

Town and Country Planning Act 1990 (as amended)

Proof of Evidence on Five Year Supply of Housing On behalf of Cherwell District Council

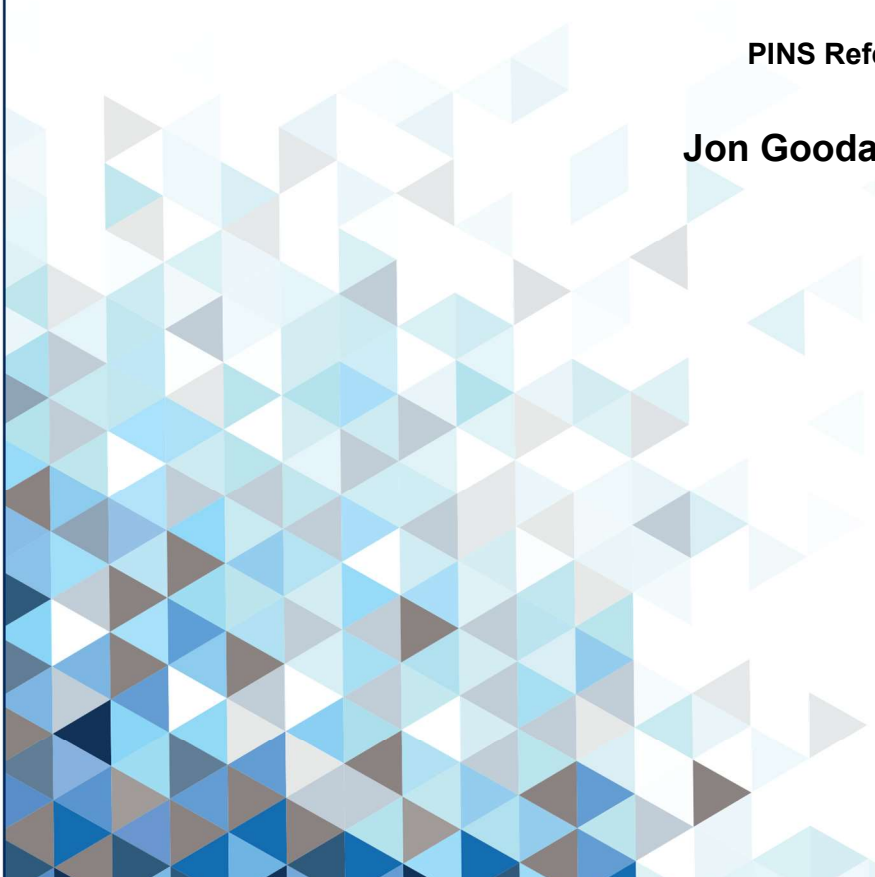
In the following appeal:

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
Land at North West Bicester, Charlotte Avenue

PINS Reference: APP/C3105/W/23/3315849

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May 2023



Inspectorate Ref: APP/C3105/W/23/3315849

Planning Application Ref: 21/01630/OUT

Appeal Site: Land at North West Bicester, Charlotte Avenue

**Town and Country Planning Act 1990
Section 78**

**Proof of Evidence on the Five-Year Supply of Housing
in Respect of Cherwell District Council**

**Prepared on behalf of
Cherwell District Council**

**Evidence of
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May 2023

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1.0 EXPERIENCE AND SCOPE OF EVIDENCE


a) Experience

- 1.1 My name is Jonathan Goodall, and I am employed in the role of Director with DLP Planning Ltd (DLP), specifically the Strategic Planning Research Unit (SPRU) which specialises in undertaking bespoke planning research projects including Five Year Housing Land Supply Assessments. DLP Planning Ltd are a national planning consultancy, and I am based in the Bedford office.
- 1.2 I am a chartered town planner. I hold a MA (Cantab) degree in Geography from the University of Cambridge and a postgraduate Master of Science in Town and Country Planning from the University of Newcastle.
- 1.3 I have practised as a town planner since 2009. In this time, I have worked in the public and private sectors. My experience covers a wide spectrum of planning policy and development management cases. I have contributed to the preparation of several Local Plans that have either been adopted or are in the latter stages of Examination. These projects include the adopted West Northamptonshire Joint Core Strategy, the Luton Local Plan, the Rugby Local Plan, and the Part 1 Waverley Local Plan.
- 1.4 My contribution to these plans includes establishing the correct housing requirement to address objectively assessed housing need and providing for and managing land supply to meet those needs. As part of this work, I have extensive experience in matters related to housing supply, monitoring, and establishing forecasts for future housing delivery, including from strategic sites. I have previously acted as Expert Witness on these matters alongside general planning policy matters.
- 1.5 From 2009 to March 2014, I was employed by the West Northamptonshire Joint Planning Unit and participated at the Joint Core Strategy Examination on housing need and supply (as well as other planning policy matters). I also led preparation of the authorities' CIL Charging Schedules.
- 1.6 From April 2014 to September 2015, I worked at Optimis Consulting, undertaking work for national and local housebuilders and private individuals on matters including strategic site identification and promotion as well as the submission of planning applications and appeals.
- 1.7 I worked at Troy Planning and Design from September 2015 until March 2019 and acted for predominantly public sector clients to prepare and present evidence for plan-making and as part of instructions to act as expert land supply or policy witness. This work included the preparation of evidence that has directly informed the Panel Recommendations on the reduction to the London Plan housing target from 'small sites'.
- 1.8 I have been with DLP Planning since April 2019. During this time, I have advised private and public sector clients on a wide range of planning issues with particular focus upon the calculation of housing need and 5-year land supply, appearing at both Local Plan examinations and planning appeals. Within 2020 and 2021 I acted on behalf of West Northamptonshire Council (for the (former) South Northamptonshire Area) across a series of Appeals where the housing requirement and assessment of deliverable supply was disputed

b) Scope of this Evidence

- 1.9 I have been instructed by the Council to prepare a Proof of Evidence on its behalf which sets out the Council's five-year housing requirement and land supply in the context of evidence presented by the Appellant.
- 1.10 I confirm that this evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I also confirm that the opinions expressed are

my true and professional opinions.

Signed	
Name	Jon Goodall MA (Cantab) MSc MRTPI
Position	Director
Date	May 2023

2.0 INTRODUCTION

2.1 This Proof of Evidence sets out my evidence on behalf of Cherwell District Council (“the Council”) in respect of the appeal submitted by Firethorn Trust (“the Appellant”) under Section 78(1) of the Town and Country Planning Act 1990 against the Council’s failure to determine Planning Permission ref 21/01630/OUT pertaining to land known as Land at North West Bicester, Charlotte Avenue, Bicester (“the Site”).

2.2 The planning application, received by the council on 6th May 2021, sought planning permission for redevelopment of the site, and was described by the council as follows:

“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.”

a) My Instructions on Behalf of the Council

2.3 I was approached and have been instructed by Cherwell District Council to give evidence for the purposes of this Appeal. I have been instructed by the Council to present evidence on the Council’s five-year housing requirement and land supply for the purposes of this Inquiry.

2.4 For this Appeal I was appointed following the Inspector’s Case Management Conference and following receipt of the Appellant’s draft Topic Statement of Common Ground in respect of Housing Land Supply.

2.5 The draft Topic SoCG was issued on the afternoon of Friday 21 April 2023 following the CMC on 28 March and where the CMC note (paragraph 15) first records that housing land supply would be subject to exploration as a potential area of dispute between the parties.

2.6 The most recent assessment of supply for Cherwell District Council comprises the Housing Land Supply Statement (CD/8.1.8) published in February 2023.

2.7 Pending details of the Appellant’s case I undertook my own review of the Council’s published assessment. I confirmed my view that on the anticipation that the Appellant would seek to contest the requirement against which supply should be assessed for the purposes of NPPF2021 paragraph 74 I would be able to provide my professional opinion in support of the position published by the Council.

2.8 I confirmed I would provide my professional opinion on the assessment of deliverability for any sites subsequently disputed sites by the Appellant and whether this produces a surplus or deficit in the five-year requirement against which supply is to be assessed.

2.9 My instructions to prepare evidence on behalf of the Council for this Appeal in respect of the Council’s published assessment have been undertaken without prejudice to the Council’s normal monitoring practices. This includes updates to the assessment of supply it may provide in the future. The Council has commenced preparation of an updated assessment of deliverable supply against the relevant housing requirement for the period 1 April 2023.

2.10 While the timescales for publication of an update are currently unconfirmed an updated calculation may be available prior to the Inquiry and, if it is, I shall refer to it as necessary.

