

Malvern Hills District Council
The Council House,
Avenue Road,
Malvern,
Worcs.
WR14 3AF

F.A.O. Corin Beames

By email: corin.beames@malvernhills.gov.uk

Dear Corin,

MALVERN HILLS DISTRICT COUNCIL APRIL 2017 FIVE YEAR HOUSING LAND SUPPLY

In accordance with my instructions, I have set out below my conclusions on your April 2017 Five Year Housing Land Supply Report with reference, where appropriate, to the fourteen headings set out therein.

Housing Requirement

I am in agreement that the starting point for this year's calculation should be the figure of 5,650 for the period 2006 to 2030 as set out in Policy SWDP 3 (Table 4b(i)) of the South Worcestershire Development Plan (SWDP) which was adopted in February 2016. The policy also makes it clear that the annual requirement rates which are set out in Table 4b(ii) for each sub-area (in this case Malvern Hills excluding the Wider Worcester Area) will apply when monitoring delivery in each sub-area and for purposes of calculating the five-year supply.

The relevant five-year target for 2017/2018 to 2021/2022, excluding any allowance for undersupply or buffer, is therefore correctly calculated at 1 year x 308 (2017/18) and 4 years x 217 (2018/19, 2019/20, 2020/21 and 2021/22) giving 1,176 dwellings (net).

Completions

I note 363 dwelling completions have been recorded for 2016/17; the highest recorded for the District for the 11 years that have so far elapsed of the current plan-period. This takes the total number delivered over the plan period thus far to 2,630.

Calculating Past Undersupply

I am in agreement that the way this has been calculated, using the figure of 2,630 dwelling completions thus far minus the cumulative annual requirements set out in the recently adopted SWDP (Ref: SWDP 3 Table 4b(ii)) (i.e. 9 years at 235dpa plus 2 years at 308dpa giving a requirement of 2,731 dwellings) is correct. This confirms an undersupply of 101 dwellings.

Addressing Past Undersupply/Oversupply

The approach hitherto taken by the Council has been to seek to address any past undersupply over the next five year period (the so called 'Sedgefield Approach'). This is consistent with the Government's Planning Practice Guidance (PPG Ref: 35/ID 3-035-20140306); and has been upheld in recent Planning Inspectorate appeal decisions in Malvern Hills.

I am also in agreement that the most robust way to address past undersupply in the 5 Year Housing Land Supply Calculation is to factor it in before the appropriate buffer is applied (see below).

Buffer

The choice of which buffer to apply i.e. 5% or 20% (Ref: NPPF Para 47) is dependent on the LPA making a judgement on whether or not there has been a record of "*persistent under delivery of housing*". This is a matter of judgement that the NPPG says is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle.

My starting point on this matter has been the Inspector's decision on the appeal at Walshes Farm, Clows Top Road, Abberley, issued on 8th October 2013 (Ref: APP/J1860/A/13/2192810). In her report at paragraph 18, Inspector Lesley Coffey states that:

"Persistent under delivery is not defined within the Framework and the delivery of housing within Malvern District has been subject to a number of different targets in recent years. The Council had regularly exceeded the housing targets within the recently revoked WMRSS, but failed to achieve those within the Local Plan in four of the five years between 2006-2011. It also failed to meet targets within the Phase 2 Panel Report in three of the past five years. Given that the target within the Phase 2 Panel Report was not adopted by the Council, and that the Local Plan targets are time expired, I am not persuaded, on the basis of the available evidence, that there is a persistent record of under-delivery within the District."

The record for delivery over the 15 year period of the Worcestershire Structure Plan 1996-2011 was that it fell short of the target of 3,900 by just 56 dwellings (1.4% of the total).

Turning to the current Development Plan; if the annual requirement of 235 dpa set out in the adopted SWDP is applied retrospectively over the last 10 years, with the exception of the higher figure of 308 for the last two of those ten years, then it is evident that MHDC has under delivered in five of those ten years (see Table 1 below).

Having said that, MHDC has now delivered above the 'annual target', as it now appears in the adopted SWDP (Ref: SWDP Policy 2 Table 4b(ii)), in each of the last 3 years notwithstanding the substantially higher target that was set for the last two of those years. Indeed, I note the Council's comment that had there not been a step-up in the annual target for 2015/16 and 2016/17 then the past undersupply would have been converted into a surplus. I also note that in his Report on the Examination into the SWDP, the Inspector states at para 71, "No new evidence has come forward since my ICs were published in October 2013 to invalidate my conclusions that a 5% "buffer" is appropriate".

Table 1: MHDC Year on year (net) dwelling completions over the plan period to date

<u>Year</u>	<u>Net Completions</u>	<u>Annualised SWDP Requirement (SWDP Table 4b(ii))</u>	<u>Deviation from annualised SWDP Requirement</u>
2006/07	183	235	-52
2007/08	299	235	+64
2008/09	256	235	+21
2009/10	222	235	-13
2010/11	137	235	-98
2011/12	229	235	-6
2012/13	176	235	-59
2013/14	184	235	-51
2014/15	258	235	+23
2015/16	323	308	+15
2016/17	363	308	+55
Total 2006/2017	2,630	2,731	-101

It is in these circumstances that the Council has come to the judgement that it would be reasonable to apply a 5% buffer.

