

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

Section 78 Appeal by Firethorn Developments Limited

Land at North West Bicester

Five Year Housing Land Supply – Summary Proof of Evidence

Nicholas Martin Paterson-Neild BA (Hons) MPhil, MRTPI

Appeal Ref: **APP/C3105/W/23/3315849**

LPA Ref: 21/01630/OUT

May 2023

Town and Country Planning Act 1990 – Section 78

Planning and Compulsory Purchase Act 2004

**Town and Country Planning
(Inquiries Procedure) (England) Rules 2000 (As Amended)**

Land at North West Bicester

Appeal against non-determination of planning permission by Cherwell District Council of Outline planning application for up to 530 residential dwellings (within Use Class C3), open space provision, access, drainage and all associated works and operations including but not limited to demolition, earthworks, and engineering operations, with the details of appearance, landscaping, layout and scale reserved for later determination.

**Five Year Housing Land Supply – Summary Proof of Evidence of
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- S.1 My summary proof of evidence relates to the consideration of the housing land supply position relevant to an appeal by Firethorn Developments Limited ('the Appellant') in support of an appeal against the failure to determine an outline planning application by Cherwell District Council (CDC), for the proposed residential development of Land at North West Bicester (the 'Appeal Site').
- S.2 Footnote 8 of the NPPF clarifies that out-of-date includes the situation where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as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). NPPF Paragraphs 60 to 80 deal with delivering a sufficient supply of homes. The Framework gives a clear and concise statement of Government policy on the matter of housing supply, commencing at paragraph 60 which seeks to **"significantly boosting the supply of homes"** and that it is **"important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed"**.
- S.3 As confirmed in the Suffolk Coastal Supreme Court Judgment (**CD7.6**), where housing supply policies failed to meet the objectives set by the then Paragraph 47 of the 2012 NPPF, the Inspector in that case **"rightly recognised that they should be regarded as 'out of date' for the purposes of Paragraph 14."** I conclude in my evidence that the Council does not have a 5-year supply of deliverable housing sites.
- S.4 Whilst I agree that the February 2023 review confirms that policy BSC1 is out of date and therefore the local housing need for Cherwell should be used in calculating the 5YHLS, that is not the end of the matter. One has to also consider the requirement to meet Oxford's unmet need.
- S.5 The Local Plan Partial Review states that 4,400 dwellings will be delivered by 2031. This is to be stepped with 340dpa in the period 2021-26 (a total of 1,360 dwellings) and 540pa for 2026-37. Furthermore, there is a shortfall of 340 dwellings over the period 2021-22¹. Over five years the requirement is therefore 2,240 dwellings before a 5% buffer is added. This is confirmed in the Council's position statement, equating to an annual housing requirement to meet Oxford's unmet housing need of **448 dwellings per annum** and a supply of 0.2 years according to the Council's own

¹ Planning Practice Guidance Paragraph: 031 Reference ID: 68-031-20190722

assessment. For reasons explained in my evidence, and consistent with a recent appeal decision on 13th March 2023 in the Vale of Whitehorse for 300 dwellings at Grove (**CD7.3**), where the Inspector concluded that the total housing requirement for the district, was the LHN taken together with the agreed figure for meeting the unmet need of Oxford, I consider that it is necessary and appropriate to add the respective requirement figures together, and then consider the supply position accordingly.

S.6 I consider that the requirement should be as follows using a LHN need figure of 710dpa added to an unmet need annual requirement of 380dpa which when the shortfall of 340 is added equates to 448dpa:

A	Annual housing requirement	710 + 380 = 1,090
B	Five year requirement (A X 5)	5,450
C	Shortfall to be added	340
D	Five year requirement (B+C) without 5% buffer	5,790
E	Five year requirement plus 5% buffer (C+5%)	6,080
E	Annual requirement	1,216

S.7 As set out in the Woolpit decision and reflecting the PPG, sites with outline permission, or those sites that have been allocated, should only be considered deliverable where there is clear evidence that housing completions will begin on sites within five years. The onus is on the Local Planning Authority to provide that clear evidence for outline planning permissions and allocated sites.

S.8 In summary, following my analysis of sites relied upon by the Council, I calculate the deliverable housing land supply to be 3,552 dwellings, a reduction of 673 compared to the Council’s housing trajectory:

		Council Supply	Appellant Supply with Council’s case on requirement	Appellant Supply
A	Annual housing requirement	710 + 380	710	710 + 380
B	Five year requirement (A X 5)	5,450	3,550	5,450
C	Shortfall to be added	340	0	340
D	Five year requirement plus 5% buffer (B + C + 5%)	6,080	3,728	6,080
E	Annual requirement	1,216	746	1,216
F	5YHLS supply at 1st April 2022	4,225	3,552	3,552
G	Supply in years	3.47	4.76	2.92
H	Over / under supply	-1,855	-176	-2,528

S.9 As confirmed in the Suffolk Coastal Supreme Court Judgment, where housing supply policies failed to meet the objectives set by the then Paragraph 47 of the 2012 NPPF, the Inspector in that case **“rightly recognised that they should be regarded as ‘out of date’ for the purposes of Paragraph 14.”** In terms of paragraph 11d (the equivalent paragraph of the 2021 Framework to Paragraph 14 of the 2012 version), the Development Plan is not up-to-date as the housing requirement Policy BSC1 of the Local Plan was adopted in 2015 and has now been found to be out of date.

S.10 For the reasons outlined in Section 6.0, I conclude that Cherwell only has **2.92 years supply of deliverable housing sites**. Even without the 5% buffer being applied (should the NPPF be changed as proposed by the recent consultation proposal) the Council would require 1,158 dwellings per annum (5,790 over 5 years), and this would equate to a supply of 3.06 years. As outlined by the PPG, major sites with outline planning permission or site allocations (or indeed sites without planning permission) require further evidence demonstrate that they are deliverable in the 5-year supply period.

- S.11 In the context where the Council has to date failed to bring forward an up-to-date NPPF compliant policy for the supply and delivery of new homes by delaying the progress of its new Local Plan, it is for the council to provide that clear evidence of a realistic prospect of delivery for outline planning permissions and allocated sites without planning permission, yet it has failed to do so.
- S.12 The delay to delivering a new Local Plan is a significant factor in this. This has been augmented by, in the words of Lord Gill, the futility of relying on sites (such as site allocations or outline permissions without clear evidence of delivery) which do not have a prospect of delivery in 5 years. The **magnitude of this shortfall is clearly both serious and significant**: and should be given substantial material weight in the consideration of this appeal.