

# Kirklees Interim Housing Position Statement to Boost Supply February 2024

## 1. Introduction

- 1.1 Since adoption of the Kirklees Local Plan in February 2019 the council has successfully maintained a continuous five-year supply of housing land. During this time plan-led development has delivered 3,843 new homes and facilitated the provision of approximately 5,820 new jobs on employment land or mixed-use allocations.
- 1.2 The Local Plan identified a housing requirement of 31,140 homes (1,730 per year) between 2013 and 2031 to meet local needs. Local planning authorities are required to demonstrate five years supply of deliverable housing sites. However, the 2023 update of the five-year housing land supply position, carried out as part of the Authority Monitoring Report (AMR), demonstrated a 3.96 years supply of housing land.
- 1.3 In the absence of a five-year housing land supply, it is necessary to consider planning applications for housing in the context of National Planning Policy Framework (NPPF) (2023) paragraph 11 which triggers a presumption in favour of sustainable development (the tilted balance). This requires planning applications to be considered favourably subject to other policy tests and material considerations.
- 1.4 Delivering new housing development is important for the future of Kirklees and the council is responding proactively through measures already in place to help deliver new homes. This statement provides an additional mechanism to help boost housing supply and sets out:
  - a clear understanding of the implications of the current land supply position
  - principles for decision making in determining planning applications and the release of land for housing; and
  - the actions the council is proactively undertaking to support housing delivery.
- 1.5 This statement does not set new policy and does not replace the Development Plan for decision making purposes but has been produced as a positive and pro-active way forward. Once adopted by the council it will form a material consideration in the determination of planning applications. The statement will be reviewed annually following publication of the latest Authority Monitoring Report and five-year housing land supply position and will remain in place until this evidence indicates it is no longer required.
- 1.6 Notwithstanding the guidance set out within this statement, compliance with the principles of the statement does not guarantee a planning application will be approved, and all applications will be judged on their individual merits. It should also be noted that subsequent amendments to legislation or local, regional, and national policies might affect the guidance set out within this statement.

## **2. Background**

### **National Planning Policy Context**

- 2.1 The government's National Planning Policy Framework (NPPF) (2023) is a material consideration in planning decisions. At the heart of the NPPF is a presumption in favour of sustainable development, and paragraph 11d sets out the circumstances that apply for decision making when a local planning authority is not able to demonstrate a five-year housing land supply (see Appendix 1 for the full text of paragraph 11).
- 2.2 Applying the presumption in favour of sustainable development means granting planning permission for housing developments unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF when taken as a whole.
- 2.3 Planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF (paragraph 12) clarifies that the presumption in favour of sustainable development does not change the statutory basis of the Development Plan as the starting point for decision making.

### **The Kirklees Development Plan**

- 2.4 The Kirklees Development Plan consists of the following documents:
  - the Kirklees Local Plan (adopted February 2019) which includes the 'Strategy and Policies' and the 'Allocations and Designations' documents; and
  - the Holme Valley Neighbourhood Development Plan (adopted December 2021).
- 2.5 The council has undertaken a review of the Local Plan as required by Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012, which sets out the requirement to undertake and complete a review of local development documents within 5 years of adoption. The Council approved the commencement of a full update of the Kirklees Local Plan on 15<sup>th</sup> November 2023, and further details can be viewed in the 17<sup>th</sup> October 2023 Cabinet Report at [2023-10-17 Local Plan Review- Update Cabinet Report and App1 finaldocx.pdf \(kirklees.gov.uk\)](#)

### **3. Housing Land Supply Position**

#### **Five-Year Housing Land Supply Context**

- 3.1 The NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a five-year supply of housing against their Local Plan housing requirement. As set out above, the council is unable to demonstrate a five-year housing land supply position at this time with 3.96 years supply of housing land.
- 3.2 The government's Housing Delivery Test (HDT) has implications for the five-year housing land supply. The HDT sets percentage targets for the number of new homes built compared to housing needs over a rolling three-year period. Where the HDT indicates delivery has fallen below 85% of the requirement, a 20% buffer should be applied to the five-year land supply. The council's 5-year housing land supply figure will be revised as future HDT results are published.

