

Town and Country Planning Act 1990 (as amended)

**Rebuttal Proof of Evidence on Five Year Supply of Housing
(Disputed Supply)
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

Jon Goodall MA (Cantab) MSc MRTPI

Strategic Planning Research Unit

DLP Planning Ltd

Bedford

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**

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

**Prepared on behalf of
Cherwell District Council**

**Evidence of
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1.0 SCOPE OF REBUTTAL EVIDENCE

- 1.1 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.
- 1.2 I have prepared this Rebuttal following receipt of the Appellant's evidence on disputed supply contained within Chapter 6 of the Proof provided Mr Paterson-Neild. My Rebuttal is limited to responding only on those matters and should be read alongside Chapters 4 and 7 of my Main Proof of Evidence.
- 1.3 The Appellant's evidence remains consistent with details within the signed Housing Land Supply Topic Statement of Common Ground (CD/10.5) where the Council's assessment of deliverable supply is disputed – equating 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). I address the Appellant's position ahead of the exchange of Proof of Evidence in my Section 7.
- 1.4 As outlined within my main Proof the Appellant has only adduced evidence on the reasons for disputing the Council's assessment of deliverable supply at the point of exchange and as such I reserved my position on the scope to comment further.
- 1.5 Pending receipt of details for supply contested by the Appellant I had set out my position on matters to be considered in providing a response and relevant to the Council's assessment of deliverable supply (see in-particular JG PoE Table 4). The requirement to provide a Rebuttal has been reduced where the Appellant's evidence has acknowledged progress in-line with the summary provided by my Table 4.
- 1.6 Where the assessment of deliverable supply is nonetheless in dispute, notwithstanding mutual evidence of progress referred to in the evidence of both parties, I have prepared this Rebuttal to provide clarification regarding the details summarised in my main Proof of Evidence or to respond directly to the Appellant's case. I respond on four points:
 - a. By highlighting omissions from the Appellant's commentary;
 - b. Reviewing the Council's conclusions based on the status of sites as at 1 April 2022 and demonstrating whether the assessment of clear evidence of a realistic prospect of homes being delivered within five years were well-founded how they relate to judgement regarding the assessment of deliverability at the 1 April 2022 base-date;
 - c. Providing my assessment of any examples of progress since the base date (whether or not they are referred to within the Appellant's Proof of Evidence) and indicating whether the provide support for the assessment of deliverability at the base date; and
 - d. Providing my assessment regarding whether the Council made realistic assumptions for forecast delivery in the five year period in respect of the available evidence.
- 1.7 Taking these points together I therefore outline where the Appellant's assessment of disputed supply should be rejected.
- 1.8 Mr Paterson-Heald's Proof of Evidence undertakes an assessment of deliverable supply using the Appellant's case for the requirement against which supply should be assessed and does not differentiate the separate Housing Delivery Monitor provided for sites identified to

contribute towards part of Oxford's unmet needs within the Council's published position¹.

- 1.9 In Table 4 of my Main Proof of Evidence I summarise progress for sites in Cherwell District, excluding those contributing towards the housing requirement in adopted strategic policies for Oxford's unmet need.
- 1.10 The Appellant has provided a separate commentary upon sites identified within the Local Plan Part 1 Partial Review. Within this Rebuttal I deal with these sites for completeness, although they are not relevant to the Council's case on the requirement against which supply should be assessed. I nonetheless highlight where the Appellant's evidence does not properly correspond to nor reflect the context for delivery of sites within the Partial Review.
- 1.11 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

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

2.0 SITES APPLICABLE TO THE COUNCIL’S CASE FOR SUPPLY VERSUS THE FIVE YEAR REQUIREMENT

- 2.1 The details below should be read alongside Chapter 7 of my Main Proof of Evidence.
- 2.2 Except where expanded upon for the sites below, for all disputed sites I continue to rely upon the Council’s published Land Supply Statement and the points highlighted in my main Proof of Evidence as supporting the case on deliverable supply.
- 2.3 I remain of the view that the Appellant provides insufficient reasons to subsequently dispute the Council’s assessment of supply and the realistic prospect of completions beginning within five years. I also provide reasons why I remain of the view that the Council’s forecast supply within the five year period from these sites is appropriate.
- 2.4 In responding specifically to the Appellant’s case, I provide additional clarification as follows:
 - a. In respect of my Table 4 in terms of information available to the Council at 1 April 2022; or
 - b. To apply the PPG consistently and objectively to illustrate that subsequent progress demonstrates that the Council’s judgement on deliverability was well founded.
- 2.5 For individual sites, I add:

