

## Nuneaton and Bedworth Borough Plan Review

### Hearing Statement by Marrons on Behalf of Bellway Strategic Land (part of Bellway Homes Ltd), September 2024

#### **Matter - 3 Housing Issue 2: The five year supply and overall housing supply position**

39. A) *Will there be a five year supply of specific, deliverable sites from the intended date of adoption of the Local Plan?*

1. No, for the following reasons.
  - The Council's approach, which seeks to discount the requirement-side of the five year supply calculation by 545 dwellings to account for a *projected* 'oversupply' (of 1,531 dwellings 2021/22-2024/25) cannot be justified as addressed in Part B) of Bellway's response to Matter 3 Issue 2, below.
  - Some of the sites included in the deliverable supply are not considered deliverable under the definition of September 2023 NPPF Annex 2, as explained in Part C) of Bellway's response to Matter 3 Issue 2.
2. Bellway's assessment is that the Council can demonstrate just **4.48 – 4.54 years (base date April 2025) at most**, with a deficit of 255-300 dwellings against what is required for the five year period. If planned housing requirements are increased to account for unmet needs from the wider HMA and to help address the full extent of the Borough's housing crisis (as justified in Bellway's previous representations), then the five year supply position deteriorates further.
3. On this basis, additional deliverable sites are needed as part of a sound and positively prepared plan to meet the requirements of NPPF60 and NPPF68.

39. b) *Is the five year supply requirement as set out in the Updated Housing Land Supply Background Paper (UHLSBP)(CD31) calculated correctly and the buffer, allowances and oversupply factors justified and accurate? Should it be calculated from 1 April 2025 or 1 April 2024?*

#### **Removing oversupply from the five year requirement**

4. The fundamental issue raised in Bellway's response concerns the inclusion of oversupply as part of the Council's calculation. This should be removed as is now explained.
5. The Council takes into account past oversupply in the first four years of the plan period in calculating the requirement-side of the five year supply calculation. This is based on

actual and projected completions totalling 3,711 dwellings<sup>1</sup> by a base date of 2025 against a requirement of 2,180 dwellings for this four-year period (draft BLP requirement of 545dpa x 4). This equates to an oversupply of 1,531 dwellings, which is then spread over the remaining 14 years of the plan period 2025/26-2038/39, equivalent to 109dpa. The requirement-side of the five year supply calculation is then reduced by 545 dwellings (109dpa x 5).

6. The Council sets out that national planning policy is silent on how oversupply should be treated and cites case law confirming that relying on past oversupply is a matter of planning judgement.
7. However, as a matter of planning judgement, the housing crisis facing Nuneaton and Bedworth is severe, and the Council has accrued significant shortfalls against the adopted development plan, so seeking to argue that oversupply should be taken in account cannot be justified.
8. Bellway's view that oversupply should be removed from the 5-year housing land supply calculation outright – it is at odds with the national priority to boost the supply of homes, as well as constraining the ability to tackle the Borough's evidential housing crisis.
9. On this basis the requirement-side of the five year supply calculation would be **2,861 dwellings (545 x 5, plus a 5% buffer), equivalent to 572.2dpa.**

#### **Reducing the oversupply amount from the five year requirement**

10. If the Inspectors' judgement was that oversupply could be included as part of the five year calculation, then the Council's approach is flawed in any event because completions since the start of the plan period in 2021 also meet the needs of Coventry and the wider HMA, so are not just to meet the Borough's needs.
11. Over the four year period 2021/22-2024/25 the Council is required to deliver at least 812dpa against the requirements of the adopted BLP: 502dpa being for the Borough and 310dpa being for Coventry/wider HMA. 38% of the annual housing requirement over this four year period is therefore to meet needs beyond the Borough. However, the new draft BLP undergoing examination is not seeking to meet any such wider needs.
12. To seek to claim credit for an oversupply which goes beyond the needs of the Borough and relates to the adopted BLP therefore cannot be justified. If the Inspector was minded to accept oversupply as part of the five year supply calculation, an adjustment should be made at the very least. The logical approach would be to discount total housing supply of 3,711 dwellings delivered 2021/22-2024/25 by 38%, commensurate

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<sup>1</sup> Table 1, page 2 of **CD31**

with the fact that this was to meet Coventry's needs. Discounting 3,711 dwellings by 38% would reduce provision since the start of the plan period to 2,301 dwellings for the Borough's needs.

