

PLANNING POLICY AND LOCAL PLAN COMMITTEE

16 JULY 2019

REPORT OF THE CORPORATE DIRECTOR (PLANNING AND REGENERATION)

A.2 – UPDATED HOUSING SUPPLY POSITION, HOUSING TRAJECTORY AND STRATEGIC HOUSING LAND AVAILABILITY ASSESSMENT (SHLAA)

(Report prepared by Gary Guiver)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To report, to the Planning Policy and Local Plan Committee:

- The number of new homes built in Tendring during the 2018/19 financial year;
- The current housing land supply position (the ‘five-year’ supply);
- The updated year-by-year trajectory for building new homes over the remainder of the new Local Plan period up to 2033; and
- The new Strategic Housing Land Availability Assessment (SHLAA) which provides the detailed evidence base for the above figures.

EXECUTIVE SUMMARY

Housing Completions

In the period 1 April 2018 to 31 March 2019, 915 new homes were completed in Tendring. This means that the housebuilding target for the district (550 homes a year as set out in the emerging Local Plan) has been achieved for a third year in succession.

Five Year Supply

In February 2019, the government made amendments to the National Planning Policy Framework (NPPF) which affects the way Councils calculate whether or not they can identify a five year housing supply. Where a Council’s adopted Local Plan housing policies are more than five years old (as is the case in Tendring), they are required to calculate housing supply against a ‘local housing need’ figure generated using the government’s standard methodology which, for Tendring, means a housing target of 863 homes a year as opposed to the 550 homes a year target in the emerging (but yet to be adopted) Local Plan. Because of this change in government planning policy which affects the way housing supply is calculated, the Council can technically only demonstrate a 4.2 year supply of deliverable housing sites – the implications of which are explained in the main body of this report.

Housing Trajectory

The Council can however demonstrate that the Local Plan requirement of 11,000 new homes between 2013 and 2033 can be met and comfortably exceeded. This is through a combination of homes already completed since April 2013, development on large sites with planning permission, sites allocated for development in the plan and small ‘windfall’ sites.

RECOMMENDATION

That the Planning Policy & Local Plan Committee endorses the content of this report and the new Strategic Housing Land Availability Assessment (SHLAA) (attached as Appendix 1)) as evidence to support the deliverability of housing proposals in the new Local Plan and to demonstrate an up-to-date five year housing land supply position for the purposes of determining planning applications and contesting planning appeals.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Maintaining and demonstrating an ongoing five-year supply of deliverable housing sites is key to the Council's ability to control the pattern of housing growth across the district and to determining planning applications in line with the policies of the Local Plan.

RESOURCES AND RISK

The annual housing survey, the five-year housing land supply calculation and the updated housing trajectory have all been undertaken by the Council's planning team within the agreed 'LDF Budget'.

The main risk to the housing supply calculations is a challenge to the figures by third-party developers promoting their sites either through the Local Plan examination or through the planning appeal process. To minimise this risk, Officers have generally taken a cautious/conservative approach to the expected delivery of housing on sites to make it difficult for developers to successfully challenge the figures on the basis of them being too optimistic.

Also, if the Council is unable to demonstrate, through the examination process, that the sites proposed in the Local Plan can reasonably deliver objectively assessed housing requirements in full, the Local Plan Inspector could delay the adoption of the plan and require the Council to identify additional sites for development.

The main risk to housing delivery and achieving and maintaining an ongoing five-year supply of housing land is the housing market in the District. If the market is not buoyant, insufficient completions will be achieved, adding to the shortfall that has to be recovered. In addition, the trajectory of future housing delivery would have to be adjusted to reflect longer lead-in times and/or slower build-out rates.

LEGAL

The new National Planning Policy Framework (NPPF) published in July 2018 requires Councils to boost, significantly, the supply of housing by identifying sufficient land with their Local Plans to meet their housing requirements. They are also required to identify and update, annually, a supply of specific 'deliverable' sites sufficient to provide five years' worth of housing against their housing

requirements, plus an appropriate buffer. Updates to the NPPF in February 2019 have clarified that housing supply has to be measured against a 'local housing need' figure derived using the government's 'standard method' unless adopted Local Plan housing policies are less than five years old.

From November 2018, housing delivery has also had to be measured against a new 'Housing Delivery Test' which looks at the number of homes constructed, against housing requirements, over the previous three years.

In the event that a Council is unable to demonstrate a five-year supply of deliverable housing land, its policies for the supply of housing cannot be considered up to date. Councils are then expected to grant planning permission for housing developments (even if they are contrary to the Local Plan) unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole, or specific paragraphs in the NPPF indicate that development should be restricted.