In considering which percentage buffer to apply it is, however, also important, in my view, to consider what the purpose of applying the buffer is in the first place. This is made clear at Paragraph 47 of the NPPF i.e. *“to ensure choice and competition in the market for land.”* Moreover, the 20% buffer is specifically associated with satisfying a need to *“provide a realistic prospect of achieving the planned supply.”* All this of course is set against the overarching objective to *“boost significantly the supply of housing”*.

My judgement is that, having regard to the above, and also to the realistic prospects for sustaining a rate of delivery above the ‘annual policy-requirement’ over the next five years, as is evident from the 352 units on sites under construction at April 2017, and the number of deliverable plots with planning permission that have been identified (see below), it is consequently reasonable to apply a 5% buffer.

In saying that, I agree that it is still helpful to prepare a parallel calculation using the 20% buffer to see whether or not the choice is actually critical to the outcome; which it is not in these circumstances i.e. the Council can still demonstrate a healthy 5 Year Housing Land Supply even applying a 20% buffer (see below).

Lead Times and Delivery Rates

Most of the ‘starting point assumptions’ are those that I have previously endorsed and have argued in evidence at a number of Public Inquiries over the period 2014 to 2016 on which the neighbouring LPA Wychavon District Council instructed me as expert planning witness i.e. where land supply was at issue. That said, the sites in Malvern Hills tend to be on a smaller scale with less involvement from the large national volume housebuilders.

Sites with Planning Permission not Started or Under Construction

With reference to paragraph 8.4 in the report, I would endorse the merits of continuing to monitor applications described as falling within Use Class C2 and to distinguish those which should legitimately be counted as contributing towards meeting the overall requirements of Policy SWDP 3 and the 5 Year Housing Land Supply.

Insofar as the individual sites with an extant planning permission at 1st April 2017 are concerned, I have reviewed the available evidence and the Council’s comments and, overall, I agree that the assumptions made are prudent and consistent with Paragraph 47 and Footnotes 11 and 12 of the NPPF and the guidance set out in the NPPG. Out of a total number of dwellings with planning permission but not yet started of 1,607 (net), the Council

has initially discounted 381, giving a total contribution to the 5 Year Housing Land Supply from this source of 1,226 which I consider to be robust.

Discounting so-called 'stalled sites' appears on the face of it to be ultra-cautious, always bearing in mind that a lapse rate has been applied, but I note that this would serve to reinforce the robustness of the exercise.

Moreover, discounting certain planning permissions which are due to expire within the next 6 months and some outline permissions with under one year left in which to submit reserved matters/full applications would also appear on the face of it to be an overly cautious approach but I note and support those ones, where there is a fresh planning application, being 'added back in' under the following heading.

Other Deliverable Sites

I have reviewed the Council's approach to this category of site and I am in agreement that discounting all allocated SWDP sites where a planning application had yet to be submitted at April 2017 is a robust starting position. Indeed, given the scale of the 'leeway' identified below, there is no need to start looking at allocated sites where applications are anticipated but had not been submitted by April 2017.

I note that it is considered that there is a realistic prospect of these sites delivering 215 dwellings over the five-year period. To my mind, the assumptions made about these sites are, overall, prudent and consistent with Paragraph 47 and Footnotes 11 and 12 of the NPPF and the guidance set out in the PPG.

Lapse Rate

The application of a 5% lapse rate, over and above the site specific discounts, has recently been agreed by Inspectors at appeals in Malvern Hills on the basis of the evidence provided by the Council and the conclusions of the Inspector who conducted the Public Examination into the SWDP. I am in agreement that this is the most appropriate rate to factor into the calculations.

Windfalls

The Council's assumption of 35 windfall completions per annum but discounted over the first 3 years to avoid double counting with committed small sites is consistent with the approach

agreed by the SWDP Inspector in respect of the SWDP housing trajectory. This was also the position taken by the Council in respect of the last two year's housing land supply. As you will know, I had previously argued successfully, in all but one appeal in neighbouring Wychavon (namely Tewkesbury Road, Bredon (Ref: APP/H1840/A/14/2222679 01.06.2015)), that a two year discount is sufficient. The three year discount, in my view, therefore represents an ultra-cautious approach but will reinforce the robustness of the Council's 2017 calculation.

Five Year Land Supply Table

I have checked the calculations and agree with the conclusions and the figure of 6.68 years supply including a 5% buffer, there being a 'leeway' of 450 dwellings

As indicated above, I consider it appropriate to also undertake the calculation with a 20% buffer but only to confirm whether or not the choice of buffer is critical. I have checked the calculations and agree with the conclusions and the figure of 5.85 years supply including a 20% buffer, there being a 'leeway' of 259 dwellings. This demonstrates that the choice of buffer is not critical, even though I agree with the Council's judgement that 5% is the more appropriate buffer to apply in the current circumstances.

Please do not hesitate to contact me should you have any queries with the above.

Yours faithfully

A solid black rectangular box redacting the signature of Tim Roberts.

Tim Roberts MRTPI