13. On this basis claimed oversupply would only be 121 dwellings (over the four year period 2021/22-2024/25 2,180 dwellings should have been delivered [545 x 4], with 2,301 dwellings meeting the needs of the Borough), which spread over the 14 years of the remaining plan period would equate to 8.6dpa. The requirement-side of the five year supply calculation would therefore only be reduced by 43 dwellings.
14. The principle of making an adjustment to the five year supply calculation to account for the needs of Coventry has already been established, most recently in a Section 78 appeal at Leek Wootton, Warwick District (Appeal Decision APP/T3725/W/23/3319752<sup>2</sup>). In the Leek Wootton decision the Inspector recognised that 45% of Warwick's needs related to the wider HMA, specifically Coventry, and deducted the supply-side of the calculation accordingly.
15. An alternative approach would be to re-base the plan to 2025, with a plan period running 2025-2040.
16. Applying an oversupply deduction of 43 dwellings would result in the requirement-side of the five year land supply calculation being **2,816 dwellings, equivalent to 563.2dpa.**

39. C) *Are all the sites which compromise the suggested five year supply in the UHLSBP (CD31) deliverable in accordance with Annex 2 of the National Planning Policy Framework?*

17. No. The following sites should be discounted, including, for example.

**SHA1 Top Farm (adopted BLP Policy HSG1) – Remaining land at Top Farm: 361 dwellings in the 2025-based five year supply, total contribution of 1,665 dwellings over the plan period**

18. The deliverability of this site was recently considered by the Inspector assessing the Weddington Road appeal in a decision dated 9<sup>th</sup> July 2024 (**CD33**). At IR170 the Inspector concluded that the site was not deliverable given the lack of clear evidence. Furthermore, the build out rates indicated by the developer were also questioned by the developer given the lack of any comparable evidence.
19. Of the 361 dwellings included in the supply, reserved matters is only in place for 51 dwellings (application ref. 039779 as of May 2024). The remaining supply has no detailed permission in place, and no clear evidence as to why it will now come forward. A reserved matters application for 480 dwellings for Phase 1c(ii), submitted in June 2024 ref. 040330) by Develop Warwickshire LLP remains undetermined.

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<sup>2</sup> Appeal Decision APP/T3725/W/23/3319752, [Heading 9 \(warwickdc.gov.uk\)](http://warwickdc.gov.uk) (accessed August 2024)

20. Critical to the site's deliverability is the necessary approval of various pre-commencement conditions attached to the outline consent, and no details provided by the Council that these have been progressed or approved, certainly to enable any start on site by June 2024 as the developer suggests. These pre-commencement conditions - including condition 14 which requires a scheme for compensatory flood works - need to be discharged before residential development can take place. In the absence of any detail that these conditions have been discharged, combined with the lack of detailed approval for the majority of the scheme, this site cannot be considered deliverable for the purposes of five year land supply. There is no clear evidence as required by NPPF Annex 2.

**Conclusion: deduct 361 dwellings from the five year supply.**

**SHA2 Arbury (adopted BLP Policy HSG2): 50 dwellings in the 2025-based five year supply, total contribution 1,525 dwellings over the plan period**

21. At this stage, there remains no clear evidence as to why this site is considered deliverable. No outline planning application has been submitted to date, and no other details forthcoming on the site's delivery. This is despite the site's allocation in the adopted 2019 BLP. Issues raised in **CD31** (PDF page 128) do not appear to have been resolved.