OTHER IMPLICATIONS

Area or Ward affected: All wards.

Consultation/Public Engagement: None – although the assumptions about housing delivery set out in the SHLAA have been informed by liaison between Officers and relevant landowners and developers.

PART 3 – SUPPORTING INFORMATION

Housing completions

Earlier this year, Officers undertook the annual survey of housing completions for the period 1 April 2018 to 31 March 2019. This involved updating records of sites with planning permission for housing and recording the number of dwellings that had been created on each of those sites over that 12 month period. This was achieved through a combination of site visits, information requested from and provided by developers and use of building control completion data.

The 'net dwelling stock increase' (or housing completions minus losses) for the 2018/19 financial year is recorded as **915**. This 'net' figure takes into account demolitions and other losses of existing homes. This exceeds the housing requirement for Tendring of 550 homes a year for the period 2013 to 2033, which has now been supported by the Planning Inspector who examined Section 1 of the Local Plan as being 'soundly based'.

In each of the first three years of the plan period (2013/14, 2014/15 and 2015/16), actual completions fell short of this requirement with just 204, 267 and 245 completions respectively – amassing a total shortfall of 934. However, the achievement of 658 completions in 2016/17, 565

completions in 2017/18 and 915 completions in 2018/19 has helped to reduce the shortfall to just 446. The significant improvement in house building in the last three years reflects improvements in housing market conditions since the recession, the increase in the number of housing sites gaining planning permission and strong progress on some of the district's larger housing developments including Gainsford Gardens in Clacton, the Delford site in Dovercourt, Finches Park in Kirby Cross, Hamford Park in Walton, Summers Park in Lawford, River Reach in Mistley, Colne Gardens and Harbourside in Brightlingsea, Avellana Place in Ardleigh, Staunton Gate in Alresford, Bentley Gate in Great Bentley, Henderson Park in Thorpe le Soken and Elmstead Gardens in Elmstead Market and Milers Green in Weeley Heath.

Of the 915 completions recorded for 2018/19, 541 took place on larger development sites of 10 or more dwellings with 374 on smaller developments of 9 or fewer. In July 2019, early indications would suggest that housing delivery is on course to also exceed the Local Plan housing target for the 2019/20 financial year, with strong progress on many housing sites across the district.

Strategic Housing Land Availability Assessment (SHLAA)

A Strategic Housing Land Availability Assessment (hereafter referred to as a 'SHLAA') is an essential part of the 'evidence base' that is needed to inform and underpin decisions on allocating sites for housing in Local Plans. The primary purpose of the SHLAA is to:

- identify sites and broad locations with potential for housing development;
- assess their housing potential; and
- assess their suitability for development and the likelihood of development coming forward.

The assessment (attached as Appendix 1) has been updated to a 1st April 2019 base date in order to reflect the very latest available information on housing developments in the district, including planning decisions and appeal decisions from the 2018/19 financial year which have a significant bearing on the assumptions on housing delivery currently set out in the Local Plan. This assessment therefore includes recommendations for updating the housing policies and housing tables within the Local Plan which could form the basis for modifications to those policies and tables if the Planning Inspector considers these to be necessary.

This assessment identifies that through a combination of dwellings completed since 2013, large sites with planning permission for housing development, small sites and windfall sites and sites specifically allocated in the emerging Local Plan, the objectively assessed requirement to deliver 11,000 homes between 2013 and 2033 can still be met and comfortably exceeded, by around 1,500 homes.

Five Year Supply

Requirements under the updated NPPF

A new version of the National Planning Policy Framework (NPPF) was published in July 2018. It

requires Councils to boost, significantly, the supply of housing. Councils still have to identify and update, annually, a supply of specific 'deliverable' sites sufficient to provide five years' worth of housing against their housing requirements. It also requires Councils to include an additional 'buffer' of either:

- a) *"5% to ensure choice and competition in the market for land; or*
- b) *10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or*
- c) *20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply."*

The NPPF defines 'significant under delivery' as being below 85% of the housing requirement over the previous three years. Up until February 2019, the Council had been arguing (with success in planning appeals) that it could demonstrate a five year housing supply against the Local Plan target of 550 homes a year and that it could also demonstrate that delivery in the last three years had been in excess of the 85% threshold. However, in February 2019, the government published amendments to the NPPF which have had significant implications for the way housing supply is calculated in Tendring.

