
Land at North West Bicester

Updated Statement of Common Ground Housing Land Supply

Between Firethorn Developments Limited and Cherwell District Council

APPEAL REFERENCE: APP/C3105/W/23/3315849
CHERWELL DISTRICT COUNCIL REF. 21/01630/OUT

May 2023



Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE



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Project Ref:	31036/A5
Status:	FINAL
Issue/Rev:	V3
Date:	17th May 2023
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Ref: 31036/A5/SS/NPN
Date: 23 May 2023

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1.0 INTRODUCTION

1.1 This Statement of Common Ground (SoCG) has been prepared jointly by Firethorn Developments Limited (hereinafter referred to as 'The Appellant') and Cherwell District Council (hereinafter referred to "The Council").

1.2 The Statement refers to Appeal Ref: APP/C3105/W/23/3315849 which has been submitted in response to the Council's failure to determine the application for outline planning permission at land at North West Bicester, Charlotte Avenue, Bicester, Oxfordshire (application reference 21/01630/OUT) 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".

1.3 This SoCG refers only to matters concerned with the housing requirement and Five Year housing land supply position ('the 5YHLS'). A separate SoCG covering all other planning matters has been prepared. This includes a summary of the background, site location and proposal.

1.4 This Statement sets out the agreed matters of fact and agreed positions between the Council and the Appellant in respect housing supply matters for this appeal.

1.5 Finally, this statement summarises those areas of disagreement between the parties.

1.6 This final version of the SoCG is jointly agreed by:

Signed  Date **17** May 2023

NAME Nick Paterson-Neild, Planning Director

Barton Willmore now Stantec on behalf of Firethorn Trust Ltd

Signed  Date **23** May 2023

NAME Jonathan Goodall

Director (SPRU), DLP Planning Limited On behalf of Cherwell District Council

2.0 MATTERS OF AGREEMENT

Base Date and Five Year Period

- 2.1 The Council's most recent assessment of the 5YHLS is set out in the Housing Land Supply Statement (HLSS). The base date of the 5YHLS assessment within the HLSS is 1st April 2022. It is therefore agreed that the relevant base date for calculating the 5YHLS is 1st April 2022 and the five-year period runs to 31st March 2027.

The Housing Requirement in Adopted Strategic Policies

- 2.2 Whilst the figure which the five-year housing land supply should be measured against is not agreed, it is agreed 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) the housing requirement within its adopted strategic policies requires updating for the purposes of NPPF2021 paragraph 74 and footnote 39.
- 2.3 The parties agree that the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review-Oxford's Unmet Housing Need' or "Partial Review" which was adopted on 7 September 2020 and is less than five years old.

Local Housing Need

- 2.4 It is agreed that the local housing need based on the standard methodology for Cherwell is 710 homes per annum.

Housing Delivery Test

- 2.5 While the relevance of the Housing Delivery Test in determining the requirement against which supply is assessed is not agreed it is agreed that the latest Housing Delivery Test result for Cherwell is 153% as shown in the following table:

	Number of Homes Required				Number of Homes Delivered				HDT %
	2018-19	2019-20	2020-21	Total	2018-19	2019-20	2020-21	Total	
Cherwell	974	881	650	2,505	1,489	1,159	1,192	3,840	153%

The Buffer

- 2.6 It is agreed that the relevant buffer to be applied is 5% in accordance with paragraph 74 and footnote 41 of the Framework.

Sources of Supply

- 2.7 It is agreed that the starting point for considering whether a site is deliverable or not for the purposes of 5YHLS assessments, is set out within the glossary of the Framework.
- 2.8 The definition of a deliverable site as provided in the glossary in on page 66 of the Framework is:

"To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years."

3.0 MATTERS OF DISAGREEMENT

The 5YHLS Housing Requirement

The Council's Case

- 3.1 The Council's case is that local housing need calculated for Cherwell District in accordance with the standard method provides for the requirement against which supply should be assessed for the purposes of NPPF2021 paragraph 74.
- 3.2 Paragraph 74 of the NPPF2021 does not make any express provision for how unmet needs forming part of the housing requirement in adopted strategic policies are to be treated for the purposes of assessing housing land supply.
- 3.3 The Council's case is that the housing requirement in adopted strategic policies providing for part of Oxford's unmet needs is set out separately within the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' or "Partial Review". Policies PR1 and PR12a respectively specify the contribution towards unmet needs (4,400 dwellings) and arrangements for maintaining housing land supply to meet these needs for the period 2021-2031.
- 3.4 Relevant strategic Policy PR12a of the Partial Review 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*".
- 3.5 The Council's case is that 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.
- 3.6 While the parties therefore do not agree in relation to the addition of the contribution towards Oxford's unmet needs as part of the requirement against which supply should be assessed the following calculation sets out the annualised base five-year total provided by the relevant separate strategic policies (prior to the application of an agreed 5% buffer).