a) Land East of Salt Way –

- 2.6 The Appellant makes no reference to details of the phasing of other site infrastructure requirements addressed under 20/01099/DISC (Condition 2). Infrastructure is set to be delivered based on the number of occupations, so this will not present a significant obstacle to delivery as any issues that need to be resolved are being worked on now as a part of delivering the undisputed 237 units including completion of the spine road (see Section 5 of the submitted Phasing Statement – copy included at Appendix 1). My Proof of Evidence confirms the Reserved Matters granted for site infrastructure elements including the spine road (20/03702/REM).
- 2.7 The Appellant does not dispute the proposed date of first completion from the currently approved Reserved Matters (2024/25 based on submission in July 2022). The Council’s assumed lead-in timescales for further Reserved Matters applications, based on details from the promoter, make reasonable allowances for an increase in the number of Reserved Matters parcels from 2025/26 onwards.
- 2.8 The Council has provided me with a trajectory of past overall delivery from the Salt Way site. Delivery has increased in the most recent years where this includes phases pursuant to several Outline planning permissions in place across the wider site but prior to the delivery of units from 14/01932/OUT (the application relevant to supply in dispute).

Table 1. Past Recorded Delivery – Banbury South of Salt Way (all parcels)

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Salt Way	27	64	99	78	19	3	48	179	131

- 2.9 Taking all entries together for the Salt Way site within the Council’s forecast for 2022/23 to 2026/27 (150 dwellings in year 1; 98 dwellings year 2; 100 dwellings year 3; 104 dwellings year 4; and 200 dwellings in year) indicates consistency with past trends. Within year 5 capacity pursuant to disputed site 14/01932/OUT is forecast to provide the only row with forecast supply in the trajectory. Under the Council’s assessment this would still include

residual capacity from the 273 undisputed units with detailed permission while engagement with the promoter suggests up to 5 parcels being developed simultaneously. This supports the assumption of maintaining or exceeding past overall delivery rates to achieve 200 completions.

b) Bicester Gateway Business Park –

- 2.10 The Appellant only makes reference to permission for Reserved Matters application reference 22/02025/REM related to commercial elements of the scheme, referred to in my original Proof of Evidence.
- 2.11 The Council anticipated submission of this application at the 1 April 2022 base date given previous variation of conditions related to the phasing of development.
- 2.12 The Appellant makes no reference to disposal of the residential component of the site to a housebuilder (Thomas Homes). This is consistent with the Council's assumptions at the base date.
- 2.13 The Council has advised me that a pro-forma from Thomas Homes was received in December 2022, prior to publication of the February 2023 update confirming their interest in the site and informing the assessment of deliverability. The Council's Statement does not anticipate first completions until 2026/27 (year 5), which I understand is consistent with the details provided in the proforma for first delivery of units. I consider that there is flexibility within the individual milestones for the planning process in advance of this.

c) Former RAF Upper Heyford –

- 2.14 The Appellant sets out commentary for this site under the heading 'Sites Without Planning Permission'. While this is factually correct in terms of the permission status the Appellant does not clarify that the sites form part of land allocated for housing within the development plan.
- 2.15 The Local Plan also identifies the subject land as the 'areas with potential for additional development' on the proposals map i.e., where the development indicates the Council would consider it to be acceptable. As such, the 'part (b)' of definition of deliverable within the NPPF2021 applies irrespective of the permission status.
- 2.16 My main Proof of Evidence deals with the application status for both sites. To expand, the Council is continuing to actively engage with Pye Homes and David Wilson as applicants for their respective schemes. The Council has continued to progress negotiations in relation to both applications by Pye Homes that are subject to a resolution to grant permission and expects these to be resolved imminently in terms of the planning obligation.
- 2.17 The Case Officers for the schemes has advised that potential objections to securing consent will be subject to solutions mutually applied to the schemes by either applicant. For example, provision of Biodiversity Net Gain is being sought by Pye Homes via land in West Oxfordshire with the expectation that the same solution would be available to David Wilson Homes.
- 2.18 I understand from the Case Officers determining the applications that Pye Homes and David Wilson Homes both have an agreement in place with the relevant landowner to allow them to implement the respective permissions, with the transfer of land likely to take place within a month of the permission being granted.
- 2.19 Having regard to the delivery of the wider RAF Upper Heyford site in terms of the submission and application of planning applications together with lead-in timescales for first completions and past delivery rates I consider that the parcels satisfy the central test of a realistic prospect. RAF Upper Heyford, via Policy Villages 5 of the Local Plan, has provided a

substantial volume of housing completions, as summarised in the Table below:

Table 2. Past Recorded Delivery – RAF Upper Heyford (all parcels)

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Upper Heyford	234	272	209	200	155	134	136	310	250

2.20 Completions for the forecast period 2022/23 to 2026/27 are a more modest 609 units, including 120 units subject to the two Pye Homes applications. There appears significant flexibility in the trajectory for delivery of these units within the five year period.

d) Graven Hill –

2.21 The Appellant only seeks to dispute forecast completions pursuant to the Outline element of the permission under 16/01802/OUT as published in the Council’s statement (with a forecast total of 150 units).

