

Proof of Evidence of Ben Pycroft re: Housing Land Supply

For Ringers Road Properties Ltd | 24-054

Mixed use development – 2-4 Ringers Road and 5 Ethelbert Road, Bromley, BR1 1HT



Project: 24-054
Site Address: Bromley 5YHLS
Client: Ringers Road Properties Ltd
Date: 17 June 2024
Author: Ben Pycroft

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1. Introduction

- 1.1 This proof of evidence is submitted on behalf of Ringers Road Properties Ltd (i.e. the Appellant) in support of its appeal against the decision of the London Borough of Bromley (LBB) to refuse to grant planning permission for the demolition of existing buildings and construction of a mixed use development comprising residential units, ancillary residents' facilities (including co-working space) and commercial floor space (Use Class E) across two blocks, along with associated hard and soft landscaping, amenity spaces, cycle and refuse storage (Revised scheme incorporating a second stair into Block A and Block B, internal layout and elevational changes, and changes to the on street parking bays and footpath along Ringers Road and Ethelbert Road) at 2-4 Ringers Road and 5 Ethelbert Road, Bromley (LPA ref: 21/05585/FULL1, PINS ref: APP/G5180/W/24/3340223).
- 1.2 This proof of evidence addresses matters relating to LBB's five year housing land supply (5YHLS). It should be read alongside the proofs of evidence of Annie Gingell, which addresses affordable housing and Mark Batchelor, which addresses all other planning matters in relation to this case.

Qualifications

- 1.3 I am Benjamin Michael Pycroft. I have a B.A. (Hons) and postgraduate diploma in Town Planning from the University of Newcastle-upon-Tyne and am a member of the Royal Town Planning Institute. I am a Director of Emery Planning, based in Macclesfield, Cheshire.
- 1.4 I have extensive experience in dealing with housing supply matters and have prepared and presented evidence relating to 5YHLS calculations at several Local Plan examinations and over 60 public inquiries across the country.
- 1.5 In June 2023, I presented evidence in relation to 5YHLS at a public inquiry into an appeal made by Caerus Developments Ltd against the decision of LBB to refuse to grant planning permission for the demolition of all existing buildings on site and redevelopment to provide residential development comprising a mix of dwellinghouses and apartment blocks (part 3 and part 5 storeys in height), including provision of affordable housing, alongside the provision of public open space fronting Worsley Bridge Road, onsite play space and areas for public sports facilities, associated landscaping, car parking and ancillary works at former Sports Ground, Worsley Bridge Road, Beckenham¹. In that case, the Inspector concluded that the Council could demonstrate a deliverable housing land supply of 3.38 years at 1st April 2021 (paragraph 86). LBB has since

¹ PINS ref: 3315293 – **CD7.13**



revised its position and now claims that it can demonstrate a 2.96 year supply at 1st April 2021 as I discuss below.

- 1.6 I understand my duty to the inquiry and have complied, and will continue to comply, with that duty. I confirm that this evidence identifies all facts which I regard as being relevant to the opinion that I have expressed, and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion. I believe that the facts stated within this proof are true and that the opinions expressed are correct and comprise my true professional opinions which are expressed irrespective of by whom I am instructed.
- 1.7 I provide this proof of evidence, a summary proof of evidence and a set of appendices. I also refer to several core documents and the Statement of Common Ground (SoCG) in relation to housing land supply.

Summary

- 1.8 LBB is required to demonstrate a 5YHLS in accordance with the Framework.
- 1.9 The base date of LBB's latest 5YHLS position remains 1st April 2021 (3.25 years ago). LBB accepts that it cannot demonstrate a 5YHLS at the agreed base date of 1st April 2021. It also accepted that it could not demonstrate a 5YHLS in the previous position at 1st April 2020. Whilst LBB claimed it could demonstrate a 5YHLS at 1st April 2015, 1st April 2017 and 1st April 2019, appeal Inspectors have concluded that those claims were unfounded and a 5YHLS could not be demonstrated. LBB has therefore been unable to demonstrate a 5YHLS for several years.
- 1.10 The following matters are agreed in relation to 5YHLS as set out in the SoCG on HLS:
- The base date for the 5YHLS calculation is 1st April 2021 and the five year period is to 31st March 2026 (paragraph 2.1, page 4);
 - The 5YHLS should be measured against the housing requirement set out in the London Plan (adopted March 2021) of 774 dwellings per annum (paragraphs 2.2-2.4, page 4);
 - The past shortfall at 1st April 2021 is 687 dwellings (paragraph 2.5, page 4);
 - The shortfall should be addressed in full in the 5YHLS period (i.e. the Sedgfield method – paragraph 2.6, page 4);
 - A 20% buffer applies (paragraph 2.10, page 5); and
 - LBB cannot demonstrate a deliverable 5YHLS.
- 1.11 The extent of the deliverable supply is not agreed. LBB considers that the supply equates to 2.96 years. I conclude that it is 2.4 years. There are two reasons for the difference in supply:



- Firstly, I dispute LBB's inclusion of 1,974 dwellings on small sites in the 5YHLS period. The evidence demonstrates that actual completions on small sites in Bromley in 2021/22 and 2022/23 were 63 and 112 respectively. This is significantly less than the 418/419 dwellings per annum claimed in LBB's trajectory for these two years and the 379 dwellings per annum windfall allowance set out in the London Plan. I apply the historic completion rate of 302 dwellings per annum on small sites over the 5YHLS period and this means that **464 dwellings** should be removed from LBB's 5YHLS; and
- Secondly, I do not consider there is a realistic prospect that **143 dwellings** will be delivered at South Eden Park Road by 31st March 2026 (i.e. in 1.75 years from now). Whilst a start on site has been made, the site is only at the ground works stage. The below ground works are extensive, applications to discharge conditions relating to above ground works have not been made and my analysis of other large sites demonstrates that it takes over 3 years for such sites to deliver housing.

1.12 As a result of these deductions, I conclude that LBB's 5YHLS at 1st April 2021 is 2,628 dwellings. This results in a 2.4 year supply as shown in the following table.

Table 1.1 – LBB's 5YHLS at 1st April 2021

	Requirement	Council	Appellant
A	Annual housing requirement	774	774
B	Five year requirement (A X 5 years)	3,870	3,870
C	Shortfall from 1 st April 2019	687	687
D	Total five year housing requirement (B+C)	4,557	4,557
E	Five year housing land supply to be demonstrated (D + 20%)	5,468	5,468
F	Annual average requirement plus buffer (F / 5 years)	1,094	1,094
	Supply		
G	5YHLS at 1st April 2021	3,235	2,628
H	Supply in years (G / F)	2.96	2.4
U	Undersupply against 5 year housing requirement and buffer	-2,233	-2,840

1.13 The implication of this is addressed by Mark Batchelor.



2. Planning Policy Context

2.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration.

Development plan context

Existing development plan

2.2 The development plan comprises:

- The London Plan (adopted March 2021); and
- The Bromley Local Plan (adopted January 2019).

2.3 The conformity of the appeal proposal to the development plan is addressed by Mark Batchelor. I refer to the housing requirements for Bromley set out in the Local Plan and the London Plan in my proof of evidence.

Emerging development plan

2.4 LBB is in the process of preparing a new Local Plan. The latest timetable for the preparation of the Review of the Bromley Local Plan remains that set out in the Local Development Scheme (LDS, September 2020) as follows:

- December 2018 to February 2019 – Initial consultation;
- Summer 2021 – Draft Plan consultation;
- Summer 2022 – Proposed submission plan consultation;
- Autumn 2022 – Submission;
- Autumn 2022 to end of 2023 – Examination; and
- Early 2024 – Adoption.

2.5 The LDS is significantly out of date. A call for sites consultation took place between August and November 2021. An Issues and Options consultation took place between April and June 2023. The document explains that LBB is progressing with a full update of the Bromley Local Plan. It recognises the increased housing



target set out in the London Plan of 774 dwellings per annum and explains that new sites will be required to meet this higher requirement.