2.11 I confirm that as a result of my instructions for this Appeal my advice extends to that of a ‘critical reviewer’ for the preparation of the scheduled update of the Housing Land Supply Assessment prior to the Council formally adopting a new published calculation. This includes reviewing the Council’s conclusions on the assessment of deliverable supply and summarising its approach to calculation of the five-year requirement.

b) Understanding of the Appellant's Case

- 2.12 Paragraph 15 of the Inspector's post-CMC note following the conference held on 28 March 2023 stated:
- "In addition, it was agreed that the five year housing land supply position (HLS) and implications for the appropriate planning balance, would be explored fully through the general SoCG or as a separate SoCG. The parties' also undertook to work constructively in narrowing the areas of dispute if agreement could not be reached. "*
- 2.13 The matter of a dispute between the parties in relation to housing land supply was first raised at the CMC. As such the Appellant's position was not disclosed in its Statement of Case. Housing Land Supply (and the requirement against which supply should be assessed).
- 2.14 The first (and current) signed version of the Topic SoCG (CD/10.5) in relation to Housing Land Supply matters was finalised on 4 May 2023 and I rely on this for responding to my understanding of the Appellant's case for preparation of my Proof of Evidence.
- 2.15 This confirms that there is agreement between the parties that:
- the Cherwell Local Plan (Part 1) (adopted July 2015) is more than five years old.
 - following the latest review in accordance with Regulation 10A (February 2023) (CD/4.7) the housing requirement within its adopted strategic policies requires updating for the purposes of NPPF2021 paragraph 74 and footnote 39 .
 - the application of the standard method for Cherwell District provides for calculation of local housing need of 710dpa.
 - a buffer of 5% must be applied to the requirement against which deliverable supply is assessed.
- 2.16 Notwithstanding the above there is a substantial level of disagreement between the parties in relation to the calculation of the requirement against which supply should be assessed.
- 2.17 The parties agree that the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' (CD/4.4) or "Partial Review" which was adopted on 7 September 2020 and is less than five years old. The parties disagree having regard to the housing requirement within the separate adopted strategic policies of the Partial Review in relation to providing a contribution towards part of Oxford's unmet needs.
- 2.18 In essence the Appellant denies the possibility that the housing requirement within the adopted strategic policies can be applied separately. The Appellant relies on the proposition that where local housing need applies for the purposes of NPPF2021 paragraph 74 a contribution towards unmet needs must be included in a way that provides a single figure for the requirement against which supply must be assessed for the district, irrespective of the nature and status of relevant strategic policies and practice guidance in relation to local housing need.
- 2.19 The Appellant relies on one recent Appeal Decision in the Vale of White Horse ('the Grove Decision') (CD/7.3) and the calculation of the Housing Delivery Test in order to support its propositions.
- 2.20 In responding to the Appellant's case, I will illustrate that it is not internally consistent to rely on both the Grove Decision and calculation of the HDT. Moreover, I will demonstrate that both elements relied upon by the Appellant, and applied to the circumstances within Cherwell District, represent a departure from the adopted development plan and therefore an incorrect application of national policy in NPPF2021 paragraph 74. This instead supports the Council's case for identifying the requirement against which supply should be assessed against local

housing need (excluding Oxford's unmet needs which are provided for separately).

- 2.21 The signed Topic SoCG (CD/10.5) also details that there is a relatively more limited dispute between the parties in relation to the assessment of deliverable supply. This equates to -593 dwellings applicable to supply relevant to the Council's case for the housing requirement and -673 dwellings under the Appellant's case for the housing requirement (including the contribution towards part of Oxford's unmet need within a single requirement figure for Cherwell District).
- 2.22 I address disputed supply separately within my Proof of Evidence but note that the signed SoCG contains no details for the Appellant's reasons to dispute the assessment of supply from specific sites.
- 2.23 I reserve the right to respond to any further evidence the Appellant provides in relation to specific sites in the supply at the point of exchanging evidence.

3.0 SUMMARY OF RELEVANT ISSUES AND STRUCTURE OF MY EVIDENCE

- 3.1 The structure of the following sections of my proof of evidence is as follows.
- 3.2 In **Section 4** I summarise the Council's published assessment of housing land supply and provide updates in respect of the calculation of local housing need agreed in the first signed Topic SoCG
- 3.3 In **Section 5** I address the Appellant's case in respect of the housing requirement against which supply should be assessed. I provide a response to the Appellant's case having regard to national policy and guidance, the housing requirement and adopted strategic policies and with reference to relevant Appeal Decisions
- 3.4 In **Section 6** I respond to the Appellant's reliance on the Housing Delivery Test and explain that this is a separate element of national policy.
- 3.5 In **Section 7** I provide an initial response to the Appellant's case where the Council's assessment of deliverable supply is in dispute based on the first signed Topic SoCG. I do so having regard to relevant policy and guidance.
- 3.6 **Section 8** provides conclusions and should be taken as my Summary Proof of Evidence

4.0 THE COUNCIL'S PUBLISHED ASSESSMENT OF HOUSING LAND SUPPLY

a) Overview of the Five Year Housing Land Supply Statement February 2023

- 4.1 The most recent assessment of supply for Cherwell District Council comprises the Housing Land Supply Statement (CD8.1.8) published in February 2023.
- 4.2 The Housing Land Supply Statement (HLSS) covers the period 1 April 22 to 31 March 2027. This section provides a summary of the HLSS and its relevance to this Inquiry.

b) Matters Understood to Be Agreed

- 4.3 While I reserve the right to provide further information the following elements of the HLSS are understood to be agreed based on the contents of the first signed Topic SoCG.

i) The Application of NPPF2021 Paragraph 74 and Footnote 39

- 4.4 Paragraphs 7 to 19 detail the Council's conclusions that the housing requirement in adopted strategic policies of the Part 1 Local Plan requires updating. This is agreed with the Appellant in the first signed version of the Topic SoCG (CD/10.5). Local housing need for Cherwell District therefore applies for the purpose of calculating the five-year requirement against which supply should be assessed.

ii) Calculation of the Standard Method

- 4.5 Paragraph 42 and the following table within the HLSA illustrate that the five year requirement is derived from the calculation of a local housing need of 742 dwellings per annum (row b).
- 4.6 It was agreed with the Appellant in the first signed version of the Topic SoCG that a calculation of local housing need of 710 dwellings per annum applies for the calculations to be considered at the Inquiry. This corresponds to the latest inputs to the calculation in accordance with national policy and guidance. This is supported by relevant Appeal Decisions including the Inspector's reasoning in Paragraphs 53-55 of the Poplar Hill Decision Letter (CD/7.6) (PINS Ref: 3214324).

iii) The Appropriate Buffer

- 4.7 The published HLSS confirms a 5% buffer applies (see paragraph 28). This is dealt with in my Section 6 (Housing Delivery Test).

iv) Windfall Allowance

- 4.8 Paragraph 40 confirms that a windfall allowance of 100 dwellings per annum is applied from year 4 of the forecast period only. At the time of preparing my Proof of Evidence the Appellant has not indicated that this is in dispute.

v) Lapse Rate

- 4.9 The published HLSS does not include a 'lapse rate' or allowance for non-implementation. This is not a requirement of national policy, which dictates that the assessment should be informed by the conclusions on deliverability of specific sites. This is accepted by the Appellant in the first signed Topic SoCG.

c) Matters Understood to be Not Agreed

4.10 While I reserve the right to provide further information it is my understanding that there are only two main elements in dispute between the parties with reference to the contents of the published HLSS.

i) The Requirement Against Which Supply Contributing Towards Part of Oxford's Unmet Needs is Assessed

4.11 Paragraphs 20-24 of the HLSS and Paragraph 43 and the table that follows deal with the separate housing requirement in adopted strategic policies of the Local Plan Partial Review making provision towards part of Oxford's unmet needs.

4.12 The HLSS confirms that a separate assessment of supply is provided against the requirements of the Partial Review. The Appellant does not accept this aspect of the requirement against which supply is assessed. I deal with this in my Section 5.

ii) Assessment of Deliverability and Supply from Specific Sites

4.13 The published forecast for deliverable sites is contained within a Housing Delivery Monitor appended to the HLSS with commentary provided to summarise a range of information used to confirm judgements on deliverability (see Paragraphs 29 and 35).

4.14 A separate Housing Delivery Monitor is provided for sites identified to contribute towards part of Oxford's unmet needs. The HLSS includes the following units forecast supply for the separate requirement figures against which supply is assessed:

- Cherwell District (excluding sites contributing towards Oxford's unmet needs): 4244 units 1 April 2022- 31 March 2027
- Local Plan (Part 1) Partial Review (sites contributing towards Oxford's unmet needs): 80 units 1 April 2022- 31 March 2027

4.15 I address the Appellant's position ahead of the exchange of Proof of Evidence in my Section 7.

d) Published Assessment of Supply Versus Requirement – Local Housing Need for Cherwell District

- 4.16 Paragraph 42 of the HLSS and the table that follows detail the assessment of supply versus the requirement for Cherwell District excluding provision for need and supply addressed within the Partial Review.
- 4.17 I have replicated these details in my Table 1 below. For completeness I have illustrated the breakdown of forecast supply by location (Paragraphs 37-40 refer) and with a separate column showing the current calculation of Local Housing Need of 710 dwellings per annum.