#### **The Housing Delivery Test**

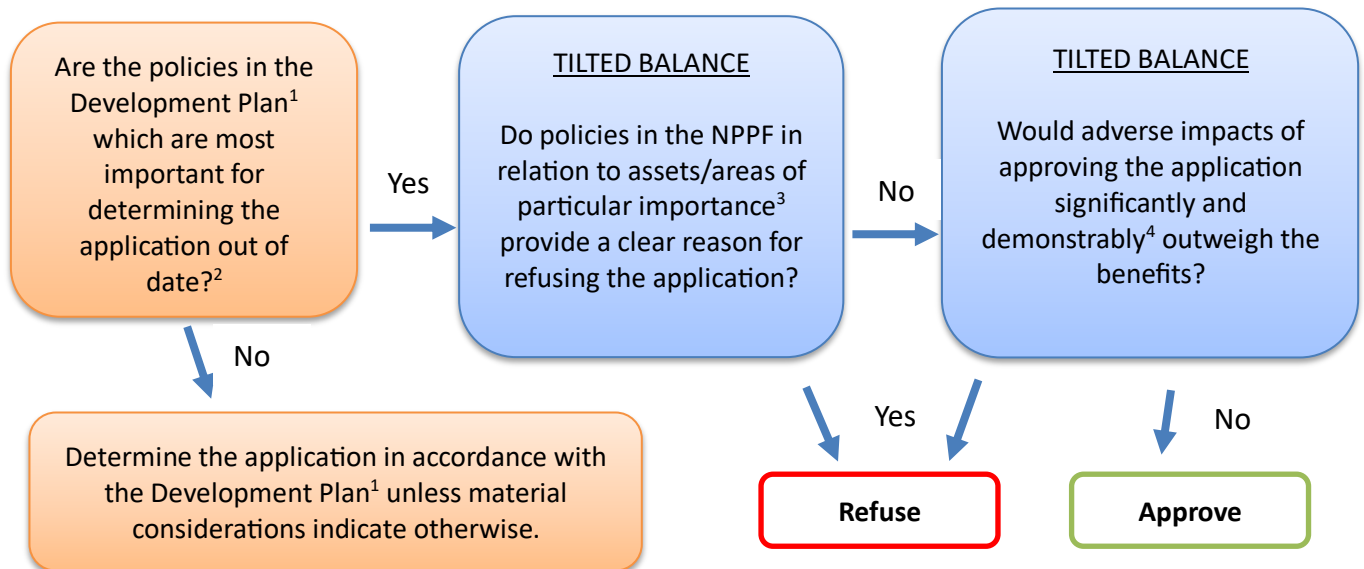
- 3.3 The Housing Delivery Test measurement for 2022 was published on 19th December 2023 and demonstrated that Kirklees had achieved a 67% figure against the requirement.
- 3.4 Where the HDT indicates that the delivery of housing has fallen below 75% of the housing requirement over the previous three years, the presumption of sustainable development applies, in addition to the requirements to prepare an action plan and apply a 20% buffer to the supply of specific deliverable sites as set out in the NPPF. As such, the 2024 5-year housing land supply figure will be required to apply a 20% buffer when it is published towards the end of the year.

#### **Presumption in Favour of Sustainable Development**

- 3.5 As the council is unable to demonstrate a five-year supply, and delivery of housing has fallen below the 75% HDT requirement, the presumption in favour of sustainable development (the tilted balance) is triggered as set out in paragraph 11d of the NPPF and the corresponding footnote 8 (shown in Appendix 1). This presumption means that planning applications for housing development should be considered favourably unless the site is protected under national planning policy or the negative impact of approving the development outweighs the benefits.
- 3.6 Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF (paragraph 12) clarifies that the presumption in favour of sustainable development does not change the statutory basis of the Development Plan as the starting point for decision making. The council's five-year housing land supply position and Housing Delivery Test measurement do not change this, although they are material considerations which may be afforded substantial weight in the overall planning balance.

3.7 There can only be a presumption in favour of development where housing proposals are demonstrated to constitute ‘sustainable development’ in the context of the NPPF. The following flowchart summarises this.

**Figure 1: Application of the Tilted Balance**



**Notes**

<sup>1</sup> **The Development Plan is always the starting point for decision making. In Kirklees it consists of:**

- Kirklees Local Plan (2019)
- Holme Valley Neighbourhood Development Plan (2021)

<sup>2</sup> On housing proposals 'out of date' includes situations where the local planning authority cannot demonstrate a **five-year supply** of deliverable housing sites.