Other material considerations

London Borough of Bromley Housing Trajectory (November 2021)

- 2.6 LBB's latest five year housing land supply position remains that set out in the London Borough of Bromley Housing Trajectory (November 2021)². It claims that at 1st April 2021 LBB had a deliverable supply of 3,245 dwellings, which against the adopted housing requirement set out in the London Plan and a 5% buffer equates to a **3.99 years**.
- 2.7 As set out in the introduction to my proof of evidence, LBB now considers the supply at 1st April 2021 equates to 2.96 years.
- 2.8 I also refer to LBB's previous 5YHLS positions as set out in relevant appeal decisions;
- At 1st April 2020;
 - At 1st April 2019; and
 - At 1st April 2017

London Borough of Bromley Housing Delivery Test Action Plan (July 2022)

- 2.9 Bromley's latest Housing Delivery Test (HDT) result was less than 95% (it was 89%) and therefore in accordance with paragraph 76 of the Framework, LBB published an action plan³. The HDT action plan identifies potential barriers to housing delivery in Bromley and sets out future actions to help boost housing delivery.

National planning policy and guidance

The National Planning Policy Framework ("the Framework")

- 2.10 The Framework was published in March 2012. It was revised in July 2018, February 2019, July 2021, September 2023, 19th December 2023 and most recently on 20th December 2023.
- 2.11 The relevant sections of the revised Framework in relation to this proof of evidence are:

² Core document **CD6.12**

³ Core document **CD6.13**



- Footnote 8 which explains that the tilted balance to the presumption in favour of sustainable development applies where a) a local planning authority cannot demonstrate a 5YHLS (or 4YHLS if applicable as set out in paragraph 226 or b) where the Housing Delivery Test result is less than 75%;
- Section 5: Delivering a sufficient supply of homes, including:
 - Paragraph 60, which refers to the Government’s objective of significantly boosting the supply of homes;
 - Paragraph 61, which explains that the minimum number of homes needed should be informed by a local housing need calculated using the standard method set out in the PPG. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area;
 - Paragraph 72, in relation to an allowance for windfall sites;
 - Paragraph 75, which states that strategic policies should include a trajectory illustrating the expected rate of delivery over the plan period. It states that local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies;
 - Paragraph 76, which states that local planning authorities are not required to demonstrate a 5YHLS where a) the adopted plan is less than five years old and the adopted plan identified a 5YHLS of specific, deliverable sites at the time the examination concluded. Transitional arrangements set out in footnotes 40 and 79 explain that this applies for applications made on or after 20th December 2023;
 - Paragraph 77, which explains that the requirement to demonstrate a 5YHLS (or in some circumstances a 4YHLS) is a *minimum* requirement and explains that the supply should be measured against either the housing requirement set out in adopted strategic policies, or the local housing need where the strategic policies are more than five years old. Footnote 42 explains that if the adopted housing requirement has been reviewed and found not to require updating, it should still be used. Footnote 42 also explains that where the local housing need is used it should be calculated using the standard method set out in the PPG. Paragraph 77 and footnote 43 also explain that a 20% buffer should apply where the latest HDT result is less than 75%. Finally, paragraph 77 of the Framework states that the PPG provides further information on calculating housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed;
 - Paragraph 78, which explains the circumstances in which a 5YHLS can be confirmed through an annual position statement; and
 - Paragraph 79, in relation to Housing Delivery Test Action Plans and the policy consequences for failing the HDT.
- Annex 1: Implementation, including:



- Paragraph 226, which explains the circumstances when a local planning authority only has to demonstrate a 4YHLS i.e. where an authority has an emerging local plan that has either been submitted for examination or has reached regulation 18 or 19 stage and includes both a policies map and proposed allocations towards meeting housing need.
- Annex 2: Glossary, including:
 - The definition of “deliverable” on page 69; and
 - The definition of “windfall sites” on page 76.

Planning Practice Guidance (PPG)

2.12 The PPG was first published in March 2014 and has been updated since. The relevant chapters of the PPG in relation to this proof of evidence are:

- Chapter 2a - Housing and economic needs assessment;
- Chapter 3 – Housing and economic land availability assessments; and
- Chapter 68 – Housing supply and delivery.

2.13 Chapter 68 of the PPG was last updated on 5th February 2024.



3. London Borough of Bromley's 5YHLS

Previous positions

3.1 LBB's previous 5YHLS positions at 1st April 2015, 2017, 2018 and 2020 were considered at public inquiries into appeals for residential development as I discuss below.

Dylon International Premises, Station Approach – August 2016

3.2 LBB's 5YHLS position at 1st April 2015 was considered at a public inquiry into an appeal made by Mr Iain Hutchinson against the failure to determine within the appropriate timescales an application for 253 dwellings at land to the rear of the former Dylon International Premises, Station Approach, Lower Sydenham, London, which took place in May and June 2016⁴. In that case, LBB claimed that the 5YHLS equated to 5.1 years (or 5.05 years with a 5% lapse rate) whilst the Appellant considered that the 5YHLS equated to 3.68 years. Whilst the appeal was dismissed, the Inspector concluded that LBB could not demonstrate a 5YHLS.

3.3 Paragraphs 11 to 30 of the appeal decision discuss LBB's 5YHLS as I summarise below:

- The base date of 1st April 2015, the housing requirement of 641 dwellings per annum and a 5% buffer were agreed (paragraph 11);
- The matters in dispute related to three sites where the numbers of units were disputed, the number of windfall sites and whether a lapse rate should be applied (paragraph 13);
- The Inspector concluded that 14 dwellings at Sunbridge Park Manor and 33 dwellings from the former Town Hall site should be removed but 24 dwellings at Tweedy Road should be included in the 5YHLS (paragraphs 14-19);
- The Inspector considered LBB's windfall allowance in paragraphs 20 to 25, which at that time was 220 dwellings per annum (1,100 in total) and included in addition to small sites with planning permission meaning 352 dwellings per annum from small sites in total. The Inspector noted that this figure had not been achieved since 2007/08 with the overall trend moving steadily downwards (paragraph 23);
- The Inspector concluded that a lapse rate should be applied and even if this were at 6% rather than the 30-50% suggested by the Appellant, a 5YHLS could not be demonstrated; and
- The Inspector concluded that a 5YHLS cannot be demonstrated (paragraph 30).

⁴ PINS ref: 3144248 – core document **CD7.14**



Land at the junction of South Eden Park Road and Bucknall Way – March 2018

3.4 LBB's 5YHLS position at 1st April 2017 was considered in Northern Land Development Ltd's appeals for the residential development of 105 dwellings and 67 dwellings at land at the junction of South Eden Park Road and Bucknall Way, Beckenham⁵. Paragraphs 32 to 37 of the appeal decisions discuss LBB's 5YHLS. In that case, the Inspector did not consider it was necessary to make a conclusion on 5YHLS because the requirement to do so is not a ceiling and there is a requirement to exceed housing targets (paragraph 32). However, the Inspector did note that the undisputed evidence was that 52% of dwelling completions over the past five years have resulted from planning permissions granted at appeal (paragraph 35).

Maybrey Works – July 2018

3.5 LBB's 5YHLS at 1st April 2017 was then considered at a public inquiry in relation to an appeal made by Bellway Homes against LBB's decision to refuse to grant permission for a mixed use development including 159 dwellings at Maybrey Works, Worsley Bridge Road, Lower Sydenham, which took place in May 2018⁶. At that time, LBB claimed that it could demonstrate a supply of 5.38 years, whereas the Appellant concluded that the deliverable supply was 4.02 years. In allowing the appeal, the Inspector concluded that LBB could not demonstrate a 5YHLS. Paragraphs 26 to 40 of the appeal decision discuss LBB's 5YHLS as I summarise below.

