

Appendix 4: Housing Delivery Test 2021 Measurement Explanatory Note

1. Introduction

The Housing Delivery Test: 2021 Measurement

- 1.1. On 14 January 2022, the Department for Levelling Up, Housing and Communities (“DLUHC”) published the Housing Delivery Test: 2021 Measurement comprising the following:
 - (1) the HDT 2021 Measurement (an OpenDocument Spreadsheet) (“the Measurement”);
 - (2) the HDT 2021 Measurement technical note (HTML webpage).
- 1.2. The HDT Measurement for Hinckley and Bosworth Borough Council (“the Council”) was recorded as 86% (Reference E07000132, Row 131, Column K).
- 1.3. When the January 2021 result was published the Council had just concluded a planning inquiry the month previous (APP/K2420/W/20/3279808) where the difference in net completion figures was raised and it was argued that a 20% buffer should apply to the Council’s supply. Therefore, The purpose of the note is two-fold:
 - (1) First, to set out how the Council considers that the 86% figure has been calculated by DLUHC;
 - (2) How this published HDT measurement should then be applied in calculating the buffer for purposes of the National Planning Policy Framework (NPPF) (2021), notably paragraph 74b and 74c, and footnote 41.

2. Policy and Guidance

National Planning Policy Framework (2023)

- 2.1. The NPPF provisions that refer expressly to the use of the HDT and the buffer in the calculation of housing land supply are limited to NPPF paragraph 74 (“NPPF 74”), NPPF 223 and footnote 41.
- 2.2. NPPF 74 states (with all underlining added both here and below):

‘... The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:

 - 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 plan⁴⁰, 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 ⁴¹.

2.3. Below this paragraph, footnote 41 states:

'This will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement.'

2.4. NPPF 223 explains how the HDT applies for the purposes of NPPF 11 and footnote 8, but also explains that the HDT results for a given year cannot be applied until publication:

'The Housing Delivery Test will apply the day following publication of the results, at which point they supersede previously published results. Until new Housing Delivery Test results are published, the previously published result should be used. For the purpose of footnote 8 in this Framework, delivery of housing which was substantially below the housing requirement means where the Housing Delivery Test results:

a) for years 2016/17 to 2018/19 (Housing Delivery Test: 2019 Measurement, published 13 February 2020), indicated that delivery was below 45% of housing required over the previous three years;

b) for years 2017/18 to 2019/20 (Housing Delivery Test: 2020 Measurement, published 19 January 2021), and in subsequent years indicate that delivery was below 75% of housing required over the previous three years.'

Planning Practice Guidance

Housing Delivery Test

- 2.5. The relevant Planning Practice Guidance (PPG) Chapter for present purposes is: Housing supply and delivery (sub-titled: Guidance on 5 year housing land supply and Housing Delivery Test).
- 2.6. PPG Chapter 68's initial paragraph on the HDT (Reference ID: 68-036-20190722) begins by stating that *'the method for calculating the Housing Delivery Test measurement is set out in the Housing Delivery Test measurement rule book. The rule book needs to be read in conjunction with this guidance on the Housing Delivery Test.'*¹.
- 2.7. The PPG then states that *'from the day following publication of the Housing Delivery Test measurement, where delivery of housing has fallen below the housing requirement, certain policies set out in the National Planning Policy Framework will apply.'* (Reference ID: 68-042-20190722). That plural reference is understood to be a reference both to NPPF footnote 8 (and in turn NPPF 11) and separately to footnote 41, and in turn NPPF 74b and 74c.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012931/HDT_Measurement_Rule_Book.pdf

- 2.8. The PPG then considers the consequences following publication of the Measurement (Reference ID: 68-042-20190722): “What happens if the identified housing requirement is not delivered?”