Paragraph 73 in the NPPF 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 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."* Because this Council last adopted a Local Plan in 2007, its strategic housing policies are more than five years old and therefore housing supply has to be measured against its 'local housing need' which, up until February 2019, the Council had taken to be the 550 homes a year target set out in the emerging Local Plan and endorsed by the Planning Inspector following the examination of the Section 1 Plan. However, in February 2019, the government introduced additional wording into footnote 37 of the NPPF which states: *"Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance"*. For Tendring, the standard method for calculating local housing need generates a requirement of 863 homes a year which is more than 300 a year more than the target in the emerging Local Plan.

The standard method relies on government household projections which, for Tendring, have been proven to be flawed as they are infected by discrepancies in census data and mid-year population projections which occurred between 2001 and 2011 known as 'unattributable population change' (UPC). Even though UPC has been demonstrated (by leading demographic consultants on behalf of the Council) to be a problem in Tendring and both the Planning Inspector for the Local Plan and numerous appeal Inspectors have accepted the Council's position on UPC, the change to NPPF nonetheless requires the Council to calculate housing supply using the higher figure – at least until the new Local Plan housing policies are formally adopted.

In determining whether a five year supply of deliverable housing sites can be demonstrated, the NPPF in Annex 2 includes clear guidance on what can and cannot be considered a 'deliverable site'. It states: *"To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. Sites that are not major development, and sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (e.g. they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years"*.

Critically if a Council cannot identify a five-year supply of deliverable housing sites (plus the appropriate buffer), its policies for the supply of housing cannot be considered up to date and the 'presumption in favour of sustainable development' applies. This requires Councils to consider all housing development proposals on their merits, even if they are contrary to the Local Plan. There is an expectation that planning permission will be granted unless the adverse impacts significantly and demonstrably outweigh the benefits. This is now commonly referred to as the 'tilted balance'.

From November 2018, as well as having to demonstrate a five-year supply of deliverable housing sites, Councils have also needed to demonstrate that they are meeting the new 'housing delivery test' (HDT) in the NPPF. It requires housing delivery over the previous three financial years to be measured against the housing requirement and where delivery is 'substantially below the housing requirement', the 'tilted balance' is engaged. Councils have to publish their performance against the delivery test each November and 'substantially below the housing requirement' will mean where the results published in:

- a) November 2018 indicate that delivery was below 25% of the housing required over the previous three years;
- b) November 2019 indicate that delivery was below 45% of housing required over the previous three years;
- c) November 2020 and in subsequent years indicate that deliver was below 75% of housing required over the previous three years.

Whilst the Council's performance in housing delivery over the last three years has been very strong when measured against the requirement of 550 homes a year in the Local Plan, because of the need to apply the government's higher figure of 863 the published figures for the Council currently show an under-performance against the housing delivery test which, whilst not 'substantially below' the housing requirement, still represents 'significant under-delivery' which requires the Council to include a 20% buffer within its housing supply.

Updating the figures

Officers have re-run the housing supply calculation to an April 2019 base-date to provide two calculations. One measured against the requirement of 550 homes a year as set out in the emerging Local Plan and accepted by the Local Plan Inspector as being soundly based; and another measured against the requirement of 863 homes a year generated by the government's standard method of calculating local housing need.

The updated calculations are based on the evidence and assumptions contained within the new SHLAA. The calculations within the SHLAA (chapter 7) give a housing supply position of **5.4** years against the Local Plan figure and **4.0** years against the figure derived from the standard methodology. These figures are set out in the following table:

Five Year Requirement and Supply	Local Plan OAN of 550 homes a year	Standard Methodology of 863 homes a year
Requirement 2019/20 – 2023/24	2,750 (550 x 5)	4,315 (863 x 5)
Shortfall 2013/14 – 2018/19	446	N/a
Sub-Total	3,196	4,315
Plus 20% buffer	639	863
Total Requirement	3,835	5,178
Supply from large site commitments	3,578	3,578
Supply from emerging allocations	0	0
Supply from small windfall sites	568	568
Total supply of Homes – Units	4,146	4,146
Total five- year supply of Homes - %	108%	80%
Total supply of Homes – Years	5.4	4.0

Implications and relevant appeal decisions

Since the February 2019 changes to the NPPF, the Council has had to accept that it cannot technically demonstrate a five year housing supply and therefore the 'tilted balance' is engaged and planning applications for housing development have had to be considered on their merits – weighing up adverse impacts against benefits. However, in determining such planning applications for housing development, the Local Plan Inspector's endorsement of the emerging Local Plan housing figure of 550 homes a year has been treated by Officers as a material consideration to be weighed in the balance. The Local Plan Inspector's acknowledgement that UPC is a genuine factor that has infected the government's household projections clearly supports the Council's position that, in real terms, there is no shortfall in the Council's five year housing supply and, on that basis,

the amount of weight that applies to the 'benefits' of additional housing development should reflect that.