- The housing requirement at that time was 641 dwellings per annum (paragraph 27);
- Seven sites are considered in paragraphs 28 to 35 (6 draft allocation sites and 1 site with planning permission);
- Prior approvals from office to residential were then considered in paragraphs 36 and 37; and
- Paragraphs 39 and 40 of the appeal decision then state:

"39. Assuming that all the Council's assumptions are right, the surplus of supply against the requirement of 673 dpa (3365 over 5 years) is only 257 dwellings, I consider that for the reasons outlined above, the supply is likely to be significantly less than the Council claims. If sites at just Bromley North and Crystal Palace Park failed to come forward, the surplus would be only 7 dwellings. I conclude on the 5 year housing supply issue that little confidence can be placed in the Council's expectations and there is not compelling evidence that a 5 year supply of housing land exists.

40. Even if I did not consider that considerable doubt must attach to the prospect of many the units anticipated by the Council on the sites in dispute being built out within the next 5 years, the target in the LonP is a minimum. Boroughs are asked to achieve and exceed them. Moreover, the new draft London Plan was issued for consultation in

⁵ PINS refs: 3174961 and 3179001 – core document **CD7.15**

⁶ PINS ref: 3181977 – core document **CD7.16**



December 2017. It sets a target for Bromley of 14 240 units over 10 years or an average of 1424 dpa, well over twice the existing figure and part of rising housing ambition for London as a whole. This has not been tested at examination but provides the most up-to-date evidence of housing need. The reasonable expectation must be that the housing requirement for Bromley will go up. Moreover there is a pressing and unsatisfied need for affordable housing, which the Council acknowledges has not been well catered for, an average of only 13 being delivered in the last 5 years.”

Land to the rear of the former Dylon International Premises, Station Approach – June 2019

3.6 LBB’s 5YHLS position at 1st April 2019 was considered at a public inquiry into an appeal made by Relta Limited and Dylon 2 Limited against the failure to determine within the relevant timescales an application for 151 dwellings at land to the rear of the former Dylon International Premises, which took place in June 2019, 6 months after the Local Plan had been adopted⁷. In that case, LBB claimed that the deliverable supply equated to 5.6 years, whereas the Appellants concluded that the deliverable supply equated to 3.2 years. Inspector Baird concluded that a 5YHLS could not be demonstrated. Housing land supply is addressed in paragraphs 7 to 18 of the appeal decision, which I summarise as follows:

- The relevant housing requirement at that time was 641 dwellings per annum (paragraph 8);
- Paragraph 9 of the appeal decision then discusses the definition of deliverable and how this differs from the previous definition of deliverable in the 2012 Framework;
- The individual disputed sites are then discussed in paragraphs 10 to 17. Within this context, paragraph 18 of the appeal decision then states:

“To enable sites to be considered for inclusion within the 5-year HLS the responsibility with the lpa to provide clear evidence that housing completions will begin within the relevant 5-year period. Here, what the lpa has provided comes, in my view, nowhere close to the clear evidence to demonstrate that there is a realistic prospect that housing completions will begin on site within the relevant 5-year period. Thus, without addressing the issues regarding windfalls, dwelling uplift, completions before the base date and office to residential conversions, my conclusions on the contribution of allocated sites and sites with outline planning permission reduces the lpa’s HLS to some 4.25-years. This is materially below a level of undersupply that the lpa acknowledged would be significant. Accordingly, I do not need to go there. I conclude that the lpa cannot support the submission that it can demonstrate a 5-year HLS.”

⁷ PINS ref: 3206569 – core document **CD7.10**



Footzie Social Club, Station Approach, Lower Sydenham – March 2021

3.7 At the public inquiry into an appeal made by Dylon 2 Ltd against LBB’s decision to refuse to grant planning permission for 254 dwellings at Footzie Social Club⁸, LBB accepted that it could not demonstrate a 5YHLS at 1st April 2020. LBB’s position was that it could demonstrate a supply of 3.27 years, whereas the Appellant considered the deliverable supply equated to 2.96 years. Paragraphs 22 to 29 of the appeal decision address housing land supply, which I summarise as follows:

- The 5YHLS should be measured against the housing requirement of 774 dwellings per annum (paragraph 23).
- However, this figure is a constrained figure compared to the standard method figure of 1,211 dwellings per annum. This confirms that the level of need going forwards is significantly greater than would be met even if the 10 year target of 774 dwellings per annum were met (paragraph 25);
- LBB claimed a 5YHLS of 2,667 dwellings, which equates to 3.27 years. LBB considered this represents a significant undersupply against the target of 4,064 dwellings (paragraph 24);
- The difference between LBB’s 5YHLS position and the Appellant’s 5YHLS position related to the level of the small sites / windfall allowance and the inclusion of one large site in Bromley (paragraph 24).
- Paragraphs 27 to 29 of the appeal decision then state:

“27. Mr Butterworth’s evidence, that some 53% of the dwellings in the large sites category and 16% of those in the small sites category of the Council’s claimed supply were granted permission on appeal, was not challenged by the Council. This high proportion suggests that the Council has been far from pro-active in ensuring the provision of a 5 year HLS. Part 4 of Mr Butterworth’s proof also provides convincing, and again largely unchallenged, evidence that the future supply for Years 6-10 in the most recent housing trajectory is relatively weak. This evidence shows little prospect of a step change in the annual rate of housing delivery in the Borough in the short to medium term.”

28. Without needing to undertake a detailed review of all of the areas of dispute in that appeal, Inspector Baird found, in his 2019 decision, that the housing supply then available amounted to 4.25 years at best, and that this fell materially below the level that the Council acknowledged to be significant. He accordingly attributed very substantial weight to the contribution that the 151 dwellings proposed in that scheme would make to meeting housing need

29. At either end of the range agreed by the parties (of 2.96 to 3.27 years supply), the shortfall in the housing supply is now significantly greater than that found by Inspector Baird. It is, therefore, unnecessary for me to reach my own finding as to the exact

⁸ PINS ref: 3257010 – core document **CD7.17**



extent of the shortfall. By any measure, the shortfall in supply is very significant. This has to be considered in the context both of an increasing level of housing need and the limited prospect of development coming forward to make up that shortfall. I agree with the appellant that nothing less than very substantial weight should be given to the contribution that the 254 dwellings proposed in the appeal scheme would make to meeting housing need in Bromley.”

3.8 The above decisions demonstrate that despite LBB’s claims to the contrary, it has been unable to demonstrate a 5YHLS at 1st April 2015, 2017 and 2019 at appeal. At 1st April 2020, LBB accepted that it could not demonstrate a 5YHLS and there was a significant undersupply against the 5YHLS requirement and buffer. The failure to demonstrate a 5YHLS in Bromley has been persistent.

Current position

3.9 LBB’s current 5YHLS position remains that with a base date of 1st April 2021 (published November 2021). The Housing Trajectory 2021 claims that the 5YHLS at 1st April 2021 is 3,245 dwellings comprising of the following:

Table 3.1 – Breakdown of the claimed 5YHLS at 1st April 2021

	No. of dwellings	Percent of claimed 5YHLS (rounded)
Large sites	1,144	35%
Small sites permitted prior to start of trajectory period (lapse rate applied)	837	26%
Small sites windfall assumption	1,137	35%
Non self-contained dwellings	127	4%
Total	3,245	100%

3.10 As can be seen from the table above, over 60% of the claimed 5YHLS is reliant on small sites (i.e. 26 + 35 = 61%), including 1,137 dwellings on windfall sites that were not known at the base date. I will discuss this later in my proof of evidence.

3.11 LBB’s position as set out in the Housing Trajectory 2021 is that the deliverable supply equates to 3.99 years against the adopted housing requirement and a 5% buffer (without the inclusion of any of the shortfall in the calculation).