**Conclusion: deduct 50 dwellings from the five year supply**

**SHA3 Tuttle Hill (adopted BLP Policy HSG11): 25 dwellings in the 2025-based five year supply, total contribution 325 dwellings over the plan period**

22. As with SHA2, there remains no clear evidence as to why this site is considered deliverable. No outline planning application has been submitted to date, and no other details forthcoming on the site's delivery. This is despite the site's allocation in the adopted 2019 BLP.

**Conclusion: deduct 25 dwellings from the five year supply**

**SHA4 Hospital Lane (adopted BLP Policy HSG5): 380 dwellings in the 2025-based five year supply, total contribution of 455 dwellings over the plan period**

23. This site was considered undeliverable in the Weddington Road appeal (IR172-173 of **CD33**). Since that decision Persimmon have purchased the site and submitted a reserved matters application in May 2024 (ref. 040286). Nevertheless, in the absence of any detailed permission there remains no clear evidence as to why the site is deliverable in the five year period.

**Conclusion: deduct 380 dwellings from the five year supply**

**SHA6 Hawkesbury Golf Course (adopted BLP Policy HSG12): 151 dwellings in the 2025-based five year supply, total contribution of 176 dwellings over the plan period**

24. Part of this site, totalling 66 dwellings for which detailed permission is not in place, was considered undeliverable in the Weddington Road appeal (IR180 of **CD33**). As with the Weddington Road decision, there is no clear evidence as to progress or determination of these 66 dwellings in terms of reserved matters approval.

**Conclusion: deduct 66 dwellings from the five year supply**

**SEA6 Bowling Green Lane (adopted BLP Policy EMP7): 13 dwellings in the five year supply, total contribution of 93 dwellings over the plan period**

25. There is no clear evidence on the deliverability of this site nor progress with reserved matters. It is not considered deliverable within the five year period.

**Conclusion: deduct 13 dwellings from the five year supply**

**SEA2 Wilsons Lane/Phoenix Way (adopted BLP Policy EMP2): 73 dwellings in the five year supply, total contribution of 73 dwellings over the plan period**

26. These 73 dwellings were not considered deliverable in the Weddington Road appeal (IR178 of **CD33**), however none of the issues raised by that Inspector appear to have been resolved. The site therefore remains to be considered undeliverable.

**Conclusion: deduct 73 dwellings from the five year supply**

**Non-Strategic Residential Allocations**

- NSRA-2 Former Manor Park Community School, Nuneaton: 58 dwellings included in the five year supply, however site only benefits from outline permission with no reserved matters to date (**CD31**, PDF page 209, simply says that an RM application is expected to be submitted August/Sept 2024). At IR164 of the Weddington Road appeal decision (**CD33**) this site was considered undeliverable. Nothing has changed to now suggest otherwise. The HELAA (**EB2.2**) (row 22 of the HELAA spreadsheet, site ref. ABB-4) gives the site an 'Amber' rating on achievability with respect to its history of not coming forward, and multiple Amber ratings across all availability criteria. It is unclear why none of these matters are addressed or considered in the overall HELAA conclusions, which merely states that there are no constraints.

**Conclusion: deduct 58 dwellings from the five year supply**

- NSRA-4 Vicarage Street Development St, Nuneaton, with delivery of first 15 dwellings expected in the five year supply out of a total capacity of 65 dwellings over the plan period. The site has no planning status, with no permissions in place, and is therefore not considered deliverable. The HELAA (**EB2.2**, row 51) identifies significant constraints

(ranked 'red' in the RAG rating) with respect to the presence of non-designated heritage assets, the town centre conservation area, air quality and noise pollution and contaminated land. Indeed, the HELAA flags concerns regarding the suitability of the site for residential use. Various disposal and delivery constraints then follow through in **CD31**, PDF pages 227-231.