2.22 The Appellant notes the submission of application reference 22/02312/REM pursuant to Outline planning permission that remains in place for the wider site (93 dwellings – valid 5 August 2022). The Appellant does not ‘dispute’ the assessment of 93 dwellings’ supply separately as it is not referred to within the published assessment. It falls to be considered as part of whether the Council has demonstrated clear evidence for the deliverability of those parts of the site that it has assessed under ‘part (b)’ of the NPPF2021 definition. In other words, the 93 dwellings currently subject to an application for detailed permission that is pending determination form a substantial proportion of the forecast 150 unit total.

2.23 The Appellant’s Proof of Evidence does not clarify that application reference 22/02312/REM is a submission pursuant to application reference 21/03749/F, which was a variation under section 73 of 19/00937/OUT.

2.24 While the site has generated several revisions to its planning permissions 21/03749/F is still functionally an outline as it varies the earlier permission, and the grant of planning permission is derived from the original outline planning permission for the site (as subsequently varied). This does not affect that the 93 dwellings subject of the current application 22/02312/REM fall under ‘part (b)’ of the NPPF2021 definition. The details of the variation are, however, relevant in indicating that the delivery of the scheme has been amended to reflect the proposed relocation of other elements of the Masterplan including the Community Centre and Nursery, complementing the residential development (see annotated Masterplan at Appendix 2).

2.25 The submission of detailed proposals for Phase 3A/3B under application reference 22/02312/REM corresponds to the proposed phasing of the scheme following the abovementioned amendments. These phases fall within the next areas for development identified within the public website² for the Graven Hill development representing the current expectations for development (see respective plans at Appendix 3 and 4).

2.26 The applicant for the proposals is the Graven Hill Village Development Company, which it is anticipated will deliver the units itself (rather than via individuals) and potentially making this phase less vulnerable to factors impacting upon self-build plots (such as personal financial circumstances). There is ongoing dialogue between the Council and applicant’s agent ahead

² <https://www.gravenhill.co.uk/graven-hill-resident-updates/>

of determination and I would not that even under the Council's trajectory for total delivery of 150 units pursuant to 'part (b)' consent first completions are not expected until 2024/25.

- 2.27 The Appellant does not consider the submission of application reference 22/03212/REM represents sufficient progress to support the Council's assessment of deliverable supply (for either 150 units or 93 units of the 150 unit total forecast). I disagree. The submission of this application is consistent with the examples of progress acknowledged on other sites since the base-date where Reserved Matters have been received consistent with phasing expectations. For the reasons outlined this demonstrates a realistic prospect that further completions pursuant to capacity at Graven Hill with Outline consent will be achieved within five years.

3.0 THE ASSESSMENT OF SUPPLY RELATED TO THE CHERWELL LOCAL PLAN (PART 1) PARTIAL REVIEW – OXFORD’S UNMET NEEDS

3.1 Within my main Proof of Evidence, I outlined that I sought to deal only with those sites relevant to the Council’s case to assess supply against the requirement based upon local housing need for Cherwell District. Under the Council’s case for the requirement against which supply should be assessed the contribution from any supply identified to contribute towards Oxford’s unmet needs from the Partial Review Local Plan is therefore excluded.

3.2 The Appellant has adduced evidence to dispute the assessment of deliverability from these sites, which are dealt with separately in the Council’s published HLSS. The published HLSS addresses these sites within a separate schedule at p.22 of the document. Paragraph 43 provides a summary that some progress has been made to substantiate the assessment of only 80 units’ deliverable supply.

3.3 While the assessment of deliverable supply from sites identified in the Partial Review is not relevant to the Council’s case for the requirement against which supply should be assessed I deal with these for completeness.

3.4 I outline reasons why undertaking the correct approach to assessing deliverability for these sites is not an exercise undertaken in isolation from the adopted development plan and is by necessity one that may look beyond the status of individual sites. This is an intrinsic element of the approach to managing and supporting the delivery of sites specifically identified to address Oxford’s unmet needs.