3.12 However, LBB’s Statement of Case explains that for the purposes of this appeal it considers that it has a 5YHLS of **2.96 years**. This is based on the deliverable supply found in the Worsley Bridge Road decision⁹ of 3.38 years and the application of the 20% buffer. The Council’s case is therefore as follows:

- The 5YHLS requirement is 774 dwellings per annum plus the shortfall of 687 dwellings against the London Plan requirement by 31st March 2021 and the 20% buffer. This equates to 5,468 dwellings.
- The deliverable supply is 3,235 dwellings. This is 3,245 dwellings in the position statement minus 10 dwellings on two sites which were removed from the deliverable supply during the Worsley Bridge Road appeal¹⁰.

3.13 For the avoidance of doubt, the Worsley Bridge Road appeal considered LBB’s current 5YHLS position at 1st April 2021. I address the conclusions made later in my proof of evidence.

Proportion of supply from planning appeals

3.14 In two of the appeal decisions referred to above, reference was made to the proportion of the respective supply which had been approved at appeal. Within this context, I note that of the 1,144 dwellings on large sites in LBB’s current claimed 5YHLS, the following were approved at appeal:

Table 3.2 – Sites in the current 5YHLS where planning permission was approved at appeal

	No. of dwellings
Dylon 2 (Footzie Social Club)	254
Maybrey Works	159
South Eden Park Road	143
28 Park Hill Road	9
Phoenix Lodge	8
Hassells Nursery	7
Total	580

⁹ PINS ref: 3315293 – **CD7.13**

¹⁰ 1 dwelling at Little Lavender, Orchard Road (ref: 20/00952/FULL1) and 9 dwellings at 28 Park Hill Road, Shortlands (ref: 19/01198/FULL1)



3.15 The 580 dwellings identified in the table above represent 51% of the claimed 5YHLS from large sites, which was a similar position to that at 1st April 2020 as found in the Footzie appeal decision as I have discussed above.

Future position

3.16 Paragraph 77 of the Framework requires Local Planning Authorities to publish a 5YHLS position annually. As the latest position was published in November 2021, a revised position should have been published in November 2022 and in November 2023. It is not clear why LBB has not updated its position statement since November 2021.

3.17 Therefore, the current position remains that with a base date of 1st April 2021 and a 5YHLS period to 31st March 2026. This means that only 1.75 years of the 5YHLS period remains. The quantum of dwellings that would be delivered in that time on the very large sites should be considered within that context.

3.18 Appendix 1 of the Housing Trajectory 2021¹¹ includes a list of 10 large sites which are expected to come forward and deliver 2,534 dwellings in years 6-15 (i.e. from 1st April 2026). However, the trajectory in table 3 on page 18 of the same document shows that they are expected to be delivered in years 6-10 (i.e. 1st April 2026 to 31st March 2031). I discuss these sites in appendix **EP1** of my proof of evidence. However, in summary, one site now has outline planning permission for 210 dwellings, one has prior approval for conversion for 73 dwellings, one site has full planning permission for 75 dwellings, and one site has full planning permission for 35 dwellings. The remaining sites do not have planning permission. One site is expected to deliver 1,230 dwellings by 2031 but there is no live planning application on the site.

¹¹ Core document **CD6.12**



4. Housing delivery in Bromley

4.1 The Housing Trajectory 2021 provides the housing delivery in Bromley over the period 2011/12 to 2020/21. However, the actual completions in 2020/21 are not known. The figure for small sites in 2020/21 is based on an average figure over the period 2011/12 to 2019/20. The figure for large sites in 2020/21 is an estimate.

Table 4.1 – Net housing delivery in Bromley 2011/12 to 2020/21

Year	Small sites	Large sites	Non self-contained units	Total (net)
2011/12	385	261	0	646
2012/13	235	292	0	527
2013/14	186	516	0	702
2014/15	171	259	0	430
2015/16	336	433	-11	758
2016/17	587	335	57	979
2017/18	375	213	27	615
2018/19	198	511	22	731
2019/20	249	287	0	536
2020/21	302	23	0	325
Total	3,024	3,130	95	6,249
Average	302	313	10	625

4.2 As can be seen from the table above, the average over the last 10 years was just 625 dwellings, which is significantly less than the annual requirement in the London Plan of 774 dwellings per annum and below even the lower housing requirement in the Bromley Local Plan of 641 dwellings per annum.

4.3 The base date of the London Plan is 1st April 2019. Therefore, there is already an agreed shortfall of 687 dwellings at the base date of the 5YHLS (on 1st April 2021) as shown in the following table:



Table 4.2 – Completions against the adopted housing requirement

Year	Housing requirement (dwellings p.a. net)	Completions (net)	Over / under provision	Cumulative over / under provision
2019/20	774	536	-238	-238
2020/21	774	325	-449	-687
Total	1,548	861	-687	

Housing Delivery Test

4.4 The latest Housing Delivery Test result is the 2022 result (published 19th December 2023). The 2022 result for the London Borough of Bromley is 52% as shown in the following table:

Table 4.3 – 2022 HDT result for Bromley

	Number of Homes Required				Number of Homes Delivered				HDT %
	2019-20	2020-21	2021-22	Total	2019-20	2020-21	2021-22	Total	
Bromley	587	427	641	1,654	485	272	103	860	52%

4.5 As can be seen in the table above, according to the 2022 HDT result, only 272 dwellings were delivered in 2020/21 and not 325 dwellings as assumed by LBB. Only 103 dwellings were delivered in 2021/22. I refer to this later in my proof of evidence when discussing small sites.

4.6 As the result was less than 75%, in accordance with paragraph 79 of the Framework:

- LBB should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years;
- A 20% buffer should be added to the housing land supply calculation; and
- The presumption in favour of sustainable development applies (in addition to it applying because the Council cannot demonstrate a 5YHLS).



5. Agreed matters re: 5YHLS

5.1 The following matters are agreed in relation to 5YHLS.

The base date and the 5YHLS period

5.2 The base date is the start date for the five year period for which both the requirement and supply should relate. It is agreed that the relevant base date for assessing the 5YHLS for the purposes of this appeal is 1st April 2021 and the relevant 5YHLS period is to 31st March 2026. The Council should not attempt to include any new sites which are not already within its schedule of sites. This would effectively mean changing the base date to beyond 1st April 2021.

The figure the 5YHLS should be measured against

5.3 Paragraph 77 of the Framework states that the five (or four) year housing land supply should be measured against the housing requirement set out in adopted strategic policies or against the local housing need where the strategic policies are more than five years old. Footnote 42 of the Framework states that if the strategic policies have been reviewed and found to be up to date then the 5YHLS should continue to be measured against the housing requirement rather than the local housing need. It also states that where local housing need is used it should be calculated using the standard method set out in the PPG.

5.4 Policy 1 of the Bromley Local Plan states that the housing requirement is 641 dwellings per annum. However, that was based on the previous version of the London Plan, which set out a target of 6,413 dwellings over the period 2015/16 to 2024/25. The Bromley Local Plan was adopted on 16th January 2019 and is therefore more than five years old.

5.5 The current version of the London Plan was adopted in March 2021 and is therefore less than five years old. The five year housing land supply should be measured against the adopted housing requirement set out in the latest version of the London Plan.

5.6 Policy H1 of the London Plan (adopted March 2021): “Increasing housing supply” explains that:

“Table 4.1 sets the ten-year targets for net housing completions that each local planning authority should plan for. Boroughs must include these targets in their Development Plan Documents”

5.7 Table 4.1 (page 163) of the London Plan then explains that the ten year target for Bromley over the period 2019/20 to 2028/29 is 7,740 dwellings. The housing requirement is not stepped. Therefore, the annual



average housing requirement for Bromley is 774 dwellings and the 'base' five year requirement is 3,870 dwellings (i.e., 774 X 5 years = 3,870 dwellings).

