	LW/16/0831 / H3	80		10	35	35		
Ringmer	Land adjacent to Neaves House	RES10 / LW/18/1011	6		6				
Wivelsfield	Land at The Nuggets	BH01 / LW/18/0566	22			7	15		
Ringmer	Land at Lower Lodge Farm (Retirement village)	LW/18/0880	75				25	50	
Peacehaven	330 South Coast Road	LW/19/0407	8			8			
Total			191	0	16	50	75	50	

Local Plan allocations (without planning permission)								
Parish	Site address	Site/ application reference	Units within five years	2020 /21	2021 /22	2022 /23	2023 /24	2024 /25
Newhaven	Land at Harbour Heights	LW/19/0378 / SP7	75				25	50

Newhaven	Newhaven Marina, Fort Road,	LW/07/1475 / NH6	75				25	50
Newhaven	South of Valley Road	LW/19/0205 / NH4	9				9	
Barcombe Cross	Hillside Nurseries	BA01	9				9	
	Total		168	0	0	0	68	100

Neighbourhood Plan sites (without planning permission)										
Parish	Site address	Site/ application reference	Units within five years	2020 /21	2021 /22	2022 /23	2023 /24	2024 /25		
Newick	Land east of Telephone Exchange	НОЗ	0							
Newick	Woods Fruit Farm, Goldbridge Road	HO4 / LW/18/0351	23				8	15		
Plumpton	Land adjacent to 4 Strawlands	LW/19/0237	10				10			
Wivelsfield	Springfield Industrial Estate, Ditchling Road	LW/14/0790 / Policy 2(i)	29			14	15			
Newhaven	Old Conservative Club	LW/19/0202 / H7	14				14			
			76	0	0	14	47	15		

LDC planned delivery												
Parish	Site address	Site/ application reference	Units within five years	2020 /21	2021 /22	2022 /23	2023 /24	2024 /25				
Newhaven	Valley Road 1 & 2	-	6				6					
			6	0	0	0	6	0				