<sup>3</sup> **Consider only those designations noted in footnote 7 of the NPPF, which are relevant in Kirklees:**

- Habitats
- Special Area of Conservation (SAC) and Special Protection Area (SAP)
- Sites of Special Scientific Interest (SSSIs)
- Land designated as Green Belt
- Local Green Space
- Irreplaceable habitats
- Designated heritage assets (and other heritage assets of archaeological interest)
- Areas at risk of flooding

<sup>4</sup> **NB applying the tilted balance does NOT exclude Development Plan policies from being considered in the balance.**

It is not enough for there to be some harm or negative effects; the harm must be **significant and demonstrable**.

## **4. Principles of Decision Making**

- 4.1 The lack of a five-year housing land supply creates the potential for unplanned housing development applications that may be contrary to key planning policies. The council will seek to ensure that acceptable housing developments are supported through the development plan process and that unacceptable proposals will continue to be rejected. It is therefore important to manage the release of additional housing land to help boost supply and to ensure that development only takes place in sustainable locations and can be delivered in a timely manner. As such the council will apply the decision-making principles as set out in boxes 1, 2 and 3.

### **Principle 1 - Presumption in Favour of Sustainable Development**

- 4.2 In the absence of a five-year housing land supply the council will apply the presumption in favour of sustainable development as set out in Principle 1 below. The NPPF (paragraph 12) is clear that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision-making. Planning applications should therefore continue to be considered against the Development Plan policies unless there are material considerations that indicate otherwise.
- 4.3 The Development Plan will continue to provide the basis for the consideration of planning applications for development within Kirklees. It is only policies that are most important for determining housing supply that are deemed to be 'out of date'.

### **Principle 1 - Presumption in Favour of Sustainable Development**

Decisions on planning applications involving the provision of housing will be tilted in favour of sustainable development as set out in the NPPF (paragraph 11d) which directs decision-takers to grant planning permission unless:

- policies that protect areas or assets of particular importance provide a clear reason for refusing the development, or
- the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits.

The presumption in favour of sustainable development will not apply to protected areas or assets of importance listed in NPPF footnote 7 where this provides a clear reason for refusing the proposed development.

The protected areas or assets of importance relevant to Kirklees are:

- Habitat Sites
- Special Areas of Conservation
- Special Protection Areas
- Sites of Special Scientific Interest (SSSIs)
- Land designated as Green Belt
- Local Green Space

- Irreplaceable habitats
- Designated heritage assets (and other heritage assets of archaeological interest) and
- Areas at risk of flooding.

Development proposals not in accordance with the Development Plan will need to demonstrate that they constitute 'sustainable development'. Consideration will be given to whether the most relevant policies for determining the application are out-of-date and the weight given to those policies will be a matter of planning judgement when balanced against the need for the proposed housing.

- 4.4 Applying the positive approach in favour of sustainable development does not mean that all applications for new housing development will be permitted. There are strong caveats to the 'presumption in favour of sustainable development' in the NPPF as set out in Principle 1. In reaching a decision about new housing developments, the housing land supply position will need to be balanced against other factors in the Development Plan and/or the NPPF which could result in the refusal of planning permission.

#### **Principle 2 – Safeguarded Land**

- 4.5 The Kirklees Local Plan identifies some sites as 'safeguarded land' which are protected from development during the lifetime of the Local Plan but are intended to be reassessed in any future update to determine their suitability for housing or employment development.
- 4.6 In the absence of a five-year housing land supply, the most relevant policies are deemed out of date. As the Local Plan safeguarded land policy (LP6) relates to the supply of land for development, including for housing, this policy is considered to be out of date. As such, these sites provide potential development opportunities that could be facilitated through their early release for housing where development constraints can be overcome.
- 4.7 In these circumstances, substantial weight should be given to the presumption in favour of sustainable development (applying the 'tilted balance') unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits. In all circumstances, careful consideration should be given to the relevant planning considerations, Development Plan policies and appropriate national planning policies.

## Principle 2 – Safeguarded Land

Substantial weight will be given to the presumption in favour of sustainable development for housing development on land identified as safeguarded land in the Kirklees Local Plan, where constraints to development can be overcome.

Planning permission will be expected to be granted if proposals constitute sustainable development and accord with other relevant policies set out in:

- the National Planning Policy Framework
- the Kirklees Development Plan
- Kirklees Supplementary Planning Documents and other planning guidance.

The council will continue to consider planning applications on their individual merits.