5.8 Whilst in accordance with paragraph 77 of the Framework, the five year housing land supply should be measured against an annual figure of 774 dwellings, this is a constrained figure and not the housing need. The Footzie appeal Inspector considered this. Paragraphs 25 and 26 of the appeal decision¹² states:

“25. The housing target in the LonP is a constrained target, reflecting the capacity within the London Boroughs for accommodating new development, and does not equate to the objectively assessed need for new housing in Greater London. The new Standard Method for assessing housing need, issued alongside the Ministerial Statement on 16 December 2020, sets an indicative housing need figure for Bromley of 1,211 dwellings per annum (dpa). This confirms that the level of need going forwards is significantly greater than would be met even if the LonP 10-year target level of housing delivery in the Borough is achieved.”

26. This situation is confirmed in the January 2021 SoS letter to the Mayor which states that, notwithstanding the publication of the replacement LonP, *“you still have a very long way to go to meet London’s full housing need... I will be seeking to work with those ambitious London Boroughs who want to deliver over and above the housing targets you have set them.”* Whereas the current shortfall amounts to approximately 2 years against the 10-year target in the LonP, the actual level of unmet need for new housing in Bromley is substantially greater than that figure suggests.”

5.9 Local Housing Need is defined in the Glossary on page 68 of the Framework as follows:

“The number of homes identified as being needed through the application of the standard method set out in national planning guidance (or, in the context of preparing strategic policies only, this may be calculated using a justified alternative approach as provided for in paragraph 60 of this Framework).”

5.10 The local housing need has increased further since the Footzie appeal decision. Paragraph 2a-004 of the PPG explains how local housing need is calculated. There are four steps:

- Step 1 – set the baseline by calculating the projected annual household growth over a 10 year period using the 2014-based household projections with the current year being used as the starting point. For Bromley, the annual household growth from 2023 is 1,959.4.
- Step 2 – make an adjustment to take account of affordability using the most recent median workplace-based affordability ratios. For Bromley, the most recent median workplace-based affordability ratio is 13.96. The affordability adjustment is 1.6225.
- Step 3 – cap the level of any increase. For Bromley, because the London Plan has been adopted within the last 5 years, the local housing need figure is capped at 40% above the average

¹² Core document **CD7.17**



annual housing requirement of 774 dwellings per annum rather than the household growth. Therefore, the capped figure following step 3 is 1,084 dwellings (i.e., $774 + 40\% = 1,084$)

- Step 4 – apply the cities and urban centres uplift – a 35% uplift is then applied because London is in the top 20 cities and urban centres list. This means that the capped local housing need is **1,464 dwellings per annum** (i.e., $1,084 + 35\% = 1,464$)

5.11 As explained in paragraph 25 of the Footzie appeal decision, the level of need going forwards is significantly greater than would be met even if the target of 774 dwellings per annum were achieved.

5.12 The standard method provides the best available estimate of Bromley’s housing need. However, it is of note that the Government does not expect the London Boroughs to apply the standard method as it must first be “translated” by the London Mayor into a housing requirement in the next version of the London Plan. This is explained in paragraph 2a-034 of the PPG¹³, which states:

“it should be noted that the responsibility for the overall distribution of housing need in London lies with the Mayor as opposed to individual boroughs so there is no policy assumption that this level of need will be met within the individual boroughs.”

5.13 Therefore, the next version of the London Plan will seek to meet the actual housing need in London. Indeed, the Secretary of State expects work to start on a new London Plan to address the actual housing need in London. In a letter to the Mayor of London dated 29th January 2021, the Secretary of State stated:

“Now that you are in a position to be able to publish your London Plan I fully expect you to start working to dramatically increase the capital’s housing delivery and to start considering how your next London Plan can bridge the significant gap between the housing it seeks to deliver and the actual acute housing need London faces. I would again ask you to work closely with those authorities that surround London to develop a strategy to help alleviate the housing pressure that is faced both inside and immediately outside the capital.”

The past shortfall

5.14 Paragraph 68-032 of the PPG is entitled: “*How can past over-supply of housing completions against planned requirements be addressed?*” (emphasis added). The first part of 68-032 of paragraph states:

“Where shortfalls in housing completions have been identified against planned requirements, strategic policy-making authorities may consider what factors might have led to this and whether there are any measures that the authority can take, either alone or jointly with other authorities, which may counter the trend. Where the standard method for assessing local housing need is used as the starting point in

¹³ Paragraph: 034 Reference ID: 2a-034-20201216: “*Is a cities and urban centres uplift applied in London and if so, how does it work?*”



forming the planned requirement for housing, Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure. Under-delivery may need to be considered where the plan being prepared is part way through its proposed plan period, and delivery falls below the housing requirement level set out in the emerging relevant strategic policies for housing. (emphasis added).

5.15 The third part of paragraph 68-032 of the PPG states:

“The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period (the Sedgfield approach), then the appropriate buffer should be applied. If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal.” (emphasis added)

5.16 Paragraph 0.0.13 of the London Plan¹⁴ explains that the base date of the London Plan is 2019. It states:

“This London Plan runs from 2019 to 2041. This date has been chosen to provide a longer-term view of London’s development to inform decision making. However, some of the more detailed elements of the Plan, such as the annual housing targets, are set for only the first ten years of the Plan. This reflects the capacity of land suitable for residential development and intensification identified in the 2017 Strategic Housing Land Availability Assessment (SHLAA) which, due to the dynamic nature of London’s land market, does not attempt to robustly identify capacity beyond 2029.”

5.17 As set out in table 4.2 in section 4 of my proof of evidence, there has been a shortfall against the requirement in the first two years of the London Plan period of 687 dwellings.

5.18 The position was considered in the Worsley Bridge Road decision¹⁵ where the Inspector concluded that the shortfall of 687 dwellings should be added to the 5YHLS requirement. Paragraphs 75 to 78 of the appeal decision state:

“75. The Council’s most recent assessment of its 5-year housing land supply (5YHLS) is in its Housing Trajectory (2021). The base date of the assessment is 1 April 2021 and the 5YHLS is calculated up to 31 March 2026. The LP was adopted in March 2021 and sets a housing requirement for Bromley of 774 dwellings per annum (dpa). It is agreed that the 5YHLS calculation should be based on this requirement figure. The plan period runs from 2019 and there was a shortfall in housing provision in the first 2 years of the

¹⁴ Core document **CD4.3**

¹⁵ PINS ref: 3315293 – **CD7.13**



plan period, from 2019 to 2021 when the plan was adopted. The parties differ on the methodology for calculating that shortfall.

76. Monitoring of housing delivery over the first 2 years of the plan period was against the requirement in the 2016 London Plan as this was the adopted plan at the time. The Housing Delivery Test (HDT) results were based on that monitoring. The Government made adjustment to the HDT figures to allow for the effects of the pandemic in terms of housing delivery.

77. The Planning Practice Guidance (PPG) states that the level of deficit or shortfall will need to be calculated from the base date of the adopted plan. On this basis, completions in 2019/20 and 2020/21 need to be measured against the LP requirement of 774 dpa.

78. While it is fair to say that the pandemic is likely to have affected housing delivery, and this affected the HDT results, this does not alter the requirement in national policy to calculate the shortfall from the base date of the plan. Measured against the annual requirement of 774 dpa, the shortfall is 687 dwellings which gives a 5-year requirement including a 5% buffer of 4,785 dwellings.”

- 5.19 Following the appeal decision, LBB agree that the shortfall of 687 dwellings should be added to the 5YHLS requirement.

Addressing the past shortfall

- 5.20 As I have set out above, the five year housing land supply should be measured against the adopted housing requirement and against this, since the base date of the London Plan there is a shortfall of 687 dwellings. In accordance with the third part of paragraph 68-032 of the PPG, this should be added to the five year housing requirement (i.e. the Sedgfield method).