From the day following publication of the Housing Delivery Test measurement, where delivery of housing has fallen below the housing requirement, certain policies set out in the National Planning Policy Framework will apply. Depending on the level of delivery, these are:

- *the authority should publish an action plan if housing delivery falls below 95%;*
- *a 20% buffer on the local planning authority’s 5 year land supply if housing delivery falls below 85%; and*
- *application of the presumption in favour of sustainable development if housing delivery falls below 75%, subject to the transitional arrangements set out in paragraph 215 of the Framework.*

These consequences apply concurrently, for example those who fall below 85% should produce an action plan as well as the 20% buffer. The consequences will continue to apply until the subsequent Housing Delivery Test measurement is published. The relevant consequence for any under-delivery will then be applied. Should delivery meet or exceed 95%, no consequences will apply.

Communal Accommodation and Older Person’s Housing (C2)

- 2.9. The PPG continues by referring to communal accommodation (PPG paragraph 68-041) “How does the Housing Delivery Test account for delivering communal accommodation?”:

Communal accommodation, including student accommodation and other communal accommodation, can count towards the Housing Delivery Test. Self-contained dwellings are included in the National Statistic for net additional dwellings. Communal accommodation will be accounted for in the Housing Delivery Test by applying adjustments in the form of two nationally set ratios. These are based on England Census data. The ratios for both net student and net other communal accommodation are found in the Housing Delivery Test measurement rule book.

- 2.10. The final paragraph/question of the previous section on “Counting Other Forms of Accommodation” asks: “How can authorities count older people’s housing in the housing land supply?”. This states that authorities can count older people’s housing in the housing land supply, (reference ID:68-035-20190722): “Local planning authorities will need to count housing provided for older people, including residential institutions in Use Class C2, as part of their housing land supply. This contribution is based on the amount of accommodation released in the housing market. Further guidance is set out in *Housing for Older and Disabled People*.” The latter reference is a hyperlink to PPG Chapter 63: Housing for older and disabled people (sub-titled: Guides councils in preparing planning policies on housing for older and disabled people).

- 2.11. Reference ID:63-016a-20190626 explains that “*Plan-making authorities will need to count housing provided for older people against their housing requirement. For residential institutions, to establish the amount of accommodation released in the housing market, authorities should base calculations on the average number of adults living in households, using the published Census data.*”

Housing Delivery Test Measurement Rule Book (pdf version)

- 2.12. The Housing Delivery Test Measurement Rule Book (“the Rule Book”) is published in two forms: the original PDF (24 July 2018) and an accompanying HTML webpage. The paragraph numbers are different between the two and therefore the Council refers here to the PDF numbering only.
- 2.13. Paragraph 5 of the Rule Book states: “*The Housing Delivery Test is a percentage measurement of the number of net homes delivered against the number of homes required, as set out in the relevant strategic policies for the areas covered by the Housing Delivery Test, over a rolling three year period.*”

$$\text{Housing Delivery Test (\%)} = \frac{\text{Total net homes delivered over three year period}}{\text{Total number of homes required over three year period}}$$

- 2.14. Paragraphs 6-11 explain how ‘net homes delivered’ are calculated with adjustments for net student and net other communal accommodation. The relevant paragraphs are quoted below (with all underlining added).

6. *The number of net homes delivered is the National Statistic for net additional dwellings² over a rolling three year period, with adjustments for net student and net other communal accommodation³.*
7. *The calculation for housing delivery is as follows.*

Net homes delivered in a year

= Net Additional Dwellings National Statistic

PLUS

Net increase in bedrooms in student communal accommodation in local authority
average number of students in student only households in England

PLUS

Net increase in bedrooms in other communal accommodation in local authority
average number of adults in households in England

² <https://www.gov.uk/government/collections/net-supply-of-housing> - published by MHCLG annually in November

³ As defined in the Housing Flow Reconciliation (HFR) guidance notes at <https://www.gov.uk/guidance/dwelling-stock-data-notes-and-definitions-includes-hfr-full-guidance-notes-and-returns-form>