It will be expected that proposals on safeguarded land are capable of being brought forward and built out in a timely manner.

4.8 The sites allocated as safeguarded land are set out in the Local Plan Allocations and Designations document and are identified below: -

Local Plan Ref	Address	Area (Ha)
SLS1	Land north of Kaye Lane, Almondbury, Huddersfield	1.99
SLS2	Land south of Tolson Street, Chickenley, Dewsbury	2.11
SLS3	Balderstone Hall Lane, Mirfield	6.90
SLS4	Southwest of Upper Batley Lane, Upper Batley, Batley	3.29
SLS5	North of Wyke Lane, Oakenshaw, Bradford	4.62
SLS6	Snelsins Road, Chain Bar, Cleckheaton	4.07
SLS7	North of Elm Tree Close, Norristhorpe Lane, Liversedge	1.95
SLS8	Cambridge Chase, Gomersal, Cleckheaton	0.84
SLS9	West of 82-138 Mount Road, Marsden, Huddersfield	0.86
SLS10	South of Tudor Street, Slaithwaite, Huddersfield	1.76
SLS11	North of Dirker Drive, Marden, Huddersfield	1.67
SLS12	Thornccliffe Lane, Emley, Huddersfield	1.44
SLS13	Rodley Lane, Emley, Huddersfield	0.54
SLS14	Land to the west of Hebble Mount, Meltham	1.12
SLS15	East of Kilnhouse Bank Farm, Dobb Top Road, Holmbridge, Holmfirth	1.17
SLS16	Southeast of Dobb Lane, Hinchliffe Mill, Holmfirth	1.61
SLS17	Dunford Road, Hade Edge, Holmfirth	2.24
SLS18	Dunford Road, Hade Edge, Holmfirth	0.97
SLS19	North of Holme Valley Memorial Hospital, Huddersfield Road, Thongsbridge, Holmfirth	4.39

SLS20	Cliffe Lane, Holmfirth	6.26
SLS21	Land to the east of Ryecroft Lane, Scholes, Holmfirth	0.68
SLS22	West of Mill Lane, Flockton, Wakefield	1.44
SLS23	Northwest of Turnshaws Road, Kirkburton, Huddersfield	2.8
SLS24	East of Town Moor, Thurtonland, Huddersfield	0.40
SLS25	West of Back Lane, Grange Moor, Huddersfield	0.77
SLS26	Land to the east of Far Bank, Shelley, Huddersfield	2.5
SLS27	Northwest of Netherfield Close, Kirkburton, Huddersfield	0.74
SLS28	Land to the east of Far Bank, Shelley, Huddersfield	4.66
SLS29	Land to the west of Fulstone Road, Stocksmoor, Huddersfield	0.64
SLS30	Land to the northeast of Shepley Road, Stocksmoor, Huddersfield	2.51

### Principle 3 – High Quality Design

- 4.9 High quality design is fundamental to making places more attractive, sustainable, safe, and accessible. Good design can help reduce and mitigate the impacts of climate change, promote healthier lifestyles, create safer places, and make high quality and attractive places that foster civic pride and encourage further investment.
- 4.10 Good design should be at the core of all development proposals and should be considered at the outset of the development process. Where the presumption in favour of development is triggered, the council will continue to ensure that good design is embedded into all development proposals in line with Local Plan policy LP24 (Design), other relevant Local Plan policies, and guidance set out in Supplementary Planning Documents.

#### Principle 3 – High Quality Design

High quality design is a key aspect of sustainable development and should be at the heart of decision making. Where the presumption in favour of development is triggered, the council will continue to expect housing developments to be designed to a high-quality and be socially inclusive to help deliver quality places.

The council will expect applicants to follow the guidance set out in the council's adopted Supplementary Planning Documents (SPDs) and other relevant guidance, including:

- The Highways Design SPD (adopted November 2019)
- The Housebuilders Design Guide SPD (adopted June 2021)
- The House Extensions and Alterations SPD (adopted June 2021)
- The Open Space SPD (adopted June 2021)
- The Affordable Housing and Housing Mix SPD (adopted March 2023)
- The Biodiversity Net Gain Technical Advice Note (approved June 2021)



## 5. **Delivery Actions**

5.1 The council is committed to improving the delivery of new homes across Kirklees and a series of actions set out in the Housing Delivery Test Action Plan (2022) are already being implemented. A brief overview of this is provided below.

