

EAST HERTS DISTRICT COUNCIL

HOUSING SUPPLY – FREQUENTLY ASKED QUESTIONS

What is a housing supply?

Housing supply is the measurement by which councils demonstrate that they have enough land in the form of deliverable sites (e.g. with planning permission or allocated in their local plan) to meet their annual target for new homes. Supply is assessed as part of a rolling annual review process. This is designed to ensure local authorities continuously meet their required contribution to national government housebuilding targets. A review is published annually.

What is considered deliverable when calculating 5YHLS?

A housing site is deliverable if it is realistic to expect that homes will actually be built on it within the next five years, not just that the land exists or is allocated for housing.

National planning policy says a site must meet three tests to be counted as 'deliverable':

Available now – there are no known legal or ownership barriers stopping development

Suitable now – there are no planning or policy reasons preventing housing

Achievable – there is a realistic prospect that homes will be built within five years

Sites with planning permission are generally counted as deliverable because permission shows that development is acceptable in principle and detail. Sites with full planning permission are normally assumed to be deliverable unless there is clear evidence they will not be built within five years, such as viability issues or lack of developer interest. Larger sites with only outline permission can only be counted where there is clear evidence that development will start within five years, for example through active developer involvement or an agreed delivery programme or if a reserved matters approval has been granted.

Why does the Council need to demonstrate they have a housing supply?

Paragraph 78 of the National Planning Policy Framework¹ 2024 states that,

*“local planning authorities should 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. The supply of specific deliverable sites should also include a buffer (moved forward from later in the plan period) of 5% to ensure choice and competition in the market for land”.*

Who sets the housing target?

Since late 2024, the UK central government sets the framework for housing targets in England through the NPPF, which states that Local Planning Authorities (LPAs) use a '[standard method](#)' to calculate their own local housing need. The standard method uses a formula that incorporates a baseline of local housing stock which is then adjusted upwards to reflect local affordability pressures to identify the minimum number of homes expected to be planned for.

The standard method formula identifies a minimum annual housing need figure, and ensures that plan-making is informed by an unconstrained assessment of the number of homes needed in an area.

What is the housing requirement in East Herts?

Using the 2024 methodology, the Council's housing requirement is 1,223 per annum. For the purpose of calculating the Five Year Housing Land Supply (5YHLS), the NPPF also requires a 5% buffer to ensure choice and competition in the market. This means that the Council's overall housing need requirement for 5YHLS purposes is currently $1,223 + 61 = 1,284$ new homes per annum or 6,421 over five years.

¹ The [National Planning Policy Framework](#) (NPPF) is the central government document setting out planning policies for England and how they should be applied. It acts as a guide for local councils, developers, and communities. The NPPF covers many topics including housing, the environment, and economic growth.

The consequence of this increase is a supply deficit. Previously, the Council has been able to demonstrate a five-year supply, but the increase in need has meant that this five-year supply no longer exists.

How is East Herts housing supply managed?

The Council regularly reviews its land supply trajectory by monitoring new planning applications and the progression of sites towards completion to understand the deliverable supply of homes over the next five years. Whilst a formal position statement has not been published since [March 2024](#) (before the changes in the way need is calculated), interim calculations have been completed based on completions and a reassessment of the Council's District Plan allocated sites in the housing trajectory. These suggest that the **housing land supply calculation is currently between 3.4 and 3.7 years.**

These interim calculations have looked at housing sites which either:

- i. already have planning permission or are currently under construction, or
- ii. are identified in East Herts District Plan 2018-2033 as being likely to come forward for development over the coming five years.

Whilst those sites with planning permission or identified as housing sites in the plan are clearly identifiable through monitoring, sites that are likely to come forward are more unpredictable. The Council communicates with site owners, agents and developers to determine how sites might be built out over the following years. The Council uses this discussion to decide what is likely to come forward, and when.

What is East Herts' current supply figure?

The Council's supply figure is estimated at between 3.4 and 3.7 years.

Can housebuilding be accelerated?