- 5.21 The total five year housing requirement is therefore 4,557 dwellings (i.e. $774 \times 5 = 3,870 + 687 = 4,557$). This is agreed as set out in the SoCG on 5YHLS.

Applying the appropriate buffer

- 5.22 Paragraph 77 of the Framework states:

“Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years’ worth of housing, or a minimum of four years’ worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery



of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period).”

- 5.23 Footnote 43 explains that “significant under delivery” of housing will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement.”
- 5.24 As set out in Section 4 of my proof of evidence, the HDT was failed in Bromley and therefore the 20% buffer applies.
- 5.25 The following table sets out the five year housing supply which needs to be demonstrated at 1st April 2021 against the adopted housing requirement plus 20% buffer. This is agreed with LBB.

Table 5.1 – Five year housing requirement plus buffer at 1st April 2021

	Requirement	
A	Annual housing requirement	774
B	Five year requirement (A X 5 years)	3,870
C	Shortfall from 1 st April 2019	687
D	Total five year housing requirement (B+C)	4,557
E	Five year housing land supply to be demonstrated (D + 20%)	5,468
F	Annual average requirement plus buffer (E / 5 years)	1,094



6. Matters not agreed re: 5YHLS – the deliverable supply

6.1 In terms of supply, the Housing Trajectory 2021 states that the deliverable supply at 1st April 2021 is 3,245 dwellings. LBB has since accepted that the following two sites should be removed:

Table 6.1 – Sites LBB accepts should not be included in the 5YHLS

LPA ref:	Address	Capacity (Net)	LBB 5YHLS	Appellant 5YHLS	Difference
20/00952/FULL1	Little Lavender, Orchard Road	1	1	0	-1
19/01198/FULL1	28 Park Hill Road, Shortlands	9	9	0	-9
					-10

6.2 For completeness, I discuss these sites in appendix **EP2**.

6.3 Therefore, LBB now claims to have a deliverable supply within Bromley at 1st April 2021 of 3,235 dwellings. I now set out my assessment of the deliverable five year supply.

Small sites and the windfall allowance

6.4 Small sites are those with an area of less than 0.25 ha.

6.5 LBB includes 1,974 dwellings from small sites in its 5YHLS. This comprises of:

- 837 dwellings on “*Small sites permitted prior to start of trajectory period (lapse rate applied)*”; and
- 1,137 dwellings on “*Small sites windfall assumption*”.

6.6 LBB’s position is shown in the following table:



Table 6.2 – Small sites in Bromley’s claimed 5YHLS at 1st April 2021

	2021/22	2022/23	2023/24	2024/25	2025/26	Total 5YHLS
<i>“Small sites permitted prior to start of trajectory period (lapse rate applied)”</i>	419	418				837
<i>“Small sites windfall assumption”</i>			379	379	379	1,137
Total from small sites	419	418	379	379	379	1,974
Average over 5 years						394.8

6.7 I comment as follows.

6.8 Firstly, the average number of dwellings LBB expects to be delivered on small sites (i.e. 395 dwellings per annum) far exceeds the average delivery rate on small sites since 2011/12, which is 302 dwellings per annum as shown in the following table:

Table 6.3 – Dwellings delivered on small sites 2011/12 to 2019/20

Year	No. of dwellings delivered on small sites
2011/12	385
2012/13	235
2013/14	186
2014/15	171
2015/16	336
2016/17	587
2017/18	375
2018/19	198



Year	No. of dwellings delivered on small sites
2019/20	249
Total	2,722
Average	302

6.9 Secondly, the figure of 1,974 dwellings on small sites far exceeds the number of dwellings from small sites in the previous position statements as shown below:

- 1st April 2020 – 1,708 dwellings;
- 1st April 2019 – 1,611 dwellings; and
- 1st April 2017 – 1,495 dwellings.

6.10 Thirdly, in relation to the “*Small sites permitted prior to start of trajectory period (lapse rate applied)*”, the 837 figure is calculated as follows:

- 1,006 dwellings which had planning permission on small sites at 1st April 2020 (as listed in table 6 of the Housing Trajectory 2021) minus a lapse rate based on specific lapse rates applied for different sizes of site;
- Plus 400 dwellings which LBB assumes were approved on small sites in 2020/21 minus a trend-based lapse rate; and
- Minus 302 dwellings which LBB assumes were delivered on small sites in 2020/21.

6.11 It is therefore unclear how many dwellings on small sites had planning permission at the base date of 1st April 2021 or which specific sites they were. This is contrary to paragraph 77 of the Framework, which requires “specific” deliverable sites to be identified. It states:

“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, or a minimum of four years’ worth if the provisions in paragraph 226 apply”.

6.12 Fourthly, it is unclear why these 837 dwellings are all expected to be delivered in years 1 (2021/22) and 2 (2022/23). Most permissions on small sites will be subject to a condition requiring commencement within 3 years of the permission or, in the case of prior approval, completion within 3 years of the permission. As above, LBB assumes that 400 dwellings were approved in 2020/21, but these dwellings will have been built by the end of year 2 i.e. 31st March 2023.



6.13 Fifthly, I note that the HDT result for 2022 confirms that in 2021/22 there were just 103 dwellings delivered on all sites in Bromley. Therefore, 419 dwellings were clearly not delivered on small sites in 2021/22 as LBB's trajectory claims.

6.14 Sixthly, the GLA Datahub¹⁶ states that only 63 dwellings were completed on small sites in Bromley in 2021/22 and only 112 dwellings were completed on small sites in Bromley in 2022/23. The actual completions are therefore very significantly below the claim of 418/419 dwellings included in the trajectory.

6.15 in terms of the windfall allowance, paragraph 72 of the Framework 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. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.”

6.16 The definition of “windfall sites” is provided on page 76 of the Framework as follows:

“Sites not specifically identified in the development plan”.

6.17 Paragraph 3-023 of the PPG¹⁷ states:

“A windfall allowance may be justified in the anticipated supply if a local planning authority has compelling evidence as set out in paragraph 70 of the National Planning Policy Framework.”

6.18 Whilst it relates to Annual Position Statements, paragraph 68-014 of the PPG¹⁸ is relevant in terms of the information annual position statements are expected to include in relation to windfall sites. It states (amongst other things) the following needs to be provided:

“Permissions granted for windfall development by year and how this compares with the windfall allowance”

6.19 In this case, the windfall allowance is informed by the minimum targets for small sites in the London Plan. Paragraph 4.2.3 of the London Plan states:

“The small sites minimum targets in Table 4.2 are informed by the 2017 London SHLAA and show the potential capacity for additional housing on sites of less than 0.25

¹⁶ Appendix EP3

¹⁷ Reference ID: 3-023-20190722: “How should a windfall allowance be determined in relation to housing?”

¹⁸ Reference ID: 68-017-20190722: “What information will annual position statements need to include?”

hectares in size. The targets are based on trends in housing completions on sites of this size and the estimated capacity for net additional housing supply from intensification in existing residential areas, taking into account PTAL, proximity to stations and town centres, and heritage constraints. The small sites targets are a component of, and not additional to, the overall housing targets. The relative contribution from large and small sites in each borough may fluctuate across the target period, providing the overall 10 year borough target is met in a way that is consistent with the policies in the Plan. The small sites target can be taken to amount to a reliable source of windfall sites which contributes to anticipated supply and so provides the compelling evidence in this respect required by paragraph 70 of the National Planning Policy Framework of 2019”

6.20 Table 4.2 of the London Plan then states that the 10 year target for small sites Bromley is 3,790 dwellings. Therefore, the London Plan assumes that 379 dwellings will be delivered on small sites in Bromley each year from 2019/20. However:

- The GLA datahub¹⁹ explains that completions on small sites in Bromley have been significantly less than the average of 379 dwellings:
 - 2019/20 = 255 dwellings;
 - 2020/21 = 289 dwellings;
 - 2021/22 = 63 dwellings;
 - 2022/23 = 112 dwellings; and
 - This is an average of just 179 dwellings per annum in the first 4 years of the 10 year period.
- the failure of small sites to deliver against the target is part of the reason why there is a shortfall against the London Plan’s housing requirement; and
- paragraph 3.23 of the Housing Trajectory 2021 explains that 3,580 dwellings were approved on small sites over the period 2008/09 to 2018/19 (i.e. 358 dwellings per annum) and of these 735 dwellings lapsed at a rate of 20.5%.