This approach was successfully defended by the Council and its legal representatives in the recent appeal for 85 homes on land off Edenside, Bloomfield Avenue, Frinton on Sea where the Inspector dismissed the appeal and concluded the following in respect of housing requirements:

“27. As set out above, the Council accepts that it cannot demonstrate a 5YHLS, according to the standard method by which local housing need must be calculated for the purposes of this appeal. This is because it must deliver 857 dwellings per annum (dpa) and it only has the supply to meet, by its best case, 4.04YHLS. The appellant considers that it only has a 3.25YHLS. The absence of a 5YHLS means that the tilted balance applies.

28. However, the Council disputes that this figure represents the true housing need of the District because the 2014 population and household formation projections are seriously flawed for Tendring as a result of acknowledged issues of Unattributable Population Change (UPC). UPC is the term given to the fact that the accumulated annual mid-year estimates (MYEs) of population in Tendring between 2001 and 2011 suggested the population would grow by 9,793 people, but the 2001 Census showed that it had in fact fallen by 740 people. In other words, these MYEs had suggested 10,533 more people in the District than the Census showed there to be. These figures are undisputed by the appellant, as is the principle cause of the errors in the MYEs, namely that 55% of the UPC error was attributable to over-estimates of internal migration. Tendring is one of three local authority areas where UPC has made a huge difference in population growth (+1500% in Tendring).

29. The Council states that the true housing requirement is 541dpa, although it accepts that figure has been derived through a different methodology and has not been tested by the eLP examining Inspector, nor has it been subject to a determination by any other Inspector.

30. The examining Inspector has found that a housing requirement figure of 550dpa is sound in principle for the duration of the eLP period (2013-2033) based on the extent of UPC in Tendring.⁶ The Council acknowledges that this figure was developed through the former NPPF, which adopted a different methodology including how the backlog is accounted for and in terms of the uplift for affordability. The Inspector may modify his views in the light of further evidence, although the eLP housing requirement falls to be examined under the previous NPPF and PPG guidance rather than the standard method in the new guidance.

31. But the Council maintains that the requirement is 541dpa (not 857dpa) because the effect of UPC is continuing. This is because the standard method uses the official 2014-based official projections, which take a base period of 2009-2014 and roll forward the trends in that period into the future. I agree with the Council that because the base period included two inter-Censal years, which were affected by UPC, the resultant projection itself is likely to be affected by those errors. If these errors in the MYEs continued after 2011 then the effect of the infection of the 2014-based projections by UPC is greater. I also agree with the Council that the 2016-based household projections imply an even greater population in Tendring than the 2014-based projections, which suggests to me that the UPC errors have not been fixed, contrary to the appellant's evidence.

32. The appellant did not substantively challenge the Council's evidence in this regard; indeed it chose not to cross-examine Ms Howick, the Council's witness, whose above evidence consequently went unchallenged. No substantive evidence was produced by Mr Tiley, the appellant's witness, to confirm that the errors in future population and household arising from UPC are not continuing.

33. In particular his assertion that the Office for National Statistics (ONS) has addressed the problems of UPC via its Migration Statistics Improvement Programme⁷ is speculative because it simply repeats the aim of the Programme to address past anomalies in migration estimates. There is no evidence produced to confirm that it has actually done so nationally, let alone addressed the future situation in Tendring, where UPC has had such a huge effect in the past. The eLP examining Inspector and the Inspectors in the recent Great Bentley and Ardleigh decisions⁸ have all concluded that the UPC errors have not been eradicated and are therefore continuing. No appeal decisions have concluded the contrary.

34. This is not the place to rule on whether the figure of 541dpa is the true housing requirement for Tendring. That is for the eLP examination. The examination Inspector may decide to consider that figure and how the Council arrived at it, rather than stick to the original figure of 550dpa, which he had previously found sound. It is also possible that additional evidence showing that UPC has been satisfactorily addressed will be presented to the eLP examination. But given that the appellant has provided no substantive evidence in this appeal that the UPC errors have been addressed, it currently appears that the figure of 857dpa is a considerable over-estimate of the true extent of the District's housing need.

