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COMMERCIAL PROPERTY ADVICE



## **STATEMENT OF CASE – 5 YEAR HOUSING LAND SUPPLY PAPER**

**Town and Country Planning Act 1990**  
**Planning and Compulsory Purchase Act 2004**  
**Localism Act 2011**

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**Land at Ilkeston Road/Sowbrook Lane, Ilkeston**

**On Behalf Of: Wulff Asset Management Limited**

**Prepared By:**

Sam Silcocks BSc (Hons) MA MRTPI

Harris Lamb | Grosvenor House | 75-76 Francis Road | Edgbaston | Birmingham B16 8SP

Telephone: 0121 455 9455 Facsimile: 0121 455 6595 E-mail: sam.silcocks@harrislamb.com

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## STATEMENT OF CASE

LAND AT ILKESTON ROAD/SOWBROOK LANE, ILKESTON

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### Main Contributors

Sam Silcocks BSc (Hons) MA MRTPI

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### Issued By

Signature:



Print Name: Sam Silcocks

Date: 23<sup>rd</sup> March 2023

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### Approved By

Signature:



Print Name: Josie Hobbs

Date: 23<sup>rd</sup> March 2023

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## **1.0 INTRODUCTION**

- 1.1 Harris Lamb has been instructed to prepare this five year housing land supply paper to consider the latest 5YLS Position Paper published by Erewash Borough Council in November 2022 following the refusal of the outline application at the Appeal Site.
- 1.2 This is the first 5YLS Position Paper prepared in 3 years. The last was one was published in 2019 and presented a 5 year supply of 3.43 years. Since then, the housing delivery has continued to fall well below the annual housing requirement and planning permissions have not been forthcoming to assist in bolstering supply going forward. One of the main reasons for this being that almost of all of the none built up areas within Erewash Borough Council are in the Green Belt.
- 1.3 The 5YLS Position Paper Nov 2022 was published as part of a raft of evidenced based documents in relation to Erewash Borough Council's review of their Core Strategy. The position presented is heavily reliant on emerging allocations, which do not meet the definition of deliverable as set out in the Glossary of the National Planning Policy Framework. Consequently, it is not clear at this stage whether this is the position Erewash Borough Council will be looking to adopted when assessing planning applications at this time or whether this is simply an evidenced based document to support their emerging plan, which will become their position when the plan is adopted.

## 2.0 NATIONAL PLANNING POLICY FRAMEWORK

2.1 Paragraph 74 of the NPPF sets out the requirement for Local Authorities to maintain a supply of deliverable sites. This includes guidance on how to determine the requirement and the size of the buffer.

2.2 What constitutes a 'deliverable' site is defined in the Glossary:

- **Deliverable:** 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. In particular:
  - a) sites which do not involve major development and have planning permission, and all 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 (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans); and
  - b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

### **3.0 COMMON GROUND**

3.1 A Review of Erewash Borough Council's 5 year supply position paper reveals the following matters and are agreed with the Council:

- The Annual Housing Requirement is based on Local Housing Need and the latest affordability ration of 6.28 = 386 dpa.
- 20% Buffer – with EBC delivering 79% of their housing requirement between 2018-2021 (see Table 1 in the Position Paper).
- Five Year Supply Requirement –  $(386\text{dpa} \times 5) + 20\% \text{ buffer} = 2316$  dwellings.

#### **4.0 MATTERS OF POTENTIAL DISPUTE**

4.1 It is not known if the Council are seeking to rely on the latest position statement for the purposes of this appeal. If they do, then the following matters are not agreed between the parties:

- Lapse Rate for sites with Planning Permission – EBC set out a lapse rate of 6% and state this is evidenced in the Joint Methodology Report for Strategic Housing Land Availability Assessments (SHLAAs) – 2022 update. Table 16 sets out a lapse rate of 8% across all sites in Erewash over the last 10 years. That said, the SHLAA also states that EBC have taken a different approach to calculating their lapse rate and that this is explained in the relevant appendices. The appendices are provided in separate links, however, EBC is the only one without the link. Consequently, it has not been possible to find EBC's justification for a lower lapse rate than that presented in Table 16 and until it can be evidenced otherwise it is considered that a lapse rate of 8% should apply, albeit this only makes a very minor difference to the housing land supply presented (16 dwellings).
- Windfall allowance – again we are told that the evidence for the windfall allowance is in the relevant appendices and that this is different to the conclusions in the main body of the report. In the absence of the EBC appendix the justification for the windfall allowance cannot be assessed at this time. This notwithstanding, Table 15 concludes a windfall allowance of 193 dpa for EBC, which is 38dpa less than that presented in their 5YLS Position Paper, reducing the purported supply by 76 dpa.
- Strategic Sites – these should not be included in the supply as they do not meet the definition of deliverable as set out in the NPPF. These sites have no planning status for housing and are designated as Green Belt. The sites do not have planning permission, are not allocated in a development plan, do not have a grant of permission in principle and are not identified on a brownfield register. Consequently, they do not fall into any of the

categories that can potentially be considered deliverable and cannot be said to be deliverable at this time. This reduces the supply by 980 dwellings.

- Surplus Land from EBC asset review – these sites have no planning status for housing. They are currently public open space. No evidence is provided as to what steps have been taken to release these sites. The sites do not have planning permission, are not allocated in a development plan, do not have a grant of permission in principle and are not identified on a brownfield register. Consequently, they do not fall into any of the categories that can potentially be considered deliverable and cannot be said to be deliverable at this time. This reduces the supply by 200 dwellings.

**5.0 WHAT DOES THIS MEAN FOR EREWASH BOROUGH COUNCIL'S FIVE YEAR HOUSING LAND SUPPLY?**

5.1 The below sets out the impact of our assessment of EBC's supply of sites in their latest 5 year supply paper:

- Housing Supply as set out in the Council's paper – 2408 dwellings
  
- Changes identified to the supply:
  - Strategic Sites – remove all, minus 980 dwellings
  - Windfall – reduce by 38 dwellings
  - Increase Lapse Rate to 8% – minus 16 dwellings
  - EBC asset review – removal all, minus 200 dwellings
  
- **Total reduction – 1232 dwellings**

5.2 The adjusted supply is:  $2408 - 1232 = 1176$  dwellings or 2.54 year supply.

## **6.0 CONCLUSIONS**

- 6.1 This paper has been prepared in response to the latest 5 year supply paper published by the Council in support of their Core Strategy review.
- 6.2 The housing supply in this paper is heavily reliant on draft allocations in the emerging local plan that are currently in the Green Belt and should not be considered deliverable at this time.
- 6.3 It is the Appellant's case that the supply of deliverable sites is substantially smaller than that in the Council's latest paper, with a supply of 1178 dwellings or 2.54 year supply. This being notably less than the previous permission presented in 2019 and this is not surprising given the lack of options available to EBC to boost supply in the short term.

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