Dear [redacted]

Re: Interim Housing Position Statement and Housing Land Supply Position

Thank you for the Council's response regarding the suggestion that Cheshire East publish an Interim Housing Position Statement dated 23 June 2026.

Having reviewed that response, we are disappointed that the Council does not currently appear minded to prepare such a document.

Whilst we accept that each planning application must ultimately be assessed on its own planning merits, we do not consider that that diminishes the value of the Council providing a clear and transparent statement of its current position regarding housing need, housing delivery and a five-year housing land supply (**5YHLS**). Indeed, in our view, it strengthens the case for doing so.

From the Council's perspective, an Interim Housing Position Statement would be a proactive and pragmatic step that signals the Council's current position and provides a clear framework for decision-making. We do not consider that this would detract from or prejudice the ongoing Local Plan review. Rather, it would provide an interim assessment based upon the evidence currently available.

Provided that any statement remains consistent with the evidence underpinning the Local Plan review, there is no conflict between the two exercises. Equally, should emerging evidence begin to alter the position, there is nothing to prevent the Council from publishing an updated statement reflecting the revised circumstances.

Whilst an Interim Housing Position Statement would not form part of the statutory development plan, planning decision-making has long recognised the role of non-statutory documents and evidence-based statements as material considerations. Position statements, monitoring reports, housing land supply assessments, supplementary planning guidance and similar documents are material considerations where these provide an accurate interpretation of current policy and evidence.

An Interim Housing Position Statement would be a material consideration in the determination of any planning application or appeal, and whilst as an unadopted document it would have limited weight, as would indeed an emerging local plan, nonetheless the contents of the statement if comprised of the Local Plan evidence base could carry significant weight if the evidence is credible, up to date, and robust, notwithstanding that that evidence base has not been examined. The courts have accepted that decision-makers may look beyond the strict paragraph 49 tests in the NPPF 2024 (now policy DM4(1) in the August 2026 NPPF) and consider the evidence base and "direction of travel" indicated by emerging work. In *R (Ewans) v Mid Suffolk DC* [2021] EWHC 511 (Admin) Holgate J held that the weight given to emerging material is a matter of planning judgment and that it was legitimate to take account of housing need evidence and the direction of travel of plan-making.

What is less helpful, is for questions of housing need to be considered only reactively on a case-by-case basis. Such an approach creates uncertainty, encourages unnecessary disputes and results in the same evidence being repeatedly reassessed. A published statement would instead provide a common evidential baseline against which applications could be considered. Having a statement would be unlikely to create uncertainty and inconsistency in decision-making, in fact the opposite is more likely to be the case.

The case for such a statement is particularly compelling in Cheshire East's circumstances.

First, the Council's current Local Plan review timetable indicates that adoption is not anticipated until March 2029. This means that, for a considerable period, planning decisions will continue to be taken against a policy background that is evolving both locally and nationally. In those circumstances, there is a clear benefit in providing stakeholders with an up-to-date explanation of the Council's understanding of the housing position locally pending adoption of the new Local Plan.

Secondly, there has been a material change in national planning policy since the Council published its 2025 housing delivery update. The August 2026 NPPF introduces a significantly revised approach to housing delivery and decision-taking. In particular, policy S5 (principle of development outside settlements), establishes a new framework for development outside settlement boundaries and provides that development should only be approved outside settlements in specified circumstances, including where the proposal would address an evidenced unmet housing need. The same issue arises in relation to NPPF policy GB7 (development which is not inappropriate in the green belt), which similarly places weight dependent on whether there is evidence of unmet housing need.

In assessing whether there is an unmet need both the wording in policy S5 and Footnote 41 provides that this is demonstrated in scenarios (amongst others) where:

(a) a local planning authority cannot demonstrate a 5YHLS; or
(b) scores below 75% in the most recent Housing Delivery Test (**HDT**).