6.21 In summary, it is not known how many small sites had planning permission at the base date or why these are expected to be delivered in just two years rather than three. Completions have confirmed that significantly fewer small sites were delivered in 2021/22 and 2022/23. LBB has not provided compelling evidence to justify a windfall allowance of 379 dwellings per annum when this is significantly more than historic delivery rates and those in the first two years of the 5YHLS period.

¹⁹ Appendix EP3



6.22 For these reasons I conclude that the average build rate of 302 dwellings on small sites should be applied over the five year period. This means that 1,510 dwellings on small sites should be included in the 5YHLS, a reduction of **464 dwellings** in LBB's 5YHLS.

6.23 Paragraphs 79 to 82 of the Worsley Bridge Road appeal decision considered this issue as follows:

"79. The Council has included windfall delivery from small sites of less than 0.25ha in the third to fifth years of the supply.

80. Policy H2 of the LP requires boroughs to pro-actively support well-designed new homes on small sites in order to achieve targets which are set out in Table 4.2 of the LP. The target for Bromley is 3,790 dwellings over a 10-year period, or an average of 379 dpa. Paragraph 4.2.3 of the LP explains that the targets are informed by the 2017 London Strategic Housing Land Availability Assessment (SHLAA), they are based on trends in completions on small sites and the estimated capacity for additional supply from intensification. That paragraph states that the small sites target can be taken to amount to a reliable source of windfall sites which contributes to anticipated supply and so provides the compelling evidence in this respect required by the Framework.

81. The appellant has used actual rates of delivery on small sites over the period 2011-2020 which average 302 dpa. This assessment takes into account past fluctuations in the economic cycle but also reflects past low levels of delivery. Nonetheless it has the advantage of using empirical evidence.

82. There will inevitably be uncertainties in the Council's assessment of supply from small sites. The target to be achieved under Policy H2 of the LP is over 10 years and there will likely be fluctuations in delivery rates over that period. However, paragraph 4.2.3 of the LP supports the use of the target in calculating supply from small windfall sites. Accordingly, this aspect of the Council's calculation is justified."

6.24 However, since the Worsley Bridge Road decision, the GLA datahub has been updated to demonstrate that actual completions on small sites in Bromley have been very significantly below the 418/419 dwellings LBB's trajectory claimed would be delivered in 2021/22 and 2022/23 and the average of 379 dwellings on small sites relied on in the London Plan.



Sites with full planning permission

6.25 The following large site in LBB’s 5YHLS is disputed.

Table 6.4 – Sites with full planning permission at 1st April 2021

LPA ref:	Address	Capacity (Net)	LBB 5YHLS	Appellant 5YHLS	Difference
19/01543/FULL1	Land at junction with South Eden Park Road and Bucknall Way	143	143	0	-143
			143	0	-143

Land at Junction with South Eden Park Road and Bucknall Way (143 dwellings)

- 6.26 As described in section 3 of my proof of evidence above, outline planning permission was granted at appeal on 22nd March 2018 for two alternative schemes – one for 67 dwellings and one for 105 dwellings²⁰. The permission for 67 dwellings lapsed because a reserved matters application was not made within 3 years of the permission (i.e. by 22nd March 2021).
- 6.27 A reserved matters application was made on the 105 dwelling approval and was approved on 26th February 2019 (LPA ref: 18/04519/DET). However, that permission lapsed because the consent was not implemented within 2 years of the reserved matters permission (i.e. by 26th February 2021). The Housing Trajectory 2021 explains that development had not started by the base date (i.e. 1st April 2021). Indeed, in its case for a CLEUD on part of the site for the use of land for the storage of cars (LPA ref: 20/04446/ELUD), LBB’s appeal statement (dated November 2021) explained that the residential development permissions had not been implemented by then.
- 6.28 Planning permission at this site was then approved under reference 19/01543 on 5th December 2019 for:

“Residential development comprising erection of 6 x four storey buildings consisting of 10 four bedroom houses and 133 x one, two and three bedroom apartments together with concierges office. Construction of basement car park with 204 spaces. Central landscaped area with 10 visitor spaces cycle parking for 286 and refuse stores.”

²⁰ Core document **CD7.15**



6.29 The permission was granted subject to 38 conditions and a S106 agreement. The S106 agreement was signed on 5th December 2019 and was between LBB, the owner (Clery Property Holdings Limited) and the mortgagee (Mizrahi Tefahot Bank Limited) and related to contributions towards Carbon off-setting, education and health.

6.30 Condition 1 of the permission stated:

“The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision notice.”

6.31 Condition 3 required the submission and approval of an affordable housing scheme before development commenced. This condition was varied through a s.73 application submitted on 3rd April 2020 and approved on 29th October 2020 (LPA ref: 19/01543/RECON). Condition 1 of the varied permission states:

“The development to which this permission relates must be begun not later than the 5th December 2022.”

6.32 Condition 3 of the varied permission states that no development shall commence on site until a planning obligation has been entered into with the LPA in relation to affordable housing.

6.33 The application was varied again through a s.73 application submitted in June 2021 to amend the plans and remove condition 32 in relation to trees. This was approved on 21st November 2022 (LPA ref: 19/01543/RECON2). The decision notice is appended at **EP4**. The proposed development is a combination of 10 four storey townhouses and four storey apartment blocks with underground car parking. Piling is required for the basement and enabling works.

6.34 In terms of the pre-commencement conditions attached to 19/01543/RECON2, the following table sets out the latest position.

Table 6.5 – Status of pre-commencement conditions at South Eden Park Road

Condition number	Issue	Application made to discharge	Date condition discharged
4	Wheelchair units	19/01543/CONDIT – October 2021	20 th March 2023
5	Contamination	19/01543/CONDIT – October 2021	20 th March 2023
6	Construction management plan	19/01543/CONDIT – October 2021	20 th March 2023



Condition number	Issue	Application made to discharge	Date condition discharged
34	Piling	19/01543/CONDIT – October 2021	20 th March 2023
10	Existing water supply	19/01543/CONDT1 – August 2022	15 th March 2023
11	Lighting Scheme	19/01543/CONDT1 – August 2022	15 th March 2023
8	Pre-commencement Arboricultural meeting	19/01543/CONDT1 – October 2022	15 th March 2023
9	Tree protection monitoring	19/01543/CONDT1 – October 2022	15 th March 2023
12	Drainage design matters	19/01543/CONDT1 – October 2022	15 th March 2023

6.35 As can be seen from the above table, the pre-commencement conditions were only discharged in March 2023, which was after 5th December 2022 when the development needed to have commenced by.

6.36 I also note that a building control application (ref: 22/20271/OTHFP6) was received on 18th November 2022 and validated on 16th January 2023. The description was as follows:

“Formation of substructure to create basement car parking to residential development as per planning application 19/01543/FULL1 | Land At Junction With South Eden Park Road And Bucknall Way Beckenham”

6.37 LBB’s portal explains that the decision date was 23rd January 2023 and the decision was “Plans Rejected”. It states that the status is: “Building Work Started”. LBB’s position is that the development commenced in November 2022.

6.38 No applications have been made to discharge conditions relating to landscape works (condition 13), trees (condition 14), glazing (condition 15), measures to minimise the risk of crime (condition 16), refuse storage (condition 17), bicycle parking (condition 18) and travel plan (condition 19). These conditions must be discharged before any above ground works can take place. The timescale for applications to discharge these conditions is not known.