Table 1. Supply versus Requirement (Cherwell District LHN)

	Step	Description	Five Year Period 2022/23-26/27 (current period)	
			Agreed LHN 2023	Published HLSS (Feb 2023)
Five-Year Requirement	a	Standard Method Requirement (2022/23-2026/27)	3551	3710
	b	Annual Requirement (a / 5)	710	742
	c	Requirement to date (b x years)	3551	3710
	d	5 Year Requirement plus 5% buffer (c + 5%)	3729	3896
	e	Revised Annual Requirement over next 5 years (d / 5)	746	779
Components of Supply	(i)	<i>Banbury Supply</i>	1553	1553
	(ii)	<i>Bicester Supply</i>	1312	1312
	(iii)	<i>Other Areas</i>	1179	1179
	(iv)	<i>Windfall</i>	200	200
	f	Deliverable Supply over next 5 Years	4244	4244
Five Year Supply	g	Total years supply over next 5 years (f/ e)	5.69	5.45
	h	'Shortfall' / Surplus(f – d)	+515	+349

e) Published Assessment of Supply Versus Requirement – Partial Review (Oxford’s Unmet Needs)

4.18 While it is not relevant to the Council’s case for the requirement against which supply should be assessed I set out below the contents of the published HLSS in relation to the separate monitoring of supply against strategic policy PR12a of the Partial Review.

Table 2. Supply versus Requirement (Oxford’s Unmet Needs following Partial Review)

Step	Description	Five Year Period 2022/23-26/27 (current period)
a	Partial Review requirement 2021/22-2025/26	1700
b	2021/22-2025/26 Annual Requirement (a / 5)	340
c	Partial Review requirement 2026/27-2030/31	2700
d	2021/22-2025/26 Annual Requirement (c / 5)	540
e	Requirement to date (b x years)	340
f	Completions 2021/22	0
g	Shortfall at 31/3/22 (f - e)	340
h	Base requirement over next 5 years ((b x 4) + (d x 1))	1900
i	Base requirement over next 5 years plus 5% buffer (h x 1.05)	1995
j	Revised Annual Requirement over next 5 years (d / 5)	399
k	Deliverable Supply over next 5 Years	80
l	Total years supply over next 5 years (f/ e)	0.20
m	‘Shortfall’ (f – d)	-1915

5.0 THE HOUSING REQUIREMENT AGAINST WHICH SUPPLY IS ASSESSED

a) Introduction and Summary of the Council's Case

- 5.1 Within this main section of my Proof of Evidence I address the principal issue between the parties on the matter of housing land supply. This concerns the requirement against which supply should be assessed. On the Council's case – that the five-year requirement is provided by local housing need calculated for Cherwell District – the Appellant's own position on supply (which the Council does not accept) at the point of exchanging evidence would result in a deficit of just 97 units.
- 5.2 I present the Council's case within the context that it is agreed that the housing requirement in adopted strategic policies relating to the needs of Cherwell District has been reviewed and it is agreed that this requires updating. The first sentence of footnote 39 to paragraph 74 of the NPPF2021 is not engaged. I have therefore not addressed in detail the contents of the Council Regulation 10A Review of Policies (CD/4.7) within my Proof of Evidence. I reserve the right to do so should the Appellant's evidence contradict the agreed position that this results in local housing need forming the basis of the requirement to assess supply.
- 5.3 The Council's case is simple. It is consistent with national policy and accords with the adopted development plan and supported by relevant Appeal Decisions^{1 2}.
- 5.4 NPPF2021 Paragraph 74 is clear regarding the use of local housing need to assess housing land supply in the circumstances of Cherwell District. The calculation of LHN operates housing need purely on administrative boundaries.
- 5.5 The central premise of the Appellant's case is that the application of local housing need alters how supply should be accounted for. This fundamentally conflates need and supply. It is not correct, and it is not supported by either the wording of NPPF2021 paragraph 74, the Planning Practice Guidance or the approach to the standard method calculation.
- 5.6 In the circumstances for Cherwell District the errors with the Appellant's position are compounded by the point that the clear approach to accounting for supply related to Oxford's unmet needs remains as set out in adopted strategic policies of the development plan that are less than five years old and fully consistent with national policy. These provide for a specific approach to managing supply for the housing requirement related to these needs. The approach to managing supply is consistent with the spatial strategy to provide for sustainable development.
- 5.7 The Appellant has not through either the Topic SoCG or its Statement of Case offered evidence that directly supports its approach to alter the management of supply or to disapply the approach to Oxford's unmet needs identified by the housing requirement in adopted strategic policies of the Cherwell Local Plan Partial Review. I nonetheless use this section of my Proof of Evidence to support the Council's position and respond to those elements I understand that the Appellant relies upon for its case. I therefore structure the remainder of this section as follows:
- a. I provide clarification of the housing requirement in adopted strategic policies and their status and operation in Cherwell District
 - b. I clarify the operation of NPPF2021 paragraph 74 with particular emphasis that it cannot change the status of the adopted development plan, and that it contains a clear reference to *policies* (plural)

¹ Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (CD/7.7)

² Part Parcel 0025, Hill End Road, Twynning, Gloucestershire, GL20 6JD, 389971, 237249 PINS Ref: 3284820 (CD/7.8)

- c. I summarise national policy in relation to plan-making and provision for unmet needs.
- d. I respond to the Grove Appeal Decision (CD/7.3) relied upon by the Appellants and distinguish between the circumstances in Cherwell District and Vale of White Horse District
- e. Within Section 6 of my Proof of Evidence I respond directly to the Appellant's reliance upon the Housing Delivery Test to support its case

b) The Housing Requirement in Adopted Strategic Policies

5.8 The development plan for Cherwell contains three strategic policies relevant for consideration under paragraph 74 of the NPPF2021:

- **Policy BSC1** from the Cherwell Local Plan (Part 1) (adopted July 2015) (CD/4.1) which has been found to require updating for the purposes of providing the housing requirement in adopted strategic policies in the NPPF2021 paragraph 74 and footnote 39.

The policy of the NPPF at paragraph 74 and footnote 39, to apply local housing need where the strategic policies are more than five years old and to use the standard method for Cherwell District, is therefore applicable.

- **Policies PR1 and PR12a** of the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review - Oxford's Unmet Housing Need' or "Partial Review" (CD/4.4) respectively specify the contribution towards unmet needs (4,400 dwellings) and arrangements for maintaining housing land supply to meet these needs. These policies are less than five years old.

The policy of the NPPF at paragraph 74 and footnote 39, to apply local housing need where the strategic policies are more than five years old and to use the standard method, is therefore not applicable to the housing requirement in the adopted strategic policies of the Partial Review.

5.9 The Maintaining Housing Supply chapter of the Partial Review sets out how the plan is intended to be monitored and is supported by Policies PR12a and PR12b. It states (at paragraphs 5.159 – 5.160) (CD/4.4):

"The Partial Review of the Local Plan is a focused Plan to help meet the identified unmet needs of Oxford. We have developed a specific strategy to meet Oxford's needs; to fulfil our objectives and achieve a defined vision that does not undermine the delivery of the separate strategy for meeting Cherwell's needs.

Consequently, it is appropriate and necessary that the monitoring of housing supply for Oxford's needs is undertaken separately from that for Cherwell and only housing supply that meets the vision and objectives for Oxford is approved."

5.10 The intention to disaggregate the land supply is set out in Policy 12a, which states:

*"The Council will manage the supply of housing land for the purpose of constructing 4,400 homes to meet Oxford's needs. **A separate five-year housing land supply will be maintained for meeting Oxford's needs.**" (CD/4.4 my emphasis)*

5.11 I also note that the Partial Review examination Inspector, in paragraph 148 of his report, endorsed this approach where it ensures specific regard to the performance of the proposed strategy in response to addressing Oxford's unmet needs:

"Policy PR12a is concerned with delivery and the maintenance of housing supply. I can see the sense of the Council wanting to separate out their commitment to

meeting Oxford's unmet needs from their own commitments in the Local Plan 2015, as set out in the first paragraph of the policy. That would avoid the situation where meeting Oxford's unmet needs could be disregarded because of better than expected performance on the Local Plan 2015 Cherwell commitments, or vice versa.
(CD/4.8 my emphasis)

- 5.12 The current situation, on the Council's case, is that absent a five year housing land supply monitored separately from within those sites making a contribution towards part of Oxford's unmet needs the tilted balance would be engaged for the purposes of decision-taking against the policies and allocations provided to meet those needs within the Partial Review. However, it would not be engaged in the remainder of Cherwell District where the standard method is applicable to the requirement against which supply should be assessed.
- 5.13 To include the policies and allocations specifically identified to meet part of Oxford's unmet needs within the assessment of supply against requirements within a single figure for the District would mean that the tilted balance would be engaged throughout the District giving a presumption in favour of sustainable development in all areas.
- 5.14 That would materially undermine the spatial strategy of the Council as such an approach would potentially lead to a response to increase supply across the District due to under-delivery against policies and allocations to provide for unmet need in Oxford in the most accessible and well-related locations in the District as identified for this purpose. This would ignore the objectives for the Partial Review and provision to contribute towards part of Oxford's unmet needs.