8. The National Statistic for net additional dwellings is sourced from the Housing Flows Reconciliation form for non-London authorities, and the Greater London Authority for London Boroughs. Separate guidance on how to fill out the Housing Flows Reconciliation form is at <https://www.gov.uk/guidance/dwelling-stock-data-notes-anddefinitions-includes-hfr-full-guidance-notes-and-returns-form>.
 9. The adjustments for student and other communal accommodation will be calculated by MHCLG and added into the Housing Delivery Test result⁴. Adjustments are applied using two nationally set ratios, based on England Census data.
 10. *The national average number of students in student only households is 2.5. This has been calculated by dividing the total number of students living in student only households by the total number of student only households in England. Source data is from the Census 2011 and is published by the Office for National Statistics⁵. The ratio will be updated following each Census when the data is publicly available.*
 11. The ratio applied to other communal accommodation will be based on the national average number of adults in all households, with a ratio of 1.8. This has been calculated by dividing the total number of adults living in all households by the total number of households in England. Source data is from the Census 2011 and is published by the Office for National Statistics⁶. The ratio will be updated following each Census when the data is publicly available.
- 2.15. Three practical issues emerge from the above text.
 - 2.16. First, the National Statistic is drawn directly from the Housing Flows Reconciliation (“HFR”) figures, which are provided annually by authorities: (Rule Book, paragraph 8). The Rule Book therefore incorporates further DLUHC guidance on the HFR process. We shall examine the guidance referred to in paragraph 8 below. The link in paragraph 8 no longer directs to the correct page, which is instead: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024652/HFR_Guidance_2020-2021.pdf
 - 2.17. Second, the Rule Book’s paragraph 9 states that adjustments to the HFR figures are to be made by DLUHC in respect of communal accommodation.
 - 2.18. Third, the Rule Book’s paragraph 11 refers to an adjustment for “net increase”. It does not refer expressly to “decreases”.
 - 2.19. These provide important context in understanding how the Council completed the HFR data in 2018/19 and 2020/21.

⁴ Where bedroom data has been provided by local authorities through their Housing Flow Reconciliation

⁵<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/adhocs/008207ct07732011censusnumberofstudentsinstudentonlyhouseholdnationaltolocalauthoritylevel>

⁶<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/adhocs/008208ct07742011censusageofhouseholdreferencepersonhrpbynumberofadultsinhouseholdnationaltolocalauthoritylevel>

DELTA: User Guide Housing Flows Reconciliation (HFR)

- 2.20. The DELTA system is an online system provided by DLUHC, which facilitates the collection of statistical data, including HFR. Each authority has an account and data is filed annually.
- 2.21. The most recent DELTA User Guide for HFR was published in July 2021. The User Guide contains general guidance on principles and then provides a series of sample boxes to demonstrate completion.
- 2.22. At the outset, page 3 refers to the DLUHC revisions policy:

Revisions policy

This policy has been developed in accordance with the UK Statistics Authority Code of Practice for Statistics and the Ministry for Housing, Communities and Local Government Revisions Policy, found at the following link:
<http://www.gov.uk/government/publications/statistical-notice-dclg-revisions-policy>).

There are two types of revisions that the policy covers:

Non-Scheduled Revisions

Where a substantial error has occurred as a result of the compilation, imputation or dissemination process, the statistical release, live tables and other accompanying releases will be updated with a correction notice as soon as is practical.

Scheduled Revisions

Previous HFR data was open for Greater London Authority and Local Authorities to implement revisions (specifically HFR 2019-2020), between 2 June 2021 and the 2 July 2021. This is in response to the positive support for this proposed change to the revisions policy, following the recent consultation:

<https://www.gov.uk/government/consultations/housing-supply-net-additional-dwellingsstatistics-proposed-changes-to-revisions-policy>

These statistics are compared against the census on its release every ten years to ensure that the sum of net additions over that period matches the difference between the latest census dwelling count and the previous one. The net additions figures are then adjusted, with any difference spread evenly across the ten years since the previous census.