3.5 The circumstances for the types of evidence that might be used to demonstrate deliverability for sites identified in such a strategic context are expressly recognised by Planning Practice Guidance:

*“clear relevant information about site viability, ownership constraints or infrastructure provision, such as **successful participation in bids for large-scale infrastructure funding or other similar projects.**” (ID: 68-007-20190722)*

3.6 Two observations arise from these examples:

- a. It is evident that such evidence may relate to more than one site and may represent a continuation of support for development identified through the plan-making process.
- b. The assessment of deliverability at one point in time, and for one individual site, will not necessarily correspond to the ideal methodology for capturing progress on matters such as infrastructure funding and delivery to overcome potential constraints to development. Progress may occur at various points throughout the assessment period.

3.7 The reasons that progress regarding delivery of sites allocated within the Partial Review relates to the wider context for the sites and their functional relationship with addressing part of Oxford’s unmet needs is enshrined in the development plan (CD/4.4). Figure 10 (comprising the Key Diagram) illustrates the spatial relationship between the sites and Oxford City. Figure 10 also summarises the relationship of the sites with existing and proposed enhancement to sustainable transport (including expanded Park & Ride facilities) and delivery of the A44/A40 link road proposed by the County Council.

3.8 The suite of policies within the Partial Review establish requirements for additional consultation and cooperation with key stakeholders jointly involved in delivery, including Oxford City Council, on matters such as design and affordable housing. Policy PR11 (Infrastructure Delivery) reflects this cooperative approach (see paragraph 5.146, for example). Moreover, the approach is embedded within the Strategic Objectives of the Plan,

specifically those that are additional respect to the Partial Review (SO16 – SO19) with infrastructure matters being summarised in Strategic Objective 19:

“To provide Cherwell's contribution to meeting Oxford's unmet housing needs in such a way that it complements the County Council's Local Transport Plan, including where applicable, its Oxford Transport Strategy and so that it facilitates demonstrable and deliverable improvements to the availability of sustainable transport for access to Oxford.”

- 3.9 As part of the preparation and Examination of the Partial Review the Cherwell Delivery Position Paper (2019) summarises the relationship between planned investment relied upon to achieve this objective such as the Oxfordshire Growth Deal. I have included a copy of this paper at Appendix 5 of my Rebuttal. Projects identified within the Position Paper, or arising subsequently from strategies informing the Partial Review, are relevant to assessing deliverability of the sites identified to address part of Oxford's unmet needs.
- 3.10 Strategic transport and connectivity projects form early priorities within these related strategies, summarised between Paragraphs 3.18 to 3.24 of the Position Paper. Those relevant to the assessment of deliverability at the 1 April 2022 base-date include A44 public transport improvements, which are under construction (including provision of bus lanes). Pear tree roundabout interchange improvements including bus lanes are also under construction. These will help deliver and are necessary for the Partial Review proposals. Funds from the Growth Deal are being used for this.
- 3.11 Monitoring of infrastructure funding and delivery is actively undertaken by the Future Oxford Partnership and indicates delivery of both projects in 2023³ (copy provided at Appendix 6). Given the location and purpose of the projects to enhance connectivity with Oxford these projects are grouped with those related to the city itself. Oxfordshire County Council also undertakes monitoring of its role in the planning, funding and delivery of transport infrastructure projects at Kidlington and their relationship to sites within the Partial Review. This records, for example, that detailed design work has been undertaken for southbound bus lanes and cycle facilities at Kidlington Roundabout (related to sites PR6 and PR7a/b).
- 3.12 Engagement with the Department for Transport to secure funding and provide delivery timescales for other projects has also continued since the adoption of the Partial Review. The proposed closure of level crossings at Yarnton and Sandy Lane facilitates pedestrian and cycle access between site PR8 and Kidlington and funding forms part of a £68m package as part of the Oxford Corridor Phase 2 project. Receipt of the Secretary of State's Screening Decision⁴ (copy at Appendix 7) is consistent with proposed timescales for a planning application and commencement of construction in 2024 and represents firm progress with infrastructure delivery.
- 3.13 The policies of the Partial Review also determine how Planning Practice Guidance should be interpreted in terms of the decision-taking process. The Delivery Position Paper (paragraphs 2.10 – 2.12) confirms that the preparation of Development Briefs forms a requirement of policies within the Plan, and these were substantially progressed by the time the Partial Review was adopted. Planning Performance Agreements are also in place for sites where delivery is forecast. The PPG recognises where these may be relevant to

³ [Copy of Growth Board website Dec 2021 \(003\).xlsx \(futureoxfordshirepartnership.org\)](#)

⁴

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1154309/proposed-closures-of-yarnton-lane-sandy-lane-and-tackley-level-crossings-as-part-of-the-oxford-phase-2a-enhancement-works-transport-and-works-act-order.pdf

assessing the current planning status of sites.