c) The Application of National Policy in NPPF2021 Paragraph 74

- 5.15 Paragraph 74 of the NPPF2021 has two limbs. The first limb requires identification of the housing requirement set out in adopted strategic policies for the purposes of paragraph 74.
- 5.16 Paragraph 74 of the NPPF, not being the adopted development plan, cannot and does not seek to change the housing requirement set out in the adopted development plan. By referring to "*adopted strategic policies*" in the plural, the NPPF contemplates that regard may need to be had to more than one strategic policy.
- 5.17 Paragraph 74 of the NPPF2021 does not prejudice the flexibility with which relevant strategic policies might be applied for the purposes of applying and assessing deliverable supply against the housing requirement. This is necessarily the case in order that the national policy requirement for the assessment of housing land supply does not hinder support elsewhere in national policy for either:
 - f. joint plan-making arrangements; or
 - g. where authorities are required to consider contributions towards needs that cannot be met in neighbouring areas and provide for these needs in a sustainable way.
- 5.18 The relevant components of the housing requirement in adopted strategic policies may be adopted at different times, across different development plans and subject to different conclusions in terms of how supply should be assessed. Paragraph 74 of the NPPF2021 does not state that the housing requirement in adopted strategic policies must be identified based on the sum of all relevant components. Neither does paragraph 74 state that one set of figures within (or across) given policies should take precedence.
- 5.19 Any such reading of paragraph 74 would be inconsistent with the relevant legislative framework. Part 8, Section 34 (3) of The Town and Country Planning (Local Planning) (England) Regulations 2012 requires that:

“(3) Where a policy specified in a local plan specifies an annual number, or a number relating to any other period of net additional dwellings or net additional affordable dwellings in any part of the local planning authority’s area, the local planning authority’s monitoring report must specify the relevant number for the part of the local planning authority’s area concerned —

(a) in the period in respect of which the report is made, and

(b) since the policy was first published, adopted or approved.”

d) Provision for Unmet Housing Needs Through Plan-Making and Adopted Strategic Policies

- 5.20 Contributions towards unmet needs are an outcome from the preparation of strategic policies and a component of the development plan. These contributions only result from testing as part of the development plan process. This results in their inclusion as part of the housing requirement(s) of adopted strategic policies for the purposes of the first limb of NPPF2021 paragraph 74.
- 5.21 The inclusion of contributions towards unmet needs is not assumed or expressly dealt within in national policy in NPPF2021 paragraph 74.
- 5.22 Firstly, where the first limb of Paragraph 74 is engaged and the housing requirement in adopted strategic policies is used to assess supply this does not stipulate that any contribution towards unmet needs is to be assessed as part of an overall total for the authority.
- 5.23 Secondly, Paragraph 74 provides no qualification for considering unmet needs where local housing need calculated using the standard method provides the requirement against which supply is assessed (i.e., where the second limb is engaged).
- 5.24 National policy supports the plan-making process to achieve potential contributions to unmet needs where the outcome is to be reflected in adopted strategic policies that may take various forms and approaches (see NPPF2021 paragraph 17) and ultimately applicable to the housing requirement against which supply is assessed for the purposes of NPPF2021 paragraph 74.
- 5.25 Paragraph 11(b) (subject to criteria (i) and (ii)) provides for the presumption for sustainable development in plan-making to prepare strategic policies that provide for any needs that cannot be met within neighbouring areas.
- 5.26 Paragraph 35 provides for the Examination of Plans and stipulates that unmet need should be accommodated as part of a positively prepared strategy consistent with the aims of sustainable development.
- 5.27 Paragraph 61 stipulates that any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for as part of the preparation of strategic policies (see also PPG ID: 2a-010-20201216). Paragraph 66 explains that the role of establishing a housing requirement for the whole of a strategic policy-making authority’s area is to show the extent to which needs (including unmet needs from neighbouring areas) can be met over the plan period.
- 5.28 Support for this process is part of a plan-led approach to ensuring opportunities to increase the provision of land towards overall housing needs and significantly boost supply. Within Cherwell District the evidence base for this plan-making process includes the detailed testing of reasonable alternatives contributing towards the identification of exceptional circumstances for Green Belt release in locations best-suited to contribute towards Oxford’s unmet needs (CD/4.9).
- 5.29 Disregarding relevant strategic policies providing for the housing requirement in respect of

those outcomes and applicable under the first limb of NPPF2021 paragraph 74 where they are less than five years old is a departure from the development plan, contrary to the objectives of national policy, and would run contrary of the objectives of the Partial Review.

e) The Grove Appeal Decision

- 5.30 The Appellant for this Appeal relies on the outcome of the inclusion of unmet needs as part of the requirement against which supply should be assessed in relation to the Grove Appeal Decision (APP/V3120/W/22/3310788) (CD/7.3). The Appellant does not address the point that as part of the Vale of White Horse District Council's evidence to that Inquiry it expressly relied on the housing requirement in adopted strategic policies as its starting point and expressly stated that there.

3.33. The Vale of White Horse District Council has agreed to take on unmet from Oxford City Council, which was planned for in Local Plan Part 2 Core Policy 4a. Local Plan Part 2 is less than 5 years old so Core Policy 4a is not subject to this local plan review.

3.34. Therefore, it is necessary to make an adjustment to the local housing need to add the 183 dwellings per annum set out in Core Policy 4a to accommodate Oxford's unmet need. Such an adjustment is not directly covered by advice in the NPPF, PPG or the Housing Delivery Test Measurement Rule Book, but the additional requirement in Core Policy 4a is less than 5 years old. There is nothing to indicate that the unmet need it addresses have fallen away. Indeed, the examination and adoption of the Oxford Local Plan in 2020 indicated this unmet need still existed.

- 5.31 Inspector Bore likewise indicated that the treatment of contributions towards Oxford's unmet needs was a function of the application of the strategic policies within the adopted Local Plan Part 2. Inspector Bore identified those parts of Core Policy 4a that apply separately (in relation to unmet needs) and against which use of the standard method is not applicable when assessing their function as part of the housing requirement in adopted strategic policies as distinct from those that require updating (Core Policy 4). Paragraph 12 of the Decision Letter summarises these conclusions:

*12. Core Policy 4a of Local Plan Part 2 is only 3 years old and has not been reviewed. However, the housing requirement in that policy, apart from the City of Oxford allowance, is the same as that set out in Core Policy 4 of Local Plan Part 1. The provenance of Core Policy 4a and its derivation from the same figure and the same ageing statistical inputs and projections as Core Policy 4 are a clear indication that its housing requirement (**apart from the Oxford allowance**) is also out of date for the purposes of assessing the 5 year housing land supply. (CD/7.3 my emphasis)*

- 5.32 The Cherwell Local Plan Part 1 Partial Review was progressed and adopted with its focus on the specific purpose to contribute towards Oxford's unmet needs.
- 5.33 In this respect there is a material difference in the planned approach to meeting Oxford's unmet needs between the Vale of White Horse (VOWH) and Cherwell District. It is relevant to identify why the circumstances for how the contribution towards Oxford's unmet needs in the Vale of White Horse is distinct from that in Cherwell District.
- 5.34 Within the VOWH Part 2 Local Plan this commits to delivering the 2,200 homes within the Abingdon on Thames and Oxford Fringe Sub-Areas. Additional allocations were made within this sub-area. However, the sites were not ring fenced.

"2.15. The Vale is not seeking to ring fence allocations for the purposes of addressing

the agreed quantum of Oxford's unmet need to be met within the Vale. The unmet need is met by a combination of the Part 1 strategic allocations and the Part 2 additional allocations."

- 5.35 The plan goes on to expand on their approach and justifications (paragraphs 2.16-2.18) noting, *"It is the case that whilst the sites listed above are allocated within the Part 1 plan with the primary intention of meeting the Vale's own objectively assessed need for housing, the sites are also well located to provide for Oxford's unmet housing need. Housing on these sites would be just as much available to those people falling into the category of Oxford's need as to those of the Vale"*³.
- 5.36 Moreover, as set out in paragraph 2.25 the allocation of affordable housing was to be agreed and there were no specific rights or allocations. Policy PR2 of the Cherwell Local Plan Partial Review makes broader policy provisions to inform allocations to be made in accordance with an approach to be agreed between Cherwell District and Oxford City Councils. These provisions have regard to specific components of housing need including the proportion of affordable housing for rent and key-worker housing and applicable to sites specifically identified to contribute towards part of Oxford's unmet needs.
- 5.37 Unlike VoWH, Chiltern District Council planned to meet needs on specific, allocated sites. The rationale for the approach is clearly set out within the Partial Review and is the reason why Cherwell has **not** added the unmet needs to the overall requirement.

