



**REPORT of
ASSISTANT DIRECTOR: PLANNING AND IMPLEMENTATION**

**to
COUNCIL (EXTRAORDINARY)
17 JUNE 2025**

MALDON DISTRICT FIVE YEAR HOUSING LAND SUPPLY 2025 / 26

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to set out for publication the Council's Five-Year Housing Land Supply (5YHLS) position 2025 / 26.

2. RECOMMENDATIONS

- (i) That the approved methodology of the 5YHLS be amended to include a windfall allowance in the supply;
- (ii) That the approved methodology of the 5YHLS be amended to including some supply from outline major planning applications, if clear and compelling evidence is obtained to justify the inclusion;
- (iii) That the 5YHLS briefing paper appended to this report at **APPENDIX A** and its accompanying spreadsheets at **APPENDIX B and APPENDIX C** be endorsed as providing robust evidence that the Council can demonstrate a supply of specific, deliverable sites sufficient to provide for 2.8 years' worth of housing against the Council's identified housing requirements;
- (iv) That the Maldon District 5YHLS 2025 / 26 position be approved and published on the Council's website.

3. SUMMARY OF KEY ISSUES

3.1 Methodology

- 3.1.1 The Maldon District 5YHLS Methodology was reviewed in 2022 / 23 through a focussed 5YHLS Working Group (the Working Group) appointed by the Council. Following external legal advice, the Working Group reported its findings to the Statutory Annual meeting of the Council on 18 May 2023 (Minute 17/2023 refers). This concluded that the methodology for the 5YHLS calculations was considered to be robust if the decisions concerning what is included in the supply could soundly be backed by evidence.

- 3.1.2 At that time, the approved methodology for the 5-year supply was as follows:

"The Council should be using the Standard Methodology as set out in the National Planning Policy Framework (NPPF) for the assessment of the housing need figure because the Local Development Plan became 5 years old on the 17th July 2022. This is a matter which officers had already noted and amended for the publication of this

5YHLS calculation. By using the Standard Method, any undersupply of housing is automatically taken out of the supply calculations as it is factored into the Method already.

The Council should consider the buffer it is putting on its housing requirement and set out the rationale for that. The Council is already adding a 5% buffer and given the high delivery of housing completions against the national Housing Delivery Test, this 5% buffer is considered to be acceptable as an ongoing factor within the methodology.

The Council should only count “major development” as deliverable if either:

- (a) it has a detailed grant of planning permission or*
- (b) otherwise there is “clear evidence” housing completions will begin on site within five years. This is a matter which the Council was already considering in its methodology.*

With regard to using a slippage rate, the Council was advised that it was not a requirement of national policy but that it was for the Council to determine whether one should be added onto the 5YHLS. The slippage rate for the District is very low, 2.77%, given that there is a 5% buffer already added onto the 5YHLS figure and the slippage rate is below that, it has been determined to remove the slippage rate for this financial year. This will, however, still be reviewed yearly and if it rises above 5% then consideration will be given to adding it back into the 5YHLS calculation.

Concerning the addition of a windfall allowance in the supply. The Council has been advised that given the robust development management policies against windfall development, the fact that two thirds of applications for windfall are being refused and the modest amount, of net-new dwellings provided by this route it is likely that any Inspector would strip out reliance on windfall from the supply. Though it is for the decision-maker to determine this factor in the supply and national guidance does allow it, it does have to be clearly evidenced, and Inspectors are more likely to be risk averse if the evidence is not present to support factors in the methodology. This was therefore not included in the 5YHLS methodology.”

3.2 December 2024 – Changes to the NPPF Standard Method

3.2.1 On 12 December 2024 the NPPF was updated by the Government alongside an update to the methodology of the Standard Method for calculating a housing target for the District. From that date, Maldon District's housing need of 276 increased to a mandatory housing target of 569 housing units per annum. The effect on the District's 5YHLS has been to reduce it to 2.7 years from 6.3 years. With the publication of an amended affordability ratio for the District on 24 March 2025, this mandatory target has now risen to 575 housing units per annum.