- 2.23. Section E (page 15) refers to “Demolitions” but is restricted to exclude communal accommodation. The Guidance states:

“This section should cover all demolitions of dwellings, including those demolished to make space for new build housing. Include private sector dwellings demolished under slum clearance powers, and all dwellings demolished for commercial or other development, including road schemes. Information should be available in the records of your council’s housing, planning or council tax departments.”
- 2.24. Question E1 refers to “Demolitions of permanent dwellings”

- 2.25. This section does not refer to communal accommodation.
- 2.26. Section H (page 18) is the only section to refer to “Communal accommodation”.
- 2.27. The guidance under this section states:

This is a new section from 2011-12. New, since 2017-18, is an extra column for communal accommodation, to collect data in ‘bedroom units’ as well as ‘Council Tax Unit’s’. Include here gains and losses to the stock of communal accommodation. Communal accommodation is split in to two sections, student halls and other communal accommodation.

Student halls should record gains and losses to student accommodation where this is not included in the general, self-contained stock above. This does not include school boarding accommodation, which should instead be included under ‘Other communal accommodation’. Other communal accommodation should include all other communal accommodation where this could reasonably be considered part of the dwelling stock. As a guide any accommodation which would attract a council tax banding should be included. This would cover care homes, hostels, school boarding and barracks accommodation

The number of units recorded should correspond to the number of council tax valuation listings for the accommodation, as described on the Valuations Office Agency website at the following link. <https://www.gov.uk/guidance/understand-how-council-tax-bands-are-assessed>

Generally this will mean one listing or unit is counted for each communal dwelling or block. However, where the accommodation could be split into separate units, each comprising a separate communal dwelling, they should be counted separately. For example, a student hall with a refectory on each floor would count as three separate entries and therefore as 3 in cell H1 of the HFR. Information should be available from your council tax office on this basis. For more information see the dwelling definitions below. If your information on communal accommodation is incomplete then please fill in this section to the best of your knowledge. We would prefer to have your best estimate than no information at all. Bedrooms information is also now being requested. If you enter bedroom data, council tax units will become compulsory to allow validations on this information. There cannot be fewer bedrooms than council tax units.

*Communal accommodation are likely to contain more bedrooms than council tax units (**self-contained units should not be counted here as communal accommodation**), therefore where equal numbers of bedrooms and council tax units are shown, this may be queried with the authority during the quality assurance process.*

- 2.28. The second paragraph above states that both gains and losses should be recorded. It does not however expressly address situations where there are both gains and losses, i.e. through demolition and re-build. Nor does it refer to the application of ratios.
- 2.29. Boxes H3 and H4 ask respectively: “New other communal accommodation” and “Losses of other communal accommodation” and an authority is asked to complete both Council tax units and Number of bedrooms.

- 2.30. Page 23 then covers “Definitions”. It states (underlining added, but bold in the original):

Definitions

A dwelling is defined (in line with the Census) as a self-contained unit of accommodation. Self-containment is where all the rooms (including kitchen, bathroom and toilet) in a household’s accommodation are behind a single door which only that household can use. Non self-contained household spaces at the same address should be counted together as a single dwelling. Therefore a dwelling can consist of one self-contained household space or two or more non-self-contained household spaces at the same address. Non-permanent dwellings are included in section F subject to certain conditions (see note 6)

Ancillary dwellings such as ‘granny annexes’ should be included provided they are self-contained, do not share access with the main residence (e.g. a shared hallway) and there are no conditional restrictions on occupancy

*Communal accommodation should not be included in sections A to G of the HFR. However, it should be recorded in the new section H. **Communal accommodation covers school, university and college student accommodation, hospital staff accommodation, hostels, care homes and defence establishments (not married quarters)***

Note that purpose-built, separate homes (e.g. self-contained flats clustered into units with 4 to 6 bedrooms) for students should be included in the main dwelling stock section from sections A to G. Each self-contained unit should be counted as a dwelling.

Communal accommodation which would not be considered as dwelling stock, for example where the accommodation does not constitute a main dwelling, should not be included on the HFR: for example this would include buildings such as hotels, holiday camps, prisons or other secure accommodation.