"1.4 The Partial Review provides a vision, objectives and specific policies for delivering additional development to help meet Oxford's housing needs. It seeks to do this in a way that will best serve Oxford's needs and provide benefits for existing communities in Cherwell and adjoining areas. The Partial Review is a positively prepared Plan. It avoids undermining the existing Local Plan's development strategy for meeting Cherwell's needs and detracting from the delivery of growth at Bicester, Banbury and former RAF Upper Heyford. The Plan aims to achieve sustainable development which will be deliverable by 2031." (CD/4.4 my emphasis)

f) Summary of My Response to the Appellant's Case

- 5.38 The Appellant's case relies on a departure from the adopted development plan for the purposes of identifying the housing requirement against which supply should be assessed. This is not consistent with the operation of paragraph 74 of the NPPF2021 particularly in terms of the treatment of unmet housing need.
- 5.39 Changes to the approach in the adopted development plan in terms of the location, scale and approach regarding managing supply (in this case specifically towards Oxford's unmet needs) are not appropriate for consideration as part of a S78 Appeal. This is a point summarised with the Leigh Sinton Appeal Decision in Malvern District⁴ (CD/7.7). This relates to the circumstances of the South Worcestershire Joint Plan but makes relevant observations on national policy including:
- a. The specific wording of NPPF2021 paragraph 74 does not stipulate a requirement for 'each individual authority' to identify a single housing requirement against which supply should be assessed. The context for the NPPF does not support the view that references to the specific wording used of 'local planning authorities', 'authority' and 'their' indicate that individual authorities are required to monitor their housing land

³ VoWH LPP2 Paragraph 2.18

⁴ Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern

supply (or do so against a single figure) (DL Paragraph 42)

- b. The HDT is a separate measure from the identification of the requirement against which supply should be assessed. Within the above Appeal Decision this relates to the options to measure the HDT jointly or on a single authority basis, but the same point is true for the application of the net unmet needs adjustment which differs between the two processes. The two processes, although linked to a certain degree, are still separate processes with one being backwards looking and the other forward looking (DL Paragraph 43).
- c. The PPG does not cover every possible situation in respect of identifying how the housing requirement against which supply should be assessed is identified. In the circumstances of this Appeal, it is pertinent that there are relatively few examples of Plans that make a contributions towards part of neighbours' unmet needs. This may contribute towards why PPG does not expressly refer to how these are to be dealt with as part of the requirement against which supply is to be assessed (DL Paragraph 44 and supporting High Court case reference *Tewkesbury Borough Council v SSHCLG* [2021] EWHC 2782 (Admin) .
- d. An alternative approach, which in this case would ignore the approach towards contributions for part of unmet needs within adopted strategic policies and accounting for these on an individual authority basis, should not be followed where it has not been tested at examination (DL Paragraph 44).

- 5.40 It follows that that the circumstances of the housing requirement in adopting strategic policies related to the contribution towards part of unmet needs in Cherwell District could be (and are) distinct from those in the Vale of White Horse.
- 5.41 The Appellant does not allege that relevant strategic policies of the Cherwell Local Plan Partial Review need to be subject a review in accordance with Regulation 10A and a conclusion that they do not require updating in order to be applied separately for the purposes of NPPF2021 paragraph 74. That is correct as a matter of principle because the relevant policies are less than five years old.
- 5.42 Taken to its conclusion, the Appellant's case for treatment of unmet needs as part of the housing requirement against which supply must be assessed for the purposes of NPPF2021 paragraph 74 would be a disincentive to the preparation of strategic policies to meet these needs.
- 5.43 The Appellant's case suggests in all instances where local housing need is applicable to the assessment of supply then any contribution towards unmet needs must be added to the sum total. That would mean the policies for the housing requirement contributing towards Oxford's unmet needs in the Partial Review Local Plan would have been at risk of playing no role in providing the spatial distribution or management of supply to meet those needs almost immediately upon adoption of that Plan in September 2020.
- 5.44 In other words, it would have been open to Cherwell District to find that the housing requirement in Policy BSC1 required updating only subject to it abandoning the approach to addressing Oxford's unmet needs in the Partial Review
- 5.45 Depending on the circumstances it would risk the tilted balance being engaged to meet needs at locations not in accordance with the carefully designed spatial strategy and justification for the allocation of sites to contribute towards part of Oxford's unmet needs within Cherwell District.

6.0 HOUSING DELIVERY TEST AND THE APPROPRIATE BUFFER

a) The Housing Delivery Test 2021 – Result for Cherwell District Council

- 6.1 The official 2021 Housing Delivery Test (14th January 2022) confirms that a 5% buffer should be applied as the Council delivered 153% of the number of homes required as calculated during the HDT.

Table 3. Housing Delivery Test Result

Annual Requirement		Cherwell District
	2018/19 Requirement	974
	2019/20 Requirement	881
	2020/21 Requirement	650
	Total	2505
Recorded Completions		
	2018/19 Completions	1489
	2019/20 Completions	1159
	2020/21 Completions	1192
	Total	3840
Housing Delivery Test Result		153%

b) Implications of the Housing Delivery Test for the Appellant’s Case

- 6.2 The Housing Delivery Test deals with delivery. It is agreed that the HDT is passed.
- 6.3 The relevant HDT Result of 153% is calculated on a single authority basis for Cherwell District. A 5% buffer applies across Cherwell District.
- 6.4 The HDT cannot determine the approach to calculating the housing requirement and housing land supply, which is a separate subject.
- 6.5 The approach to the housing requirement and housing land supply are set out in the development plan, which s.38(6) requires us to follow.
- 6.6 The Appellant has confirmed as part of the 4 May signed Statement of Common Ground that the calculation of the Housing Delivery Test is relevant to their proposition for the calculation of the housing requirement against which supply should be assessed:
- “The Appellant’s case is that the 5YHLS for Cherwell should be measured against the local housing need for Cherwell plus the unmet housing need for Oxford. **This is consistent with the way the Housing Delivery Test is calculated** and with the approach taken in the Vale of White Horse, which has been accepted in a recent appeal decision in Grove (APP/V3120/W/22/3310788).” (CD/10.5 my emphasis)*
- 6.7 There are two elements of this proposition, summarised as follows, that are both incorrect:
- That the treatment of unmet need within calculation of the HDT is the same as the contribution towards unmet needs provided for by the housing requirement in adopted strategic policies

- b. That the calculation of the HDT within Vale of White Horse District corresponds to the conclusions of the Grove Appeal Decision in terms of the contribution towards Oxford's unmet needs in that case.

- 6.8 I illustrate this with reference to the 2021 Housing Delivery Test calculations for both Cherwell District and Vale of White Horse District. References to the national policy and Planning Practice Guidance are provided together with the Housing Delivery Test Rule Book (CD/8.1.11) and Housing Delivery Test Measurement Technical Note (CD/8.1.10).
- 6.9 As Appendix 1 to my Proof of Evidence I have prepared calculations of the number of homes required (including unmet needs adjustments) for the HDT measurement in Cherwell District and Vale of White Horse District.
- 6.10 Both illustrate that the net unmet needs adjustment is not the same as the position the Appellant relies upon to calculate the requirement to assess supply. I have also illustrated the calculation of the number of homes required for Oxford City Council to illustrate why the HDT is inconsistent with the requirement against which supply would be assessed in the city if local housing need applied. This reinforces that the Appellant's position on the HDT cannot be applied correctly or consistently to determine the requirement to assess supply.

c) Response to the Appellant's Case

- 6.11 It is relevant strategic policies *providing* for unmet needs and how these are applied that determines the application of NPPF2021 paragraph 74 to unmet needs. Whether these continue to relate to the requirement against which supply is to be assessed for the purposes of a given application continues to be determined separately when other policies have been found to require updating.
- 6.12 There are no provisions to apply the same net unmet needs adjustment within the HDT for the purposes of NPPF2021 paragraph 74. It is my view, and consistent with the calculations summarised above, that **unless there are additional strategic policies** dealing with the level and approach of contributions towards unmet needs then unmet needs should not be considered as part of the requirement against which supply is assessed when the second limb of NPPF2021 paragraph 74 and local housing need applies. This is entirely consistent with the recent Tewkesbury Appeal Decision in PINS Ref: 3284820 (CD/7.8 see DL Paragraph 45).
- 6.13 This would also be consistent with continuing to operate separate arrangements for monitoring the supply from sites previously identified to make a specific contribution towards unmet needs. This may be the approach to monitoring even were these to no longer relate to a specific housing requirement that continues to be applied for the purposes of adopted strategic policies (which is not the case in Cherwell).
- 6.14 Such an approach would, for example, ensure that such sites were not being counted towards a local planning authority's local housing need in circumstances where there is an expectation they would continue to form part of identified provision towards future levels of unmet need to be identified in subsequent rounds of plan-making. This is consistent with how the housing requirement related to contributions towards part of Oxford's unmet needs is currently being applied and monitored through the policies of the Partial Review.
- 6.15 This relates back to the language of NPPF2021 paragraph 74 where the housing requirement in adopted strategic policies may require regard to more than one policy. The manner in which aspects of the housing requirement (such as contributions towards unmet need) are apportioned will not necessarily be the same as the net calculation of unmet needs derived on a single authority basis for the purposes of the Housing Delivery Test. In the case of Cherwell District, they are fundamentally different.

