

Statement re: Cherwell's Five Year Housing Land Supply

For Abbeymill Homes | 23-162

Base date: 1<sup>st</sup> April 2022

**Project:** 23-162 – Cherwell’s Five Year Housing Land Supply  
**Base date:** At 1st April 2022  
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# 1. Introduction and summary

- 1.1 Emery Planning has prepared this statement in relation to Cherwell's Five Year Housing Land Supply (5YHLS). It addresses the Council's current 5YHLS statement which has a base date of 1<sup>st</sup> April 2022 and was published in February 2023. Should the Council update its position (e.g. to a base date of 1<sup>st</sup> April 2023) then we would need to provide further comment. This statement also addresses the Council's 5YHLS within the context of the current Framework. Should a revised Framework be published then again we would need to provide further comment.

## Background

- 1.2 Until it published its statement in February 2023, the Council accepted that it could not demonstrate a 5YHLS by a significant margin. The 2021 Authority Monitoring Report (AMR) explained that the 5YHLS at 1<sup>st</sup> April 2021 was 5,826 dwellings, which against the adopted housing requirement (for Cherwell without including any of Oxford's unmet needs) of 1,142 dwellings per annum, the shortfall against this figure since the base date of the plan period and a 5% buffer equated to 3.8 years. It projected that at 1<sup>st</sup> April 2022 the deliverable supply would be 5,460 dwellings (3.5 years).
- 1.3 In February 2023, the Council then produced a new Housing Land Supply Statement, which claims that the deliverable supply at 1<sup>st</sup> April 2022 in Cherwell (excluding the sites to meet Oxford's unmet needs) is 4,244 dwellings. Whilst this is significantly lower than the claimed supply at 1<sup>st</sup> April 2021 and the projected supply as set out in the 2021 AMR, the Council claims this equates to 5.4 years. This is because the Council now assesses its 5YHLS against the local housing need figure of 742 dwellings per annum, which is significantly lower than the plan-led housing requirement of 1,142 dwellings per annum. The Council's figure of 4,244 dwellings is 349 dwellings more than its claimed 5YHLS requirement figure including a 5% buffer.
- 1.4 In addition, the Council's 5YHLS statement provides a separate calculation for the Partial Review which is part of Cherwell to meet Oxford's unmet housing needs. At 1<sup>st</sup> April 2022, the Council claims to have a deliverable supply of 80 dwellings which equates to just 0.2 years against the stepped requirement as set out in the Cherwell Partial Review (adopted September 2020) plus shortfall and a 5% buffer.
- 1.5 For the avoidance of doubt, the Council's 5YHLS statement is not an "Annual position statement" as defined in the Annex to the Framework on page 65. The Council's approach to its 5YHLS has not been "confirmed" by either of the routes to do so as set out in paragraph 75 of the Framework.



## Summary

1.6 In summary, we agree with the Council on the following matters in relation to 5YHLS:

- The base date is 1<sup>st</sup> April 2022 and the relevant 5YHLS period is 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2027. Any sites which were not deliverable at 1<sup>st</sup> April 2022 should not be included in the 5YHLS;
- The Cherwell Local Plan Part 1 (adopted July 2015 and re-adopted in December 2016) is more than five years old and the housing requirement within it has been found to require updating but the Cherwell Partial Review is less than 5 years old; and
- A 5% buffer applies.

1.7 We disagree with the Council on the following matters in relation to 5YHLS:

- Separate calculations should not be made for Cherwell excluding Oxford's unmet needs and Oxford's unmet needs. Such an approach is contrary to the Framework and associated Guidance;
- The figure the 5YHLS should be measured against. This should be the local housing need for Cherwell plus the requirement for Oxford's unmet needs which is to be met in Cherwell. Our approach is consistent with the other three authorities which must meet some of Oxford's unmet need (South Oxfordshire, West Oxfordshire and Vale of White Horse; and
- The extent of the deliverable 5YHLS. As above, the Council claims that the 5YHLS at 1<sup>st</sup> April 2022 is 4,244 dwellings. We have concluded that it is 3,632 dwellings for the reasons set out in section 7 of this statement.

1.8 In conclusion, we conclude that the deliverable 5YHLS at 1<sup>st</sup> April 2022 is 3,395 dwellings. We therefore conclude that the 5YHLS at 1<sup>st</sup> April 2022 equates to **2.99 years** against the 5YHLS requirement we have identified and a 5% buffer. However, even on the Council's approach to its 5YHLS requirement, our supply figure equates to **4.87 years**. The position is summarised in the following table.



Table 1.1 – Cherwell’s 5YHLS at 1<sup>st</sup> April 2022

		Council’s published position	Council’s approach to requirement and Emery Planning’s supply	Emery Planning
A	Annual housing requirement	742	710	710 + 380
B	Five year requirement (A X 5)	3,710	3,550	5,450
C	Shortfall to be added	0	0	340
D	Five year requirement plus 5% buffer (B + C + 5%)	3,896	3, 728	6,080
E	Annual requirement	779	746	1,216
F	5YHLS supply at 1 <sup>st</sup> April 2022	4,244	3,632	3,632
G	Supply in years	5.45	4.87	2.99
H	Over / under supply	348	-96	-2,448

1.9 It should be noted that the reason for the difference between the Council’s local housing need figure of 742 dwellings and our figure of 710 dwellings is because we have used the latest affordability ratio to calculate the local housing need, which were published in March 2023 after the Council had published its position statement.



## 2. Planning policy context

- 2.1 This section of our statement sets out the relevant planning policy context, which we refer to later.
- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration, which is discussed below.

### Development plan context

#### Existing development plan

- 2.3 The development plan comprises the Cherwell Local Plan 2011 – 31 (Part 1), adopted July 2015 and the Cherwell Local Plan 2011-31 (Part 1) Partial Review – Oxford’s Unmet Housing Need, