

# TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Executive
<b>Date of Meeting:</b>	9 November 2023
<b>Subject:</b>	Tewkesbury Interim Housing Position Statement
<b>Report of:</b>	Interim Planning Policy Manager
<b>Head of Service/Director:</b>	Associate Director: Planning
<b>Lead Member:</b>	Lead Member for Built Environment
<b>Number of Appendices:</b>	1

## **Executive Summary:**

The Borough Council is currently unable to demonstrate a five-year housing land supply as required by the National Planning Policy Framework. Consequently, a presumption in favour of granting planning permissions involving the provision of housing (with certain exceptions) is engaged. This is commonly referred to as the 'tilted balance'. Nevertheless, adopted Development Plan policies in Tewkesbury Borough remain the starting point for decision-making. The proposed Interim Housing Position Statement would provide informal guidance in clarifying the Council's approach to decision-making for applicants and the community. Specifically, the document would outline the types of locations and housing schemes which are most likely to be considered acceptable in redressing the five-year housing supply shortfall; and also to set out other actions that the local planning authority and others can take in expediting suitable housing proposals. Although no public consultation is necessary, a briefing for Town and Parish Councils has been arranged, and a summary of any views expressed will be given to Council.

## **Recommendation:**

### **To RECOMMEND TO COUNCIL:**

- 1. That the Interim Housing Position Statement be approved and published to explain the Council's approach to decision-making on planning applications involving the provision of housing.**
- 2. That authority be delegated to the Associate Director: Planning, in consultation with the Lead Member for Built Environment, to make any necessary minor amendments and corrections to the document prior to publication.**

## **Financial Implications:**

There are no direct financial implications resulting from this report.

## **Legal Implications:**

Pursuant to section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions on planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

The National Planning Policy Framework (NPPF) represents government planning policy and is a material consideration that must be taken into account, but does not change the statutory status of the development plan as the starting point for decision making.

The National Planning Policy Guidance states that if decision takers choose not to follow the National Planning Policy Framework, where it is a material consideration, clear and convincing reasons for doing so are needed.

NPPF includes at paragraph 11 a presumption in favour of development and this provides pursuant to paragraph 11(d) that where a local planning authority cannot demonstrate a five year supply of deliverable housing permission is to be granted unless:

- i) the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

A Footnote to 11(d)(i) sets out a closed list of the policies as being referred there as those in the NPPF (rather than those in development plans) relating to particular matters which include habitats sites, Green Belt, Areas of Outstanding Natural Beauty, irreplaceable habitats, designated heritage assets and areas at risk of flooding. Therefore, in each case where such policies are relevant to a proposal they will need to be considered as to whether they indicate there being a clear reason for refusal.

Further the NPPF at paragraph 14 provides that where particular criteria applies, it is to be taken that the adverse impact of allowing development involving the provision of housing that conflicts with a neighbourhood development plan is likely to significantly and demonstrably outweigh the benefits.

The Interim Housing Position Statement will not be a policy document and will not be able to pre-empt any determination of planning applications, but seeks to set out proactive approach in providing informal guidance as regards the exercises to be undertaken in the determination of planning applications whilst the Council cannot demonstrate a five year policy.

**Environmental and Sustainability Implications:**

The Interim Housing Position Statement would assist in operating the presumption in favour of granting sustainable housing development proposals in a manner which best safeguards environmental and sustainability interests.

**Resource Implications (including impact on equalities):**

None directly arising from this report.

**Safeguarding Implications:**

None

**Impact on the Customer:**

The Interim Housing Position Statement is intended to be a helpful document clarifying for both applicants and the community, the local planning authority's approach to decision-making on planning applications for housing.

## **1.0 INTRODUCTION**

- 1.1** Members will know that the National Planning Policy Framework (NPPF) requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing.
- 1.2** Tewkesbury Borough Council recently published its annual Five-Year Housing Land Supply Statement for the monitoring period 1 April 2023 – 31 March 2028<sup>1</sup>. This confirmed that, as at 31 March 2023, it could demonstrate 3.24 years' supply (including a 5% buffer).
- 1.3** As a consequence of the shortfall, the NPPF introduces a presumption that planning permissions for development involving the provision of housing should be granted (except where there are clear reasons for refusal to protect certain areas or assets of particular importance). This 'presumption' is commonly referred to as the 'tilted balance' in deciding planning applications.
- 1.4** The NPPF does not require local planning authorities to undertake any specific measures such as preparing an action plan in response to a shortfall in five year housing land supply. Nonetheless, it is essential that the Council restores a satisfactory housing supply position as quickly as possible. Accordingly, an Interim Housing Position Statement (IHPS) has been prepared to set out informal guidance on how this can be most effectively achieved.

## **2.0 PURPOSE OF THE INTERIM HOUSING POSITION STATEMENT**

- 2.1** The purposes of the IHPS are principally to acknowledge the significant shortfall in housing land supply in Tewkesbury Borough and explain what actions the Council will take in ensuring this is redressed. The IHPS is essentially a statement of intent designed to inform both applicants and communities in setting out:
- the sorts of locations and types of housing proposal which are likely to accrue most weight in operating the tilted balance; and
  - the actions the Council will take, or encourage others to take, as part of its development management process.
- 2.2** It should be noted that the triggering of the tilted balance does not alter the statutory basis for deciding proposals for housing. Planning law requires all applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this context, the Development Plan for Tewkesbury Borough comprises the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (the JCS), the Tewkesbury Borough Plan 2011 - 2031 and the 'made' Neighbourhood Plans throughout the Borough.
- 2.3** However, where it is concluded that an individual proposal for housing does not accord with the Development Plan as a whole, the local planning authority is required to go on to assess whether there are any material considerations that indicate that the proposal should be granted. The NPPF is a material consideration and provides that in cases where a five year supply of deliverable housing cannot be demonstrated that (subject to certain exemptions) permission is to be granted unless any adverse effects of doing so would "significantly and demonstrably" outweigh the benefits when assessed against the policies in the NPPF taken as a whole. As such, the NPPF's tilted balance will be a material consideration to be taken into account (along with any other material considerations relevant to the case) in deciding whether or not to grant planning permission.

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<sup>1</sup> [TBC-Five-Year-Supply-Statement-Oct-2023-FINAL.pdf \(tewkesbury.gov.uk\)](#)

- 2.4** In this context, and as noted above, the IHPS would provide informal guidance on the circumstances in which the benefits of housing are likely to carry most weight in operating the tilted balance; and hence where the benefits are less likely to be outweighed by adverse impacts of development.
- 2.5** In summary, such circumstances might include where sites are of a size, type and location where housing would be 'deliverable' and provide housing without delay. It may also include cases where the development would represent sustainable development by providing good quality housing in the right locations having regard to the Development Plan and the NPPF. Amongst other considerations, this could consist of appropriately designed schemes which relate well to existing settlements, facilitate sustainable travel, involve a suitable size, mix and type of dwellings, respect landscape character and avoid environmental harm.
- 2.6** In this way, it is considered the IHPS would assist in supporting genuinely sustainable development and ensure a consistent approach to decision-making under the tilted balance.
- 2.7** The draft IHPS also proposes a number of actions which, where appropriate, could expedite the development management and development processes. These include encouraging early engagement between applicants and communities, imposing non-standard planning conditions requiring earlier commencement of development and streamlining s106 and validation procedures.

### **3.0 CONSULTATION**

- 3.1** The draft IHPS is intended to serve as informal guidance relating to existing planning policy, and public consultation is not therefore necessary. A briefing for Town and Parish Councils has been arranged, and a summary of any views expressed will be given to Council.

### **4.0 ASSOCIATED RISKS**

- 4.1** Failing to approach decision-making in an effective and consistent way would be likely to perpetuate a shortfall in housing land supply. This would lead to a prolonged period of uncertainty with more housing proposals being decided at appeal, the attendant costs and risks of seeing housing development granted contrary to adopted local planning policies.

### **5.0 MONITORING**

- 5.1** It is proposed that the IHPS be subject to periodic monitoring at least annually, in order to assess its effectiveness and inform any necessary review.

## **6.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES**

- 6.1**
- Council Plan – all priorities and objectives relating to sustainable development and place.
  - Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031
  - Tewkesbury Borough Plan 2011 - 2031
  - 'Made' Neighbourhood Plans throughout the Borough.

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**Background Papers:** None

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**Appendices:** Appendix 1. Draft Interim Housing Position Statement