Whilst recent monitoring suggests that the Council only has a 3.3 year housing land supply (**HLS**), the HDT position remains exceptionally strong, with reported delivery exceeding requirements of 213% in the 2025 HDT results published on 17 August 2026. The Council are therefore in a significantly weaker position to resist development outside of settlement boundaries or in the green belt if it reports that it has a lower housing supply position than is in fact the case notwithstanding its stellar HDT position.

Given the scale of housing delivery that has been achieved, there is a strong argument that Cheshire East is fundamentally different from authorities that are under-delivering housing over a sustained period. A published statement would assist all parties by explaining the Council's position on this issue and how the policies are to be applied in decision-taking and provide transparency and certainty for all interested parties. If, for example, significant numbers of dwellings that formed part of the current 5YHLS were delivered earlier than assumed in previous trajectories, this will have had the effect of inflating historic HDT performance while reducing the future supply pipeline, explaining the apparent disparity between under-supply (3.33 years) and over-delivery (213%). If earlier delivery against trajectory can be established, then the weight to be attached to the consequences of the 3.3 year HLS should be significantly reduced, for example when applying NPPF policy S5(1)(j)[1] to decision-making.

We do not agree with the suggestion that a non-statutory Interim Housing Position Statement would create uncertainty or inconsistency. The NPPF promotes a plan-led approach to decision-taking. A published statement would provide a single, transparent expression of the Council's current position. In contrast, dealing with housing in response to individual applications risks the same issues being debated repeatedly and potentially reaching different conclusions. This may open the Council up to the risk of judicial review challenge. An Interim Housing Position Statement would therefore provide a clear basis upon which applications can be considered until the emerging Local Plan is adopted. If the evidence used to support the emerging Local Plan demonstrates that the Council does have a 5YHLS then it would, in fact, risk opening the Council up to judicial review challenge if it granted planning permission on a site by site basis on the assumption that it did not have a 5YHLS, when that was objectively incorrect. Adopting an Interim Housing Position Statement would not replace the need to consider local circumstances and site specific factors, but would be a material consideration amongst other such considerations when determining a planning application.

It is arguable that the August 2026 NPPF positively supports an authority publishing an Interim Housing Position Statement where its emerging plan evidence demonstrates a 5YHLS, even if the authority's formally published position remains that it cannot currently demonstrate one.

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[1] NPPF policy S5(1)(j) provides that development outside settlements should be approved where it addresses:
"an evidenced unmet need (including, but not limited to, development proposals involving the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or scores below 75% in the most recent Housing Delivery Test)"

The August 2026 NPPF places significant emphasis on:

- maintaining an up-to-date evidence base (policy PM8);
- using sufficiently up-to-date information and data for development needs evidence (PM8(3));
- identifying and updating annually a 5YHLS (Annex D paragraph 8);
- demonstrating deliverability through trajectories and site assessments (HO3).

Annex D expressly states:

"Local planning authorities should identify and update annually a supply of specific deliverable sites."

and that supply:

"should be sufficient to provide a minimum of five years' worth of housing..."

Policy HO3 and Annex D of the August 2026 NPPF require local plans to identify a supply of specific deliverable housing sites and require 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.

The NPPF also continues to treat 5YHLS as an evidence-based assessment of deliverability rather than a matter of simple institutional declaration. If newer evidence demonstrates that a supply exists, decision-makers are generally expected to have regard to that evidence, whether or not it has yet been incorporated into a formally adopted plan.

For those reasons, we respectfully suggest that Cheshire East should reconsider its position and prepare an Interim Housing Position Statement. Given the significant changes introduced by the August 2026 NPPF, the Council's strong HDT performance, it’s call for sites Local Plan evidence and assessment thereof, and the considerable period before adoption of the replacement Local Plan, such a document would promote certainty, consistency and transparency in the planning process, would benefit applicants, communities and decision-makers alike, and create less risk of the Council’s decisions being the subject of judicial review challenge.