- 2.31. The third paragraph cited above makes clear that demolitions of communal accommodation are not to be included in Section E.
- 2.32. The Guidance does not expressly provide any explanation as to how situations of demolition and re-build should be addressed.

3. Housing Flows Reconciliation Forms and Correspondence with DLUHC

- 3.1. The Council has examined its HFR submissions for the three past years. It has also considered its correspondence with DLUHC’s Planning Data Collection team in November 2021, just two months prior to the result being published due to a discrepancy with the data being raised in a planning inquiry. The relevant e-mails (dated 15-17 October 2021) form Appendix 1 to this statement.
- 3.2. The HFR submissions are addressed in chronological order overleaf along with the communication to DLUHC.

Housing Reconciliation Forms

2018-2019

- 3.3. On 30th July 2019 the Council submitted its HFR form for the year 2018-19.
- 3.4. In Box H3 it recorded: 1 Council Tax unit and 70 bedrooms. This represented the 40 High Street, Earl Shilton (16/00488/FUL) development.
- 3.5. In Box 'Section G', the Council stated:
- "An additional 39 dwellings should be added to the closing stock as a 70-bed care home (C2) was completed in 2018/19. A 1.8 ratio should be applied to 70 to give 39 dwellings as these are self contained units."*
- 3.6. Planning permission 17/01050/OUT and 19/00453/REM pertaining to Hornsey Rise Memorial Home included the demolition of a 72 bed care home and erection of 19 dwellings (C3). The demolition of the units occurred within the 2018-2019 monitoring year.
- 3.7. In Box H4, the Council did not refer to the demolition of Hornsey Rise Memorial Home, resulting in the loss of 40 units when applying the 1.83 ratio.

2019-2020

- 3.8. On 28th July 2020, the Council submitted its HFR form for the year 2019-20. In Box H3 it recorded 0 Council Tax units and 0 bedrooms. The Council did not complete Box G. No C2 accommodation was demolished within this monitoring year and therefore this return is correct.

2020-2021

- 3.9. On 30th September 2021, the Council completed and returned its HFR form for the year 2020-21.
- 3.10. As for 2019-20, no entries were made under Section H.
- 3.11. In Box H4, the Council omitted reference to Ambion Court, Market Bosworth (19/00625/DEEM) which included the demolition of 26 bedsits (C2) and 5 flats (C3), resulting in a loss of 14 bedsits (when applying the required 1.83 ratio) and 5 flats – 19 units in total. The demolition of the units occurred within the 2020-2021 monitoring year.
- 3.12. In Box B1, the Council did record 2 gross completions in Box B for the replacement dwellings (C3) on the Hornsey Rise Memorial Home site for 2020-2021.

Communication with DLUHC Planning Data Collection team

- 3.13. From 6 October until 8 November 2021 (i.e. following the submission of the 2020/21 HFR form), the Appellant of appeal APP/K2420/W/20/3279808 and the Council conducted e-mail discussion of the Housing Delivery Statement of Common Ground ("SoCG").
- 3.14. During these discussions (between 8 and 19 October), the Appellant and the Council discussed the appropriate figure for Ambion Court and Hornsey Rise in the overall SoCG.
- 3.15. As part of this process, the Council noted that the ratio required to be applied to C2 uses had not been applied to the demolition of Ambion Court and Hornsey Rise in the completion of the HFR.
- 3.16. The entry for 2018-19 should therefore have included the following figure at Box H4: -26
- 3.17. The entry for 2020-21 should have included the following figure at Box H4: -72
- 3.18. The application of a 1.83 ratio to this figure would equate to 59 demolitions / net change in units to be accounted for, thus reducing the net completions overall in the rolling three-year period: 2018-2021.
- 3.19. The Council contacted DLUHC immediately to notify them of this and seek a revision of the data which had been submitted for 2018-19 and 2020-21. The three relevant e-mails are collected in Appendix 1.
- 3.20. On 15th November 2021, the Council asked the Data Collection Officer at the Data, Analytics & Statistics Department at DLUHC whether it would be possible to re-open the DELTA online portal to amend the completion data for years 2018/19 and 2020/21.
- 3.21. On 16th November 2021, the Data Collection Officer responded stating that the HFR forms which informed the HDT could not have any revisions ahead of publication as the National Statistics release was in the final stages of production. The Officer further advised that no revisions could be made until the HFR data collection reopened for the next HDT collection. It was stated in terms:

"[W]e cannot allow any further revisions ahead of publication as the National Statistics release is in the final stages of production. We do however re-open the collection for the previous year ahead of the each HFR collection, so you and all LAs will have the opportunity to revise the HFR 2020-21 data then (in July 2022) during the revision window."
- 3.22. On 17th November 2021, the Council responded, giving details of the changes and their mathematical importance in the light of the buffer calculation. The Council noted that the difference in figures would be 957 as against 1016. The Council referred expressly that this figure would result in a Housing Delivery Test figure of 81%,
- 3.23. The Council did not receive a further response to that email from DLUHC.

4. Application of HDT result

- 4.1. How Paragraph 74b and c and footnote 41 of the NPPF should be applied has previously been brought into question.

NPPF Footnote 41 and Paragraph 74

- 4.2. The sole question now is how the HLS figure should be calculated, following the HDT Measurement publication. That requires a correct interpretation of footnote 41 and paragraph 74.
- 4.3. On a strict interpretation of the wording of footnote 41, the only HDT Measurement figure that can be applied is the published figure.
- 4.4. Footnote 41 states in terms that “significant under-delivery” must be “measured” against the HDT. It states further that this trigger can only be met where the test “indicates that delivery was below 85% of the housing requirements”.
- 4.5. This in turn reflects the PPG 68-036 and 68-042, which in turn refers to the Measurement Rule Book, i.e. the actual methodology applied by DLUHC. That incorporates the DLUHC approach to revisions under the DELTA guidance.

Publication and Revision

- 4.6. The current position is that the HDT result has not indicated that delivery has fallen below 85%. That is because of the specific way in which DLUHC has carried out the calculation applying the Measurement Rule Book and the policy on revisions.
- 4.7. DLUHC has applied its policy on revisions strictly and identified that no further revisions should be made.
- 4.8. The Council expressly brought this to DLUHC’s attention in the e-mails of 15 and 17 October 2021, including setting out the specific figures. The Council noted that the mathematical figure would be 81% in its final e-mail.
- 4.9. Ultimately, however, DLUHC chose not to make any deduction, applying the Rule Book methodology, read alongside the DELTA Guidance and in accordance with their own policy on revisions.
- 4.10. The Council cannot unilaterally alter the HDT figure that has actually been published. As instructed by DLUHC in November 2021, the Council has amended the 2020-21 HFR figure during the revision window in June 2022. The 2018-19 figure cannot be amended as this DELTA returned is not set to be reopened at any point. The 2018-19 figure will not feed into the 2022 HDT result and therefore this is not an issue.

Future HDT results

- 4.11. It is envisaged that even though the 2020-21 HFR data has been amended the 2021 HDT result will not be amended and re-published and that this revised data will just feed into the 2022 result.

- 4.12. It the 2021 result is re-published the Council will apply a buffer in line with the policy and guidance set out within this note. When the 2022 result is published, the same will occur. Within 2021-22 the council recorded 500 net completions and therefore the total delivered dwellings between 2019 and 2022 is 1033 dwellings against a required figure of 1191 dwellings. Therefore it is envisaged that the 2022 test result would be 87% meaning a 5% buffer would be applied.

5. Conclusion

- 5.1. For all these reasons, on a strict interpretation of NPPF footnote 41, the 2021 Measurement has not indicated that delivery was below 85% measured against the HDT 2021 Measurement. The HDT Measurement has recorded delivery at 86%.
- 5.2. On that basis, a 5% buffer should now be applied in calculating the HLS figure.