- 3.14 The Appellant disputes the Council's assessment of supply from the three Partial Review allocations where delivery is forecast in the five year period, summarised as follows:
- a. PR7a Land South East of Kidlington (22/00747/OUT pending determination) – 30 units
 - b. PR7b Land at Stratfield Farm, Kidlington (22/01611/OUT pending determination) – 20 units
 - c. PR9 Land West of Yarnton (21/03522/OUT pending determination) – 30 units
- 3.15 There are common elements to the three sites identified as deliverable within the Council's assessment and highlighted by the Appellant in its evidence. In my opinion these are not adequately assessed by the Appellant in terms of the characteristics of each site and their relationship with the policies of the Partial Review. The Appellant therefore provides insufficient reasons to subsequently dispute the Council's assessment of supply and the realistic prospect of completions beginning within five years. I note as follows:
- a. All three sites are subject to Outline planning applications pending determination.
 - b. The sites have been actively promoted by the same parties since preparation of the Partial Review (see Table 1 of the Delivery Position Paper) and in respect of PR7b are already under the control of a housebuilder (Manor Oak) and in respect of PR7a an experienced land promoter (Barwood Land) as applicants for the current proposals.
 - c. None of the sites are forecast to deliver first completions before 2026/27 (year 5) and forecast totals would indicate first completions part-way through that year. The Appellant cites the Council's commentary that the forecast allows for realistic lead-in timescales. This does not appear to be wholly disputed by the Appellant's assessment. The timescales allowed for by the Council can be assessed having regard to 'typical norms' or averages for sites of the same size. There is no local precedent for delivery timescales for sites specifically contributing towards Oxford's unmet needs, but it is relevant to note that the Partial Review allocates land at different scales.
 - d. Having regard to Table 4 of the Partial Review the allocated sites in question provide for 100-499 units each (PR7a/PR7b) and 500-1000 units (PR9). Elsewhere in their evidence the Appellant cites research from the consultancy Lichfields. Lichfields' 'Start to Finish' (Second Edition) Report (Figure 4) summarises typical timescales from validation to first completions (including planning approval and delivery periods) of 4 years and 5 years for these respective groupings.

- e. The Council’s assumptions are consistent with these ‘norms’, with details summarised below –

Table 3. Assumed Lead-In Timescales for Deliverable Partial Review Sites

Site and Size	Application Valid	Forecast Completions 2026/27	Assumed Date of First Completion	Total Lead-in to Delivery Period	Lichfields Average
PR7a (430)	21/03/2022	30	30/09/2026	4.5 years	4 years
PR7b (120)	30/05/2022	20	01/12/2026	4.5 years	4 years
PR9 (540)	14/10/2021	30	30/09/2026	5 years	5 years

- f. Each of the sites is subject to an agreed Development Brief. This is consistent with the policies of the Partial Review.
- g. The Appellant notes outstanding objections to all three sites. In my opinion these must be assessed with regard to the overall timescales for determination and delivery and the context for the sites within the Partial Review. For example, while outstanding objections for Oxfordshire County Council do exist in relation to traffic modelling this follows upon previous work undertaken jointly by the promoters/developers of respective sites. Given that progress exists on all sites (in respect of submitting applications) there is no reason to suggest such active engagement will not continue to provide updated modelling assumptions (principally in respect of use of sustainable transport) noting also the progress with other infrastructure delivery. Likewise, the objections to the delivery of pedestrian/cycle links from PR7b should be assessed in the context of progress with DFT funding for the closure of the Yarnton level crossing, expected to be complete in 2024.

3.16 Finally, I would also note that the three Partial Review sites (with Outline applications pending determination) do not correspond to the only examples of progress since the base-date:

- a. Site PR6a is also now subject to an Outline planning application currently pending determination (23/01233/OUT – up to 800 dwellings);
- b. Site PR8 has been the subject of pre-application discussions and completions of a Planning Performance Agreement (22/03622/PPA) with a view to submission of an application in late Summer 2023.
- c. Site PR7a (northern part) is subject to separate Full Application proposals (22/03883/F – 96 dwellings). This is separate to the application assessed as deliverable by the Council which the Council continues to indicate could proceed without the northern site.

3.17 While neither I nor the Council consider the assessment of these sites as deliverable they are illustrative with ongoing progress for delivery of the Partial Review.

APPENDICES

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