East Herts is a highly constrained and largely rural district which has had a strong reliance on larger sites being allocated in the District Plan and coming

forward quickly and consistently over the plan period. The adopted District Plan contained several housing allocations in Bishop's Stortford, Hertford and Ware as well as the garden village extension at Gilston, and the extension to Welwyn Garden City, part of which extends into East Herts.

Whilst the inclusion of these sites in the District Plan establishes them in the housing supply, their progression and completion – both through the planning application stage and into delivery – are often complex. There can be many reasons for this including discussions over aspects of policy such as the form and quality of development, section 106 agreements for certain contributions, delays through land assembly, or through legal or procedural delays. The Council works hard with all parties seeking to ensure that these are minimised.

Whilst the Council can seek to accelerate these, changes to planning policy at a national level have placed an emphasis on faster delivery of homes – for instance through relaxing the approach to green belt – which has attracted speculative development from developers who are aware that the Council does not have a five year supply and is reliant on sites that are complex to deliver. In this instance, the Council often has to find a balance between progressing allocated sites and other planning applications that accord with the existing local plan, and sites that may not but reflect changing priorities at a national level.

What happens to the District Plan and decision making on planning applications, when a supply can't be demonstrated?

If a council cannot demonstrate a five-year supply of deliverable housing sites, the development plan (which includes the District Plan and any Neighbourhood Plans) does not cease to apply, but the policies that are most important for determining housing applications are treated as “out of date” for decision-making purposes. National policy is explicit that, in housing cases, the inability to demonstrate a 5YHLS is one of the circumstances where relevant development plan policies are considered out of date.

When this happens, decision-makers on planning applications must apply the presumption in favour of sustainable development as set out in paragraph 11 of the National Planning Policy Framework (often referred to as the “tilted balance”). This means that planning permission should normally be granted unless:

- the application of specific national policies (such as those protecting Green Belt, heritage assets, flood risk areas or designated landscapes) provides a clear reason for refusal; or
- the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

Importantly, this does not mean that all development plan policies are irrelevant. Non-housing policies, such as design, heritage, landscape, highways and environmental policies, remain part of the planning balance and can still carry weight. Case law confirms that whether policies are “out of date”, and how much weight they should be given, is a matter of planning judgement, not an automatic legal consequence.

In practice, however, the absence of a five-year housing land supply significantly weakens the council’s ability to rely on its spatial strategy and housing policies. Planning Inspectors will generally give increased weight to the need to boost housing supply when determining applications and appeals.

What would happen if we don’t take 5YHLS in account when making decisions on planning applications

The National Planning Policy Framework and the presumption in favour of development (the ‘tilted balance’) is a significant material consideration in the decision making process. If housing land supply is not properly considered or is misunderstood in the decision making process, the council is at high risk of

- Planning appeals being allowed, because Inspectors will give significant weight to the lack of supply and apply the tilted balance
- Decisions being found unsound or unlawful, if a material consideration (housing supply) has not been correctly assessed
- Loss of control over where development happens, with more speculative or unplanned housing proposals being approved on appeal
- Potential awards of costs, where the council is found to have acted unreasonably by failing to properly engage with national policy

Importantly, while a lack of a five-year supply does not automatically mean every housing scheme must be approved, failure to properly take housing land supply

into account seriously weakens the council's position and shifts decision-making power towards Planning Inspectors and the Secretary of State.

Why can't sites be considered through the Local Plan process first?

If a planning application is submitted on a site that is not allocated in the District Plan (or a Neighbourhood Plan), the council has a legal duty to consider and determine it. Failing to do so, or refusing an application without sound planning reasons, exposes the council to the risk of an appeal and potential costs.

Waiting for the District Plan process to conclude is not a defensible reason for refusal. Local Plans take time to prepare, and emerging plans carry limited weight until they are close to adoption.

Where the council cannot demonstrate a five-year housing land supply, the "tilted balance" applies. This means suitable sites must be assessed positively, even if they are not allocated, to ensure housing delivery continues while the District Plan is being updated.