35. In summary, the parties agree that there is no 5YHLS because the revised NPPF and PPG state that the standard method must be used for planning decisions. An alternative method can only be used in plan examinations. Whether or not the Council can demonstrate a 5+YHLS based on a figure of 541 or 550dpa is therefore irrelevant.

36. But I agree that the continuing errors in the population projections arising from UPC raise significant questions about the validity of the local housing need figure of 857dpa. I consider it likely that this figure is an overestimate of the true housing need in the District. It also seems likely that the figure of 550dpa will be the basis on which the first five years of the new Local Plan will be calculated, given that the examining Inspector has already found this figure sound because the eLP's housing requirement is to be assessed under the previous NPPF/PPG versions.

37. Whilst this does negate the lack of a 5YHLS it does reflect the primacy of the plan-led approach in determining this appeal unless material considerations indicate otherwise, albeit in terms of the tilted balance.”

However, in the appeal decision for a 200 home scheme land at the Lifehouse Spa and Hotel in Thorpe le Soken a different Inspector, whilst dismissing the appeal, came to an entirely different conclusion on housing requirements:

“36. The technical consultation on updates to national planning policy and guidance emphasised the Government's aspirations to deliver 300,000 homes a year on average by the mid 2020s. Reference was made to household projections being constrained by housing supply, the need to be more responsive to demand, declining affordability and the historic under-delivery of housing. To take account of the 'exceptional circumstances' argued by the Council in this appeal would not be in accordance with national policy to boost significantly the supply of homes and the reasoning behind the current use of the standard method to assess local housing need. In this respect I prefer the appellant's case that there has been a move towards a policy-driven approach aimed at maintaining higher levels of housing delivery.

37. Similar arguments by the Council in the Edenside appeals were supported by the Inspector who concluded that the continuing errors in the population projections arising from UPC raised significant questions about the validity of the local housing need figure of 857 dpa. He considered that figure was likely to be an overestimate of

the true housing need in the district and that a figure of 550 dpa will probably be the housing requirement in the new Local Plan. He reflected these findings in applying development plan policy and carrying out the tilted balance.

38. Consistency in decision-making is important to uphold confidence in the planning and appeal process. The probability is that the 2014 based household projections have been derived from flawed demographic data for Tendring District, a conclusion reached by a number of inspectors in appeals and in the Local Plan examination.

39. Nonetheless I do not intend to follow the line taken in the Edenside decision for the reasons set out above related to the objectives of national policy as expressed in the Framework. It is also relevant that the Council's evidence and submissions on the issue were not robustly challenged in the Edenside case. The inspector did not have the benefit of detailed evidence and submissions putting an opposing view for consideration, very different to the position in this appeal.

40. The preparation of the emerging Local Plan is a separate process with a distinct methodology and considerations in deriving a housing requirement. The Inspector concluded in June 2018 that the housing requirement of 550 dpa was soundly based but he reserved the right to modify this view in light of any further evidence that may come forward before the examination ends. Consequently the Local Plan housing requirement remains uncertain. The findings to date do not lead me to change my conclusions on the local housing need for the purposes of this appeal.