3.2.2 Given these changes and the significant impact of them on the District, it was considered by the Planning Policy Working Group that it was an opportune time to review the methodology for the calculation of the 5YHLS to ensure that it remained as robust as possible as a material consideration in the determination of planning applications and planning appeals. Though no changes will give the District a 5YHLS in 2025 / 26. With the supply going under 5-years the Council has now gone into the 'tilted balance' with regard to planning decision making and therefore, the sites which may be granted planning permission in the next couple of years could go toward making up the 5YHLS. It is also important to capture those units in the supply if they are going to be delivered.

- 3.2.3 The two main matters that the Council could consider amending in terms of the methodology is whether the Council could now include a windfall allowance into the supply and whether supply could be included from major outline planning permissions. Both of these are discussed below.

3.3 Inclusion of Windfall developments in the 5YHLS

- 3.3.1 The NPPF defines in the glossary a windfall as: "Sites *which have not been specifically identified in the development plan*". At paragraph 75 of the NPPF it states.

"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."

- 3.3.2 In regard to the evidence that the Council has, which could support the inclusion of a windfall allowance into the 5YHLS calculation:

- In the main, the sites which have come forward in the Housing and Economic Land Availability Assessment (HELAA) are for ten units or more and are larger than 1.0 hectare in size, therefore if they came forward would be major development sites. In this regard to these sites, very few have, at the present time, come forward as windfall sites since the HELAA was initially completed in 2022.
- Regarding minor development sites, those under ten units, there has been a small supply since 2016, but it has risen as the Local Development Plan strategic sites have gained approval and built out, particularly in the last three years. The following housing units have been approved since 2016. These sites do not include replacement dwellings or sites which have expired. The evidence for these sites is included in **APPENDIX C** of this document.

Year	Number of units granted Planning Permission
2016	23
2017	31
2018	66
2019	47
2020	51
2021	65
2022	44
2023	85
2024	83
Total	495
Average	55

- 3.3.3 Any windfall that is put into the 5YHLS from 2025 will not however start to come forward straightaway. Analysis of delivery rates across minor windfall development shows that it is taking on average 2.5 years for the first unit completion on site. Therefore, it is proposed that 27 units of windfall housing should be put into the 5YHLS from year three and 55 units of windfall housing should be put in for years four and five. This will be a total of 137 units. The delivery of windfall will be monitored yearly, and adjustments made in future years as necessary. The evidence is set out at **APPENDIX C**.

3.4 Inclusion of Major Outline Planning Permissions

- 3.4.1 Firstly, with regard to this matter. The judge in an important Court of appeal decision: *Modwen Vs SOS* (2014) stated that “the assessment of housing supply is concerned with deliverability, and does not require certainty that the housing sites will actually be developed within the 5 year period and as the Inspector recognised deliverability was not disproved by showing that there were uncertainties”.
- 3.4.2 This court of appeal decision was based on the 2012 NPPF and there have been a number of updates since then and a number of updates to the National Planning Practice Guidance. Nonetheless what it sets out is that it is not necessary to have absolute concrete evidence of deliverability of sites for them to be included in the 5-year supply.
- 3.4.3 Present National Planning Practice Guidance (NPPG) states the following.

What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. [Annex 2 of the National Planning Policy Framework](#) defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- *have outline planning permission for major development.*
- *are allocated in a development plan.*
- *have a grant of permission in principle; or*
- *are identified on a brownfield register.*

Such 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 large-scale*
 - *infrastructure funding or other similar projects.”*

- 3.4.4 A developable site within the context of the NPPF is stated to be:

“Developable: To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.”