Table 3.1: Calculation of the Annualised Base Five Year Requirement for Oxford's Unmet Needs (based upon Adopted Strategic Policies of the Cherwell Local Plan Partial Review)

Step	Description	Five Year Period 2022/23-26/27 (current period)
a	Partial Review requirement 2021/22-2025/26	1,700
b	2021/22-2025/26 Annual Requirement (a / 5)	340
c	Partial Review requirement 2026/27-2030/31	2,700
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))	1,900
i	Annual Base Requirement over next 5 years (h / 5)	380

The Appellant's Case

- 3.7 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. Paragraph 61 of the NPPF confirms that to determine the number of homes needed, in addition to the LHN figure, 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.
- 3.8 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).

Past Shortfall

The Council's Case

- 4 The Council's calculation does not include the past shortfall where the requirement against which supply should be assessed is provided by local housing need for Cherwell District calculated in accordance with the standard method (PPG ID: 68-031-20190722). The Council's case is that the housing requirement in adopted strategic policies in relation to meeting part of Oxford's unmet needs requires performance (including any surplus/shortfall) to be monitored separately.

The Appellant's Case

- 5 The Appellant's calculation includes the past shortfall against Oxford's unmet needs since 2021 of 340 dwellings.

Disputed Sites

- 6 The following sites outside of the Partial Review area are disputed. *[Note: this is the Appellant's position at the time of drafting] [LPA Note: 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)].*

Table 3.2: Disputed Sites outside the Partial Review Area

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference
Bicester 12	South East Bicester (Wretchwick Green)	1,500	50	0	-50
15/01357/F	Former RAF Upper Heyford	89	89	0	-89
21/03523/OUT	Former RAF Upper Heyford	31	31	0	-31
Bicester 1	North West Bicester Phase 2	500	20	0	-20
Bicester 10	Bicester Gateway Business Park, Wendlebury Road	273	80	0	-80
Bicester 2	Graven Hill	1,095	150	0	-150
Banbury 17	South of Salt Way	1,000	350	237	-113
Bicester 3	South West Bicester Phase 2	60	60	0	-60
Banbury 5	North of Hanwell Fields	5	0 ¹	0	-0
18/00487/F	Land to the rear of 7 and 7A High Street	14	0 ²	0	-0
					-593

¹ 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

² 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 The following sites in the Partial Review area are disputed. *[Note: this is the Appellant’s position at the time of drafting] [LPA Note: 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)].*

Table 3.3: Disputed Sites within the Partial Review Area

Ref:	Location	Council 5YHLS	Appellant 5YHLS	Difference
PR7a	Land south east of Kidlington	30	0	-30
PR7b	Land at Stratfield Farm, Kidlington	20	0	-20
PR9	Land west of Yarnton	30	0	-30
		80	0	-80

Extent of the Deliverable Supply

The Council's Approach to the 5YHLS Requirement

- 8 The Council's case is that it can demonstrate a deliverable 5YHLS of 4,225 dwellings at 1st April 2022 (excluding the Partial Review area). Against the local housing need and a 5% buffer, this equates to 5.67 years.
- 9 The Appellant disagrees with the Council's approach to the requirement as explained above, but its supply figure against the local housing need figure without any unmet need for Oxford is 4.87 years. This is shown in the following table.

Table 3.4: Assessment of Deliverable Supply versus Local Housing Need (Council's Case)

		Council Supply	Appellant Supply
A	Annual housing requirement	710	710
B	Five year requirement (A X 5)	3,550	3,550
C	Shortfall to be added	0	0
D	Five year requirement plus 5% buffer (B + C + 5%)	3,728	3,728
E	Annual requirement (rounded)	746	746
F	5YHLS supply at 1st April 2022	4,225	3,632
G	Supply in years	5.66	4.87
H	Over / under supply	497	-96

The Appellant's Case

- 10 The Appellant's case is that the Council can demonstrate a deliverable 5YHLS of 3,632 dwellings which against the 5YHLS requirement (including some of Oxford's unmet need) equates to 2.99 years.
- 11 The Council disagrees with the Appellant's approach to the requirement as explained above, but its supply figure against this mathematically equates to 3.54 years. This is shown in the following table.

Table 3.5: Assessment of Deliverable Supply versus Local Housing Need + Oxford's Unmet Needs (Appellant's Case)

		Council Supply	Appellant Supply
A	Annual housing requirement	710 + 380	710 + 380
B	Five year requirement (A X 5)	5,450	5,450
C	Shortfall to be added	340	340
D	Five year requirement plus 5% buffer (B + C + 5%)	6,080	6,080
E	Annual requirement (rounded)	1,216	1,216
F	5YHLS supply at 1st April 2022	4,305	3,632
G	Supply in years	3.54	2.99
H	Over / under supply	-1,775	-2,448