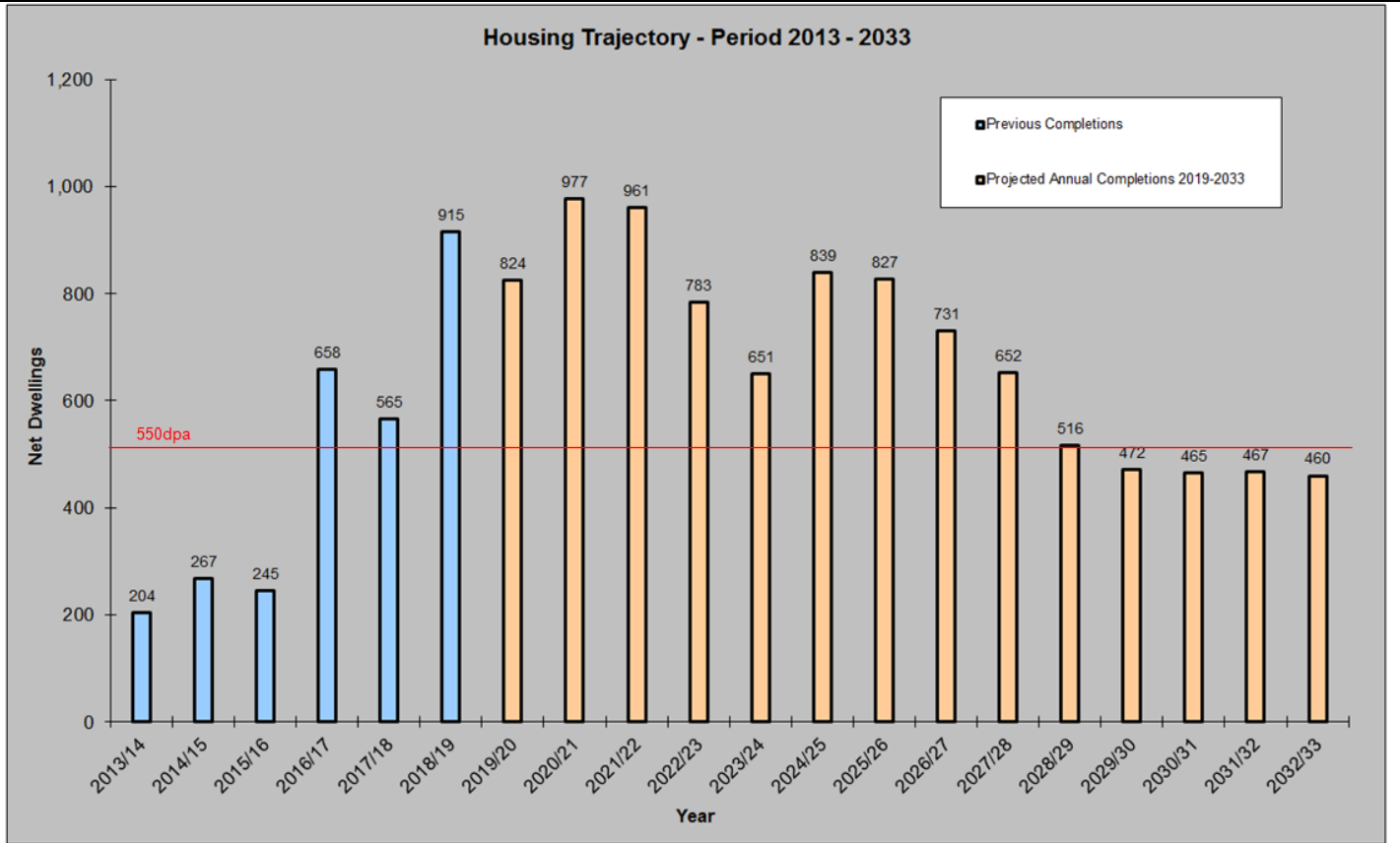
41. The Inspectors' conclusions on local housing need in appeal decisions, which pre-dated the recent clarifications to the Framework, were based on the facts and evidence presented at that time. They are of limited assistance now because the policy context and the scope for interpretation of policy application has changed significantly."

The inconsistent approach being adopted by appeal Inspectors makes it very challenging for the Council to defend its position in response to speculative planning applications – but Officers intend to continue arguing that UPC is a material consideration that should be weighed in the balance when determining planning applications for housing until the Council can formally adopt the figures in the new Local Plan.

Housing Trajectory

The National Planning Policy Framework requires Councils to ensure their Local Plans meet the full objectively assessed needs for market and affordable housing. As well as identifying and updating a supply of specific deliverable sites to provide five years' worth of housing (plus the appropriate buffer), Councils need to identify a supply of specific, developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15. The expected rate of housing delivery has to be illustrated through a 'housing trajectory' for the plan period.

The updated information contained within the new SHLAA has been fed into an overall trajectory for housing growth over the plan period which is set out in Appendix 5 of the SHLAA and replicated below:



The trajectory shows the low level of housing completions in the years 2013/14 to 2015/16 followed by significant improvement in performance recorded for 2016/17, 2017/18 and 2018/19. Going forward, the trajectory predicts continued high delivery rates exceeding 800 homes a year until 2023/24 as many of the schemes that currently have outline planning permission in our towns and larger villages begin to deliver.

The rate of housing completions is expected to fall and stabilise from 2023/24 as some of the large rural developments come to an end, the supply of small windfall sites begins to dry up and the more steady supply of housing on larger sites on major strategic developments around Clacton and at the new Garden Community on the Colchester/Tending border.

The trajectory demonstrates that the objectively assessed housing need of 11,000 between 2013 and 2033 can be met and comfortably exceeded by around 1,500 homes.

APPENDICES

Appendix 1 – Strategic Housing Land Availability Assessment (SHLAA) (July 2019)