7.0 ASSESSMENT OF DISPUTED SUPPLY FROM SPECIFIC DELIVERABLE SITES

a) Introduction

- 7.1 Details within the first signed Topic SoCG reflect the first time that the Appellant has sought to substantiate their position of a shortfall in the assessment of supply against the parties' respective cases for the housing requirement.
- 7.2 In the absence of evidence or commentary adduced by the Appellant in respect of disputed supply the Council reserves its position to respond further and unless expressly stated relies on the assessment of deliverable supply and commentary within its latest Housing Land Supply Statement (published February 2023).

b) My Position Prior to Responding to the Appellant's Position on Forecast Supply with Regards to National Policy and Guidance

- 7.3 Pending receipt of details for supply contested by the Appellant I set out my position on matters to be considered in providing a response.
- 7.4 In seeking to narrow any dispute between the parties I highlight that the Appellant's approach to identifying contested sites must be consistent and objective.
- 7.5 The Appellant has indicated an intention to contest sites falling under the examples given in both parts (a) and (b) of the NPPF2021 definition of deliverable including those that wholly or partly benefitted from a detailed permission at the base-date. In those circumstances the Appellants effectively seek two opportunities to contest deliverability on relevant 'part (a) sites':
- 1) To suggest that part (a) of the NPPF2019 test was not satisfied on 1 April 2022.
 - 2) To consider further information post-dating 1 April 2022 to suggest *clear evidence* that homes will not be delivered within five years.
- 7.6 For the relevant sites contested by the Appellants more recent information, relevant to point (2) above, would be considered by the Appellants. Whether this amounts to *clear evidence* to rebut the part (a) presumption of deliverability at the base-date is of course a matter of planning judgement.
- 7.7 The Council's published assessment also includes sites falling under 'part (b)' of the NPPF2019 definition of deliverable where the onus falls upon the local planning authority to provide clear evidence of deliverability. Judgements on the deliverability of sites (or parts thereof) falling under part (b) is therefore also relevant to the dispute between the parties on specific sites.
- 7.8 Revisiting the assessment of deliverability for sites falling under part (a) or part (b) of the definition must have regard to whether these meet the NPPF central test that there is a realistic prospect that housing will be delivered within five years⁵ – that they are available now, offer a suitable location for development now, and are achievable.
- 7.9 The PPG sets out a non-exhaustive list of evidence that may be considered to demonstrate deliverability and the progress of sites (ID: 68-007-20190722). The Council's published position draws upon these examples within the PPG, including in some cases the engagement with developers as outlined in Paragraph 35 of the HLSS. In themselves these

⁵ See Secretary of State decision letter concerning Land at site of former North Worcestershire Golf Club, Hanging Lane, Birmingham, 3192918 (24 July 2019) at paragraph 20: "*The Secretary of State has carefully considered the Inspector's conclusions on the meaning of the definition of deliverability in the Framework. For the reasons given at IR14.35-14.43 he agrees with the Inspector's view that 'realistic prospect' remains the central test against which the deliverability of all sites must be measured (IR14.41) (CD/7.5).*"

are neither a pre-requisite for confirming deliverability nor confirmation of clear evidence of a realistic prospect. The published position cannot reflect the totality of information available to the Council in terms of the status of sites within the development management process and can only provide a snapshot in time in terms of the position for development of the site.

- 7.10 I draw attention to Inspector Clark's Decision Letter for Poplar Hill, Stowmarket (PINS Ref: 3214324) (CD/7.6) which supports my view on the approach to assessing deliverability. The second and third main criticisms of the Council's evidence in that Appeal related to respectively whether information gathered after the cut-off date may be relevant when it confirms assumptions applied when deciding what should be included in forecast supply; and whether sites without Reserved Matters approval at the base-date should be included in the supply. The Inspector found in favour of the Council on both points (DL Paragraph 61 – 63) where the Council demonstrated that its assumptions were well-founded.
- 7.11 Local evidence such as likely build-out rates on sites with similar characteristics, and timescales for development, as specified in the PPG for the purposes of assessing the developability or deliverability of sites (ID: 68-020-20190722) also reasonably falls into an understanding of the position on disputed sites when relevant to judgement at the base-date.
- 7.12 The following points are relevant:
- a. It is necessary to objectively revisit all parts of the Council's conclusions where there is a requirement to demonstrate clear evidence of a realistic prospect for completions beginning on site within five years.
 - b. Where other evidence is relied upon to inform assessments of delivery rates and timescales this should be applied objectively to all sites in dispute. It should further be recognised that this information may be different to the combination of factors used to inform the Council's judgement of deliverability in the published assessment.

c) Summary of Disputed Supply from Specific Sites Referenced in the Topic SoCG

- 7.13 In Table 4 below I have set out those sites identified by the Appellant within the Topic SoCG where the Council's published assessment of deliverable supply is considered to be in dispute.
- 7.14 I have included only those sites relevant to the Council's case to assess supply against the requirement based upon local housing need for Cherwell District. This excludes the contribution from any supply identified to contribute towards Oxford's unmet needs from the Partial Review Local Plan.
- 7.15 Prior to receipt of reasons to contest the Council's assessment I would note that in setting these out the Appellant is required to have regard to the Council's approach to assessing supply in the latest Statement. This includes the commentary provided for each site, together with the overarching context provided within the document.
- 7.16 The Statement references the range of evidence that the Council references as relevant for consideration up to December 2022 (CD/8.1.8 paragraph 35). Paragraph 38 of the Statement provides an illustration that the Council has generally maintained a conservative assessment to the contribution of supply from sites such as North West Bicester in terms of start dates and build-out rates.
- 7.17 I have highlighted within the previous sub-section that progress since the base-date is relevant to reviewing conclusions on deliverability and the Council's judgement at the previous base date. The Appellant is required also required to take this into account if guidance is to be applied consistently in contesting the Council's position.

Table 4. Summary of Disputed Supply from Specific Sites Identified Within the Topic SoCG

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
Bicester 12	South East Bicester (Wretchwick Green)	1,500	50	0	-50	<ul style="list-style-type: none"> Outline planning permission in place for allocated site. Discharge of Conditions applications in progress with active engagement to reach agreement with landowners and way forward on highways and drainage. Council advised RM application expected Summer 2023. No delivery forecast until year 5 (2026/27) Pioneer Roundabout now constructed. Legal Agreement signed sprint 2022.
15/01357/F	Former RAF Upper Heyford	89	89	0	-89	<p>There has been substantial progress with these two sites:</p> <ul style="list-style-type: none"> Legal agreements continuing to be progressed on applications subject to resolution to grant planning permission. Separate application made by David Wilson Homes for 126 homes for an alternative scheme (22/03063/F). Start on site expected early 2024; first completions shown part-way through 2024/25 monitoring year. Separate application updates relevant technical work Land will transfer to David Wilson homes from Pye to build out both sites (15/01357/F) and (21/0353/OUT) once legal agreements complete.
21/03523/OUT	Former RAF Upper Heyford	31	31	0	-31	
Bicester 1	North West Bicester Phase 2	500	20	0	-20	There has been progress with delivery expectations including:

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<ul style="list-style-type: none"> Outline planning permission in place for allocated site. First completions forecast from year 5 of the trajectory. Applications continue to be submitted for Discharge of Conditions (including Phasing Plan) and Reserved Matters for access arrangements (23/00214/REM and 23/00207/DISC) Active engagement between developer and Council relating to delivery of Reserved Matters separate to restrictions imposed by infrastructure delivery
Bicester 10	Bicester Gateway Business Park, Wendlebury Road	273	80	0	-80	<p>There has been progress with delivery expectations including:</p> <ul style="list-style-type: none"> Outline planning permission in place for allocated site. Reserved Matters applied for in respect of employment (knowledge cluster) elements (22/02025/REM) 21/02723/OUT – planning permission for variation of condition of 20/00293/OUT to remove co-working hub – Planning permission granted 12 October 2021. Will de-link the delivery of the hub and residential development allowing for faster delivery. Thomas Homes identified as developer for residential elements
Bicester 2	Graven Hill	1,095	150	0	-150	<p>The following points indicate that the site satisfies the central test of a realistic prospect for delivery within five years.</p> <ul style="list-style-type: none"> Entry comprises remaining elements of allocated site with Outline Planning Permission The Council's commitment to support the delivery of self-build housing at Graven Hill means

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						individual applications for the self-build plots continue to be submitted, and reserved matters for various elements of the site remain under consideration.
Banbury 17	South of Salt Way	1,000	350	237	-113	<p>There has been further substantial progress with delivery expectations:</p> <ul style="list-style-type: none"> Allocated site with Outline permission at the base-date. Reserved matters for two of the development parcels under reference 22/02068/REM now have permission for 237 dwellings on 20 April 2023. Reserved matters consent granted for spine road and link road serving the school. Forecast delivery of 200dpa not anticipated until year 5 of the trajectory anticipating further RM parcels. No known delays in developers starting on site, ground works in place. L&Q performing role of Masterdeveloper. Council assessment allow for up to five developers.
Bicester 3	South West Bicester Phase 2	60	60	0	-60	<p>The following points indicate that the site satisfies the central test of a realistic prospect for delivery within five years.</p> <ul style="list-style-type: none"> Entry comprises remaining elements of allocated site with Outline Planning Permission Forecast delivery of specialist housing for older people corresponds to requirements in signed legal agreement. Infrastructure works including roads and utilities are already in place to service the parcel.