6.39 However, the application was subsequently varied again through a s.73 application submitted in June 2023 to amend conditions 2 and 4 to allow for a change in the accommodation mix and a number of design alterations (ref: 19/01543/RECON3).

6.40 The planning statement submitted with the application (dated May 2023) states that:

"The development is currently under way with the basement car park, piling and other engineering works forming the first phase of the development."

6.41 As such, as of May 2023, no residential development had commenced on the site.

6.42 In terms of the lead-in times and build out rates, LBB considers that all 143 dwellings will be delivered by 31st March 2026. This is 1.75 years from now. Large sites such as this take longer than 3 years to complete from commencement as I discuss below.

6.43 Full planning permission was granted at appeal on 16th July 2018 at Maybrey Works for 159 dwellings (1-, 2- and 3-bedroom apartments in new buildings of five to nine storeys in height) and 1,243 sq m of commercial use. LBB's 5YHLS position statements have recorded the following:

- 1st April 2019 – Development had commenced but no dwellings had been delivered;
- 1st April 2020 – Development had commenced but no dwellings had been delivered; and
- 1st April 2021 – Development had commenced but no dwellings had been delivered.

6.44 I understand that the final 10 apartments were for sale in September 2022²¹. This means the development has taken at least 3.5 years from commencement to completion.

6.45 Outline planning permission was originally granted at Langley Court, South Eden Park Road in June 2014 for a phased mixed use development including 179 houses. Several applications were submitted and approved pursuant to the outline planning permission. The demolition of buildings and enabling works took place in 2014 and 2015. Full planning permission was then granted for 280 dwellings (houses and apartments) and a 100 bed care home in November 2018 as an alternative to the previous scheme. LBB's 5YHLS position statements have recorded the following:

- 1st April 2017 – Development had commenced but no dwellings had been delivered;
- 1st April 2019 – Development had commenced but no dwellings had been delivered;
- 1st April 2020 – Development had commenced but no dwellings had been delivered; and
- 1st April 2021 – Development had commenced but no dwellings had been delivered.

²¹ Appendix EP5



- 6.46 According to Cala’s website in 2023, most of the plots had been sold / reserved, and a small number of plots are available / not yet released. Therefore, this large site has taken at least 6 years since commencement of the 280 dwelling scheme to deliver.
- 6.47 Crest Nicholson delivered 223 dwellings (apartments) on the first phase of the Dylon International Works. The application documents for a re-plan of the site to include an additional 73 dwellings dated July 2013 explained that the original permission at the site approved in 2010 had been implemented. Crest Nicholson then acquired the site in October 2015. The first dwellings were launched to the market in summer 2016. LBB’s position statement at 1st April 2017 explained that the development had started but no dwellings had been delivered at that time. LBB’s position at 1st April 2019 explains that the last dwellings were completed in November 2018. Therefore, the development took at least 5.5 years from commencement to completion.
- 6.48 In 2012, 200 apartments were approved at site K – Westmoreland Car Park. The trajectory in the Local Plan explains that a start on the site had been made by 1st April 2015. LBB’s position statement at 1st April 2017 recorded that a start had been made on the site but all 200 dwellings remained. LBB’s position at 1st April 2019 explained that 38 dwellings had been completed by November 2018 and at 1st April 2019 163 dwellings remained. The GLA database records that the last dwellings were completed on this site on 23rd March 2019. Therefore, this development took at least 5 years.
- 6.49 In summary, there is 1.75 years before the end of the 5YHLS period and there is additional planning work to be undertaken at the site at South Eden Park Road before development can take place above ground level and it is not known when this will be undertaken. The developer (Northern Land Developments Ltd) has made a start on site however, there is clear evidence that large sites take longer than 3 years to deliver.
- 6.50 Finally, I contacted the planning agent for the site and asked whether it was realistic that the development would be completed by 31st March 2026. They state²²:

“I think it is unlikely as the scheme is very much still at the ground works stage and a very sizeable basement excavation is currently taking place”

- 6.51 For these reasons, **143 dwellings** should be removed from LBB’s 5YHLS.

- 6.52 The Worsley Bridge Road Inspector considered this site at paragraph 84 of the decision, which states:

“The development at South Eden Park Road is expected by the Council to be delivered by 31 March 2026. All pre-commencement conditions have been discharged. The appellant has referred to rates of construction on other sites, but site-specific

²² Appendix EP6



circumstances will differ, and the rates achieved on other sites does not necessarily mean that the expected rate of delivery would not be achieved on this site.”

6.53 However, a further year has passed since the position was considered at that inquiry and the development is still at the ground works stage and further planning work is still required.



7. Bromley's 5YHLS at 1st April 2021

7.1 In summary, I make the following deductions from LBB's supply.

Table 7.1 – Summary of deductions from Bromley's Housing Land Supply at 1st April 2021

Source	Deduction
Small sites / windfall allowance	464
Large sites with full planning permission	143
Total	607

7.2 I therefore conclude that the 5YHLS at 1st April 2021 is 2,628 dwellings (i.e., 3,235 – 607 = 2,628). Against the adopted housing requirement plus shortfall and 20% buffer, this equates to **2.4 years** as shown in the following table.

Table 7.2 – Bromley's 5YHLS at 1st April 2021

	Requirement	Council	Appellant
A	Annual housing requirement	774	774
B	Five year requirement (A X 5 years)	3,870	3,870
C	Shortfall from 1 st April 2019	687	687
D	Total five year housing requirement (B+C)	4,557	4,557
E	Five year housing land supply to be demonstrated (D + 20%)	5,468	5,468
F	Annual average requirement plus buffer (F / 5 years)	1,094	1,094
	Supply		
G	5YHLS at 1st April 2021	3,235	2,628
H	Supply in years (G / F)	2.96	2.4
U	Undersupply against 5 year housing requirement and buffer	-2,233	-2,840



8. Conclusions

- 8.1 In conclusion, LBB has been unable to demonstrate a 5YHLS for several years. Whilst LBB claimed it could demonstrate a 5YHLS at 1st April 2015, 1st April 2017 and 1st April 2019, appeal Inspectors have concluded that those claims were unfounded and a 5YHLS could not be demonstrated. In its position at 1st April 2020, LBB accepted that it could not demonstrate a 5YHLS and it considered its position equated to 3.27 years.
- 8.2 At 1st April 2021, LBB again accepts that it cannot demonstrate a deliverable 5YHLS but considers that it now equates to 2.96 years. I have assessed LBB's position and conclude that the 5YHLS equates to 2.4 years.
- 8.3 In terms of the future, LBB has not updated its 5YHLS position statement since November 2021. However, I do not consider that LBB will be able to demonstrate a 5YHLS in the short term for the following reasons:
- Firstly, on the requirement side, the shortfall against the annual requirement set out in the London Plan is expected to increase over the next five years. The trajectory does not forecast that the adopted housing requirement will be met in any of the years;
 - Secondly, due to significant under-delivery and the subsequent failure of the HDT, the buffer has now increased to 20%.
 - Thirdly, once the London Plan becomes five years old in March 2026, the 5YHLS will be measured against the local housing need using the standard method, which is significantly greater than the adopted housing requirement;
 - Fourthly, on the supply side, as set out in appendix **EP1**, I have reviewed the 10 sites in the trajectory for years 6-10 and only 3 sites have detailed planning permission, and only 1 site has outline planning permission. The other sites do not have planning permission, including the largest site which is expected to deliver 1,230 dwellings by 2031; and
 - Fifthly, LBB considers that the small sites windfall allowance of 379 dwellings per annum will be delivered in years 6-10. However, for the reasons set out in my proof of evidence, this is not supported by historic delivery rates on small sites.
- 8.4 The implications of these conclusions are addressed by Mark Batchelor.



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