### **Conclusion: deduct 15 dwellings from the five year supply**

- NSRA-5 Land Rear of Burbages Lane with delivery of the first 12 dwellings expected in the five year supply out of a total capacity of 45 dwellings over the plan period. The site has no planning status, with no permissions in place, and is therefore not considered deliverable. The site had a previous resolution to grant subject to completion of a S106 Agreement in August 2016, however due to insufficient progress on this the Council disposed of the application in October 2018. The HELAA identifies considerable constraints to the site's availability (**EB2.2**, row 40, site ref EXH-8). PDF page 238 of **CD31** identifies the issue if development being frustrated by adjacent development and ownership issues, and no clear evidence is provided to explain why the site is now considered deliverable.

### **Conclusion: deduct 12 dwellings from the five year supply**

- NSRA-10 Land at Bermuda Road, Nuneaton, includes 60 dwellings within the five year supply, however the site has no planning status. In addition, the proposed allocation is only for 25 dwellings, not 60. The HELAA flags an existing consent for a medical surgery on the site and therefore questions whether the site is currently available (**EB2.2**, row 26, site ref. ARB-1). The site is also partly constrained by Flood Zones 2 and 3. On this basis, it is considered that at this stage the site is not suitable, deliverable or developable at this stage under the definitions in NPPF Annex 2.

### **Conclusion: deduct 60 dwellings from the five year supply**

- NSRA-14 Mill Street/Bridge Street, Nuneaton, includes 15 dwellings included in the five year supply, with a full application pending determination. Delivery of the scheme also requires demolition of the existing buildings, and the HELAA identifies various other significant constraints, not least the Conservation Area and its setting (**EB2.2**, row 49, site ref. ABB-7). At the present time the site is not considered deliverable.

### **Conclusion: deduct 15 dwellings from the five year supply**

- NSRA-15 Bennetts Road, Kerseley, which includes delivery of all 10 dwellings within the five year supply, however the site still has no planning status and is not considered deliverable, with no clear evidence provided to the contrary. The site comprises open space within an existing residential area, with the HELAA identifying several TPO trees on the site (**EB2.2**, row 14, site ref. EXH-14). PDF page 26 of **CD31** states that no housing

trajectory evidence has been collected because the completions fall outside of the five year period, however this is incorrect if the Council is running a 5-year supply position with a 2025 base date.

- **Conclusion: deduct 10 dwellings from the five year supply**

#### **Sites with Full Planning Permission**

- 812 (Chapel Street) should be discounted from the deliverable supply. The HELAA states: "*Semi developed site. 10 flats are complete and have been for a number of years, but they have never been occupied. The 9 houses are yet to be built. Unclear why development was not completed. Unknown intentions to complete the site.*" The HELAA gives the site a 'red' rating on no intention to develop the site for housing (**EB2.2**, row 113, site ref. BED-7).

#### **Conclusion: deduct 9 dwellings from the five year supply**

- 1087 (Queens Road) includes 14 dwellings 'implemented' and delivery expected in 29/30 onwards, however this is a 2008 permission with no progress for a number of years (**EB2.2**, row 115, ABB-15). It is unclear why this site is now included in the five year supply. It is not considered deliverable

#### **Conclusion: deduct 14 dwellings from the five year supply**

- HSG1 (Nuneaton Fields Farm) includes all 34 dwellings within the five year supply, however the site has no planning status, with a full application still pending determination. It is not considered deliverable and should be removed from the supply.

#### **Conclusion: deduct 34 dwellings from the five year supply**

#### **Conclusions on the five year supply position at a base date of 2025**

27. On the basis of the adjustments with respect to oversupply and the deductions to the five year deliverable supply quoted set out in **CD31**, the Council cannot demonstrate a five year supply, with the position at circa **4.48 – 4.54 years**, as summarised in Table 1.