- 7.18 Having regard to the details for each disputed site in terms of the forecast date for first completions and build-out within the five year period I would conclude that the Appellant has not considered relevant matters consistently before determining that an adjustment to the Council's assessment is warranted. While I provide this view without prejudice to more detailed consideration of the published assessment that may be necessitated following the exchange of evidence it is my opinion that each site identified within the disputed supply is capable of satisfying the central test of a realistic prospect for completions beginning within five years.
- 7.19 The characteristics of the sites identified within the disputed supply are such that where part (b) of the NPPF2021 definition of deliverable applies matters assessed by the Council in its judgement at the base date, and progress since 1 April 2022, are capable of constituting clear evidence of a realistic prospect. Details of the sites are such that the examples of evidence available to demonstrate deliverability can generally be considered to indicate firm progress and clear, relevant information of delivery expectations (ID: 68-007-20190722).
- 7.20 In Table 4 above I have therefore indicated relevant aspects of evidence and progress that in my initial view support the Council's published assessment and that would provide the basis for more detailed assessment dependent on the response required to the case advanced by the Appellant.

d) Revisions to the Published Position for Forecast Supply Identified in the Topic SOCG

- 7.21 To narrow the extent of disagreement between the parties and make best use of Inquiry time I provided factual updates on behalf of the Council during preparation of the Topic SoCG (CD/10.5) to agree the following amendments to forecast supply within the published HLSS:
- **Banbury 5 (North of Hanwell Fields)** - Difference of 5 units from the most recent published Housing Land Supply Statement to correspond to Reserved Matters agreed on the basis of 40 units.
 - **18/00487/F Land to the Rear of 7 and 7A High Street** - Difference of 14 units from the most recent published Housing Land Supply Statement to correspond to lapsed planning permission previously extant at the 1 April 2022 base date.
- 7.22 I confirm both entries relate to specifically identified sites in Banbury.
- 7.23 These two entries together result in the removal of 19 dwellings from the published position (4244 – 19 = 4,225 units)

8.0 SUMMARY AND CONCLUSIONS

- 8.1 These conclusions should also be taken as providing a summary of my Proof of Evidence.
- 8.2 My overall conclusion is that the Council can demonstrate **5.67 years' deliverable supply** against the relevant housing requirement following my assessment in the preceding sections. This is set out in Table 5 below, corresponding to Table 3.4 of the signed HLS Topic SoCG (CD/10.5).

Table 5. Components of Five-Year Housing Land Supply

	Step	Description	Published HLSS (February 2023)
Five-Year Requirement	a	Standard Method Requirement (2022/23-2026/27)	3551
	b	Annual Requirement (a / 5)	710
	c	Requirement to date (b x years)	3551
	d	5 Year Requirement plus 5% buffer (c + 5%)	3729
	e	Revised Annual Requirement over next 5 years (d / 5)	746
Components of Supply	(i)	Banbury Supply	1534
	(ii)	Bicester Supply	1312
	(iii)	Other Areas	1179
	(iv)	Windfall	200
	f	Deliverable Supply over next 5 Years	4225
Five Year Supply	g	Total years supply over next 5 years (f / e)	5.67
	h	'Shortfall' / Surplus(f – d)	+496

- 8.3 The calculation reflects a surplus in excess of the relevant five-year requirement and indicates that the policies most important for determining the Appeal proposals remain up-to-date. Paragraph 11(d) is therefore not engaged for the purposes of decision-taking.
- 8.4 In **Section 2** of my Proof of Evidence I provide an overview of my understanding of the Appellant's case on the matter of housing land supply. I establish that there is a substantial level of disagreement between the parties in relation to the calculation of the requirement against which supply should be assessed.
- 8.5 I also outline that the Appellant intends to contest the Council's assessment of deliverable supply. This is a less significant area in dispute. On the Council's case – that the five-year requirement is provided by local housing need calculated for Cherwell District – the Appellant's own position on supply (which the Council does not accept) at the point of exchanging evidence would result in a deficit of just 97 units.
- 8.6 Within this section I identify that there is agreement between the parties that the Cherwell Local Plan (Part 1) (adopted July 2015) including relevant strategic policy **BSC1** is more than

five years old. It is further agreed that following the latest review in accordance with Regulation 10A (February 2023) (CD/4.7) the housing requirement within its adopted strategic policies requires updating for the purposes of NPPF2021 paragraph 74 and footnote 39.

- 8.7 The policy of the NPPF at paragraph 74 and footnote 39, to apply local housing need where the strategic policies are more than five years old and to use the standard method for Cherwell District, is therefore applicable.
- 8.8 The parties agree that the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' (CD/4.4) or "Partial Review" was adopted on 7 September 2020 and that relevant strategic policies **PR1 and PR12a** are less than five years old.
- 8.9 These respectively specify the contribution towards unmet needs (4,400 dwellings) and arrangements for maintaining housing land supply to meet these needs. I outline that that there is no suggestion from the Appellant that these policies should be subject to the conclusions of a Regulation 10A Review in order to be considered up-to-date.
- 8.10 In **Section 4** I consider the most recent assessment of supply for Cherwell District Council comprising the Housing Land Supply Statement (CD8.1.8) published in February 2023. The published position corresponds to the Council's case for this Appeal.
- 8.11 I identify that the assessment of supply against the relevant housing requirement is increased from 5.45 years in the published position to 5.69 based on the agreed calculation of local housing need of 710 dwellings per annum.
- 8.12 I set out that the published position reflects separate monitoring of the housing requirement within the separate adopted strategic policies of the Partial Review in relation to providing a contribution towards part of Oxford's unmet needs. This is central to the disagreement between the parties.
- 8.13 In **Section 5** I respond to the Appellant's case for the requirement against which supply is assessed. I provide evidence in support of the Council's position.
- 8.14 I illustrate that the Council's case that local housing need provides the requirement against which to assess supply is simple. It is consistent with national policy and accords with the adopted development plan and supported by relevant Appeal Decisions^{6 7}.
- 8.15 The Council's case is reinforced by the clear approach to accounting for supply related to Oxford's unmet needs, which remains as set out in adopted strategic policies of the development plan that are less than five years old and fully consistent with national policy. These provide for a specific approach to managing supply for the housing requirement related to these needs. The approach to managing supply is consistent with the spatial strategy to provide for sustainable development and tested as part of plan-making.
- 8.16 The Council's case is entirely in accord with NPPF2021 Paragraph 74. It does not conflate the assessment of need and approach to managing supply, which underlies why the Appellant's position should not be followed.
- 8.17 I have demonstrated why the Appellant's case represents a departure from the adopted development plan and represents an alteration of the approach to manage supply towards unmet needs. It is an approach that is not consistent with national policy and has not been tested at Examination.

⁶ Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (CD/7.7)

⁷ Part Parcel 0025, Hill End Road, Twyning, Gloucestershire, GL20 6JD, 389971, 237249 PINS Ref: 3284820 (CD/7.8)

- 8.18 I explain that Paragraph 74 of the NPPF, not being the adopted development plan, cannot and does not seek to change the housing requirement set out in the adopted development plan. By referring to “*adopted strategic policies*” in the plural, the NPPF contemplates that regard may need to be had to more than one strategic policy.
- 8.19 Paragraph 74 of the NPPF2021 has two limbs and must be interpreted and applied as such for the purposes of decision-taking. It first requires identification of the housing requirement in adopted strategic policies. It second directs circumstances where local housing need provides the requirement against which to assess supply.
- 8.20 NPPF2021 Paragraph 74 is therefore clear regarding the use of local housing need to assess housing land supply in the circumstances of Cherwell District. The calculation of LHN operates housing need purely on administrative boundaries and makes no reference to unmet need.
- 8.21 My evidence illustrates that while NPPF2021 Paragraph 74 is very clear regarding LHN, neither that paragraph, the PPG nor the inputs to the standard method calculation indicate that the method by which housing supply is to be accounted for should alter.
- 8.22 In the case of Cherwell District, the method to account for supply is provided by separate policies related to Oxford’s unmet needs within the Partial Review.
- 8.23 It follows that that the circumstances of the housing requirement in adopting strategic policies related to the contribution towards part of unmet needs in Cherwell District could be (and are) distinct from those in the Vale of White Horse. This provides a distinction with the *Grove* Appeal Decision relied upon by the Appellants (CD/7.3).
- 8.24 In **Section 6** I address the Housing Delivery Test (HDT). The HDT cannot determine the approach to calculating the housing requirement and housing land supply, which is a separate subject, but its operation in Cherwell is consistent with the Council’s position on the requirement against which supply should be assessed.
- 8.25 In **Section 7** I have responded to the Appellant’s case on disputed sources of deliverable supply from specific sites based on the contents of the first signed Topic Statement of Common Ground (CD/10.5).
- 8.26 I do not consider that the Appellant’s details of disputed supply amount to a deficit against the five-year requirement. I do not consider that the Appellant’s approach to disputing supply is consistent or objective, having regard to national policy and guidance. While I provide this view without prejudice to more detailed consideration of the published assessment that may be necessitated following the exchange of evidence it is my opinion that each site identified within the disputed supply is capable of satisfying the central test of a realistic prospect for completions beginning within five years.
- 8.27 The characteristics of the sites identified within the disputed supply are such that where part (b) of the NPPF2021 definition of deliverable applies matters assessed by the Council in its judgement at the base date, and progress since 1 April 2022, are capable of constituting clear evidence of a realistic prospect. Details of the sites are such that the examples of evidence available to demonstrate deliverability can generally be considered to indicate firm progress and clear, relevant information of delivery expectations (ID: 68-007-20190722).
- 8.28 Within this section I identify the removal of 19 units’ supply, reducing slightly the extent of disagreement between the parties.
- 8.29 The conclusions of this section of my Proof of Evidence and evidence for the deliverability of disputed sites This amounts to a **5.67 years’ supply against the relevant housing requirement** as shown in Table 5 above.