- 3.4.5 In regard to major development sites (sites over ten units) with outline planning permission, it is considered that the Council could include some of the granted housing units in the 5YHLS where the Council has been able to obtain and validate evidence that the site is developable within the 5-year period. This evidence will need to be stress-tested and could comprise some, or all of the following:
- Written confirmation from the landowner or promoter that a developer is on board to deliver the site
 - Written responses from the landowners/developers to ascertain when they intend to bring the site forward through Reserved Matters applications and how many units a year they are going to develop.
 - Evidence that the site has started to discharge its planning conditions.
 - Evidence that the site is having active pre-application discussions with the Council or there is a Planning Performance Agreement (PPA) in place which is being worked on to enable Reserved Matters applications to be submitted.
- 3.4.6 If major outline sites are found to have a realistic prospect of delivery, then the Council will apply the average delivery build-out time for this type of site to the 5YHLS. The average delivery time for major sites in the District are as follows.
- Major Outline planning permissions for sites under 50 units take on average 5.6 years to reach first unit completion from the date of decision. There are only five of these types of sites, two of which have not started yet. It is not considered a representative trend sample to ascertain what the delivery lead-should be. Therefore, a judgement will have to be made to ascertain what is an appropriate start time in relation to these in the 5-year supply on a case-by-case basis.
 - Major Outline planning permission for sites between 50 and 100 units take on average 4.5 years to reach first unit completion from the date of decision.
 - Major Outline planning permission for site over 100 units take on average 4.1 years to reach first unit completion from the date of decision.
- 3.4.7 The Lichfield 'Start to Finish' Third Edition - post 2024 election and NPPF Consultation 2024 has shown that major sites with a grant of outline permission take on average between 3 and 4.6 years to deliver their first site – this is comparable to the District's delivery time for sites over 50 units. These figures will be kept under constant review and revised each year, the evidence for the above is set out at **APPENDIX C**.
- 3.4.8 The Council has once again taken external legal advice from Counsel on the inclusion of a windfall allowance and housing supply from major outline planning permissions. Counsel has advised that it is acceptable providing the Council's evidence is sufficiently compelling and clear. The stress-testing questions set out at 3.17 of **APPENDIX A** are appropriate and would be the sort of evidence that the Council should look to have prior to putting any supply into the 5YHLS from outline major permissions. Where there is no developer on board with regard to a site then it would be difficult to show a realistic prospect of housing being delivered within the 5-years.
- 3.4.9 In order for the Council to try and obtain clear and compelling evidence from developers / agents a form has been devised to send out to all relevant parties in respect of those sites granted outline planning consent.

4. CONCLUSION

- 4.1 Given the above details set out in this report it is recommended that the methodology of the 5YHLS housing supply be changed to include a windfall allowance and if clear and compelling evidence is obtained from developers / landowners or agents some housing supply from major outline planning permissions.
- 4.2 That the briefing paper appended to this report at **APPENDIX A** and its accompanying spreadsheets at **APPENDIX B and APPENDIX C** be endorsed as providing robust evidence that the Council can demonstrate a supply of specific, deliverable sites sufficient to provide for 2.8 years' worth of housing against the Council's identified housing requirements.

5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2025 - 2028

5.1 Supporting our communities

- 5.1.1 Monitoring housing supply ensures that the Council supports housing development to meet the need of residents in the most sustainable locations across the District.

5.2 Growing our economy

- 5.2.1 The housing sector provides jobs within the District and assists in supporting the local and wider economy.

5.3 Delivering good quality services.

- 5.3.1 The 5YHLS should assist the Council in the determination of planning applications for 2025 / 26 by setting out the clear evidence that supports the 5YHLS and could reduce the risk of costs being awarded at planning appeals for unreasonable local planning authority behaviour if it were to refuse planning applications due to the land supply.

6. IMPLICATIONS

- (i) **Impact on Customers** – Having a clear methodology for the 5YHLS helps the public understand the Council's rationale for decision making affecting housing in the planning process.

- (ii) **Impact on Equalities** – None.

Impact on Risk (including Fraud implications) – The risk of challenge against the 5YHLS has been reduced through the work of the 5YHLS Working Group in 2022 / 23 and 2025. The legal advice the Council obtained both in 2022 / 23 and 2025 helps support the robustness of the methodology used to calculate the 5YHLS. This should assist the Council in the determination of planning applications and defending appeals going forward.

- (iii) **Impact on Resources (financial)** – The risk of challenge against the 5YHLS has been reduced through the work of the 5YHLS Working Group in 2022 / 23 and 2025. The legal advice the Council obtained both in 2022 / 23 and 2025 helps support the robustness of the methodology used to calculate the 5YHLS. This should assist the Council in the determination of planning

applications and defending appeals going forward and reduce the risk of costs being awarded against the Council for unreasonable behaviour.

- (iv) **Impact on Resources (human)** – None.
- (v) **Impact on Devolution / Local Government Reorganisation** – It is important that the Council if it merges into a larger authority provides that authority with a robust evidence base that it can use going forward.

Background Papers: None.

Enquiries to: Anne Altoft-Shorland, Head of Planning Policy and Implementation.