### **Development Management Process**

5.2 **Pre-application service** – The council will continue to promote its pre-application advice service to provide guidance to agents and applicants prior to the submission of a planning application. This service helps to:

- identify and address issues at an early stage
- reduce the likelihood of submitting invalid applications
- speed up the time it takes for an application to reach a case officer
- determine the application more quickly
- reduce the number of conditions needed
- speed up the determination of any discharge of conditions.

5.3 **Planning Performance Agreements (PPAs)** - The council will continue to promote the use of Planning Performance Agreements in order to facilitate a collaborative approach to achieving development.

5.4 A PPA is a project plan or process map agreed by a developer and the council at the outset of discussions on a scheme and which aims to make sure effective processing of the planning application. It sets out the commitments of both parties in relation to:

- gathering information
- considering options
- formulating design proposals
- the scope of the planning obligations

5.5 The council will continue to prioritise resourcing the Planning service to ensure that there is adequate capacity to perform its statutory duties through the delivery of the Local Plan and the determination of planning applications in a timely manner.

### **Supplementary Planning Documents (SPDs)**

5.6 In order to help simplify the planning process and help applicants understand requirements, the council will implement the following adopted SPDs which set out the approach to delivering well-designed homes and quality places:

- The Highways Design SPD (adopted November 2019)
- The Housebuilders Design Guide SPD (adopted June 2021)
- The House Extensions and Alterations SPD (adopted June 2021)
- The Open Space SPD (adopted June 2021)
- The Affordable Housing and Housing Mix SPD (adopted March 2023)

- The Biodiversity Net Gain Technical Advice Note (approved 2019)

5.7 These supplementary planning documents are intended for use by applicants, developers, and the local community to ensure future housing development is high quality, socially inclusive, built to high environmental standards and has appropriate open space, sports, and recreation provision. They provide guidance and certainty for developers on working with the council from the outset of the development process to meet our aspiration of achieving quality places.

#### **Housing Brokerage Service**

5.8 The council's Housing Brokerage Service proactively engages with landowners of stalled sites to identify the factors holding back housing development and offers assistance to developers and landowners to overcome barriers to site delivery.

5.9 As part of the work being undertaken by the Brokerage Service, the council will proactively engage with landowners of sites, including those allocated for housing in the Local Plan which have not yet commenced or come forward for development.

#### **Council Owned Sites**

5.10 Kirklees Council is actively progressing the delivery of council owned sites throughout the district. Some of these sites have already been delivered and work is progressing to bring forward the other sites which will take the form of a number of projects and programmes and will complement town centre residential development in both Huddersfield and Dewsbury and the wider Blueprint regeneration activity.

5.11 In addition to the above, the council's Development Team in Homes and Neighbourhoods are delivering a council New Build programme (currently focussed on regenerating smaller sites close to existing council housing) and the Housing Buy Back Scheme.

#### **Strategic Housing Sites**

5.12 Work is progressing on the strategic sites at Bradley Park and Dewsbury Riverside with Bradley Park moving into preparation for delivery of Phase 1. It is anticipated the Dewsbury Riverside and Bradley Park sites will deliver 824 dwellings between 2024-2030.

### **Town Centre Residential Opportunities**

- 5.13 Kirklees council is continuing to prioritise town centre residential opportunities as a path to sustainable growth, including through:
- Both the Huddersfield Blueprint and Dewsbury Blueprint which set out intentions to regenerate their respective town centres, with provision of high-quality new housing; and
  - Regeneration work in the Daisy Hill area in Dewsbury with work ongoing to identify opportunities for housing delivery.

### **Infrastructure provision**

- 5.14 The council has a Major Projects Service with roles including co-ordinating infrastructure delivery and seeking timely delivery of infrastructure to facilitate housing delivery where required.

## **Appendix 1 – National Planning Policy Context**

The National Planning Policy Framework (July 2023) is a material consideration in planning decisions. At the heart of the NPPF is a presumption in favour of sustainable development.

### **The presumption in favour of sustainable development**

#### **NPPF Paragraph 11 (Extract)**

11. Plans and decisions should apply a presumption in favour of sustainable development. For **decision-taking** this means that:
  - c) approving development proposals that accord with an up-to-date development plan without delay; or
  - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:
    - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or
    - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

#### **NPPF Paragraph 12**

12. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

### **Footnotes**

<sup>7</sup> The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.

<sup>8</sup> This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.