APPENDICES

APPENDIX 1 - THE HOUSING DELIVERY TEST IN CHERWELL DISTRICT - TECHNICAL APPENDIX REGARDING CALCULATION OF THE NUMBER OF HOMES REQUIRED



Strategic Planning & Research Unit

Appendix 1

The Housing Delivery Test in Cherwell District

Technical Appendix Regarding Calculation of the Number of Homes Required and Unmet Needs Adjustment

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

LPA Ref: 21/01630/OUT

On behalf of Cherwell District Council

Appeal Site: Land at North West Bicester, Charlotte Avenue

a) Background to the Calculation of the Number of Homes Required and Application of the HDT Rule Book

A1.1 For both Cherwell and Vale of White Horse Districts the calculation of the number of homes required under the HDT in all years corresponds to the following provisions of the Rule Book:

“the minimum annual local housing need figure^{12 & 13} (and any need from neighbouring authorities which it has been agreed should be planned for, and which has been tested at examination¹⁴) for that authority calculated with a base date of 1st April each year¹⁵” (CD/8.1.11)

A1.2 Footnote 14 is relevant and in relation to unmet needs states: “Where committed to within an adopted plan”.

A1.3 Footnote 14 is deliberately broader and distinguished from the treatment of the treatment of unmet need where this forms part of the adopted housing requirement for the purposes of Paragraph 12 (bullet 1) of the Rule Book.

A1.4 Conclusions relating to whether the housing requirement in adopted strategic policies requires updating are not relevant to either Cherwell District or Vale of White Horse District. The above provision produces the ‘lower of’ result for the number of homes required in any scenario where relevant strategic policies might be used (where they are less than five years old or have been reviewed). Local housing need provides the only measure for the number of homes required where this is not the case.

A1.5 The Appellant further cannot draw any support from the HDT in terms of whether the calculation of the number of homes required provides any direction for the purposes of decision-taking or application of paragraph 74 of the NPPF2021.

A1.6 Plan Reviews are considered for the purposes of the HDT Measurement Technical Note (CD/8.1.10) and whether the ‘lower of’ test taking account of the adopted housing requirement having regard to an authority that must have:

- Published an assessment of the strategic housing requirement policy (or policies) within 5 years of adoption of such policies; and
- As part of the review concluded that such policies do not require updating.

A1.7 Footnote 7 of the Technical Note is relevant to the purpose of considering Plan Reviews for the HDT:

“Please note: any conclusion reached on a plan review relates solely to whether a review has been carried out, so that DLUHC can calculate the Housing Delivery Test (as set out in paragraph 12 and footnote 8 of the Housing Delivery Test Rule Book). Any such conclusion does not indicate that the Secretary of State for Housing, Communities and Local Government endorses or makes any other judgement on status of a particular plan, or review for decision or plan making purposes.”

A1.8 The provisions of the HDT requiring regard to any commitment to provide towards unmet needs within an adopted Plan enable the calculation of an adjustment for net unmet needs in the circumstances for every local planning authority.

A1.9 The provisions for a net unmet needs adjustment are separate from the calculation of local housing need itself. Again, this is deliberately distinct from the application of NPPF2021 paragraph 74 and the treatment of the requirement in adopted strategic policies as set out in Paragraphs 3 and 4 of the HDT

Measurement Technical Note:

3. Net unmet need is calculated for each authority by summing all the need taken (the authority becomes responsible for delivering this housing) and taking away all need given (the authority is no longer responsible for this housing).

*4. To convert this into an **annual figure**, the number of years the plan covers is calculated by taking the difference between the start date of the plan and the end date of the plan, by classifying both the start date and end date as days the plan covers. **The total net unmet need figure by authority is then divided by the total plan period.** (CD/8.1.10 my emphasis)*

A1.10 In neither Cherwell District nor Vale of White Horse District is the contribution towards part of Oxford's unmet needs within adopted strategic policies considered on the basis of annualised totals for the plan period. In both cases relevant policies for provision towards these needs were adopted after the 2011 base-date.

b) Agreed Calculation for the Number of Homes Required – Cherwell District

A1.11 The calculation of the HDT is agreed with the Appellant for the purposes of the Topic SoCG and therefore to add detail in Table 1 below I set out how this specifically includes the following calculation of the number of homes required, having regard to the summary of the HDT methodology provided above:

Table 1. 2021 HDT Number of Homes Required – Cherwell District

	Household		Difference	Local Housing Need	Net Unmet Needs Adjustment	Number of Homes Required [1]
	Projections		/10			
	2018	2028				
2018/19	60933	66481	554.8	754	220	974
	2019	2029				
2019/20	61533	66997	546.4	742	220	882
	2020	2030				
2020/21	62135	67526	539.1	756	220	651

A1.12 The net unmet needs adjustment is calculated on the basis of a 4,400 unit contribution towards part of Oxford's unmet needs (Partial Review Policy PR1) divided over 20 years.

A1.13 It is materially different to the contribution towards unmet needs identified under the Appellant's case (based on the approach to managing supply under adopted Policy PR12a of the Partial Review) (380dpa prior to the application of a 5% buffer) (see CD/10.5 HLS Topic SoCG).

c) Calculation of the Number of Homes Required – Vale of White Horse District

A1.14 It follows that the calculation of the number of homes required in Vale of White Horse District, corresponding to the official published HDT, should be uncontroversial and is summarised in Table 2 below:

Table 2. 2021 HDT Number of Homes Required – Vale of White Horse District

	Household		Difference	Local Housing Need	Net Unmet Needs Adjustment	Number of Homes Required [1]
	Projections		/10			
	2018	2028				
2018/19	53550	58591	504.1	659	110	769
	2019	2029				
2019/20	54104	59073	496.9	679	110	723
	2020	2030				
2020/21	54642	59545	490.3	661	110	514

A1.15 The net adjustment for unmet needs is again not the same as that identified from Policy 4a of the VOWH Local Plan Part 2 as summarised at Paragraph 33 of the Grove Decision Letter:

“The Council state that a further 183 dwellings per annum should be added to the LHN figure to allow for Oxford’s unmet needs from Core Policy 4a. This addition is appropriate in this particular instance because it is an agreed figure which addresses the level of unmet housing need in Oxford, which was reassessed and confirmed in the up-to-date Oxford Local Plan 2036, adopted in June 2020.” (CD/7.3 my emphasis)

d) Calculation of the Number of Homes Required – Oxford City

A1.16 Finally, I illustrate below the calculation of the number of homes required under the HDT for Oxford.

A1.17 The net unmet needs adjustment is calculated as the reverse to the positions in Cherwell and Vale of White Horse (and reflects *all* the contributions towards parts of unmet need provided by all neighbouring authorities).

Table 3. 2021 HDT Number of Homes Required – Oxford City Council

	Household		Difference	Local Housing Need	Net Unmet Needs Adjustment	Number of Homes Required[1]
	Projections					
	2018	2028	/10			
2018/19	60597	65903	530.6	743	-715	28
	2019	2029				
2019/20	61129	66477	534.8	749	-715	31
	2020	2030				
2020/21	61621	67046	542.5	760	-715	30

A1.18 As illustrated by my calculation of the number of homes required for Oxford City the second limb of NPPF2021 paragraph 74 (where local housing need applies) does not stipulate that the requirement against which supply is to be assessed is reduced to reflect provision for unmet need is policies provided by local planning authorities elsewhere.

A1.19 That would be the perverse and incorrect logic if applying the Appellant's proposition that the approach to the HDT relates to the application of paragraph 74. In some parts of the country where unmet needs are provided for by neighbouring authorities it would result in a negative requirement against which supply would be assessed.

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