**Table 1 Revised Five Year Land Supply Position, based date April 2025**

	No oversupply as a matter of planning judgement	Reduced oversupply to account for needs of the wider HMA
<b>A. Five Year Requirement (545dpa) plus 5% Buffer</b>	<b>2,861 (572.2dpa)</b>	<b>2,816 (563.2dpa)</b>
<b>B. Council's Five Year Supply (Summary Table, page 15, CD31, Years 2025/26 – 2029/30)</b>	<b>3,756</b>	<b>3,756</b>
<b>C. Marrons deductions</b>	<b>Minus 1,195 dwellings</b>	<b>Minus 1,195 dwellings</b>
<u>Strategic site allocations</u> <ul style="list-style-type: none"> <li>- 361 (SHA1, Top Farm)</li> <li>- 50 (SHA2, Arbury)</li> <li>- 25 (SHA3, Tuttle Hill)</li> <li>- 380 (SHA4, Hospital Lane)</li> <li>- 66 (SHA6, Hawkesbury Golf Course)</li> <li>- 13 (SEA6, Bowling Green Lane)</li> <li>- 73 (SEA2, Wilsons Lane)</li> </ul> <u>Non-strategic residential allocations</u> <ul style="list-style-type: none"> <li>- 58 (NSRA-2, Former Manor Park Community School)</li> <li>- 15 (NSRA-4, Vicarage Street Development Site)</li> <li>- 12 (NSRA-5, Land Rear of Burbages Lane)</li> <li>- 60 (NSRA-10, Land at Bermuda Road)</li> <li>- 15 (NSRA-14, Mill Street/Bridge Street)</li> <li>- 10 (NSRA-15, Bennetts Road)</li> </ul> <u>Sites with full planning permission</u> <ul style="list-style-type: none"> <li>- 9 (812, Chapel Street)</li> <li>- 14 (1087, Queens Road)</li> <li>- 34 (HSG1, Nuneaton Fields Farm)</li> </ul>		
<b>D. Adjusted supply position</b>	<b>2,561</b>	<b>2,561</b>
<b>E. Five year supply position</b>	<b>4.48 years (deficit of 300 dwellings)</b>	<b>4.54 years (deficit of 255 dwellings)</b>

39. *E) Having regard to the UHLSBP (CD31) and other evidence, does the plan make provision for a supply of specific, developable or broad locations for growth for the subsequent years 6-10 and where possible years 11-15 of the remaining plan period?*

28. Reflecting the definition of a developable site in NPPF Annex 2 there is a lack of evidence to suggest any reasonable prospect that the following sites will be available and viably developed at the point envisaged.

29. For the extant strategic allocations from the adopted BLP which are proposed to be rolled forward in the draft BLPR, there is no evidence to suggest what has changed or why the sites are now considered developable. E.g. for SHA3 Tuttle Hill (adopted BLP Policy HSG11), **CD31** demonstrates that there is still no developer on board and no agreement in place between the three landowners (page 136). In addition, **CD31** identifies that the site cannot be viably developed to support policy compliant levels of affordable housing.

30. A further key issue regarding this site is the extent of infrastructure required to unlock it, how and when this requisite infrastructure will be funded and when it will come forward. It appears to be dependent on securing funding from the West Midlands Combined Authority Brownfield Housing Fund (highlighted on page 140 of **CD31**), the outcome of which is currently unknown.

31. There remains a lack of evidence for the developability of other strategic site allocations too, including SHA2 Arbury. This is all within the context of an allocation from back in 2019 which still has not come forward. On this basis, and in the absence of any evidence to the contrary, there remains no reasonable prospect that the site can be viably developed.

32. On the Non-Strategic Residential Allocations, the deliverability of these is challenged in the previous section with respect to the Council's own evidence. But the key point is that if these did not come forward under the adopted development plan, why are they going to be suddenly considered developable now? It is clear that many of these sites still have fundamental constraints which remain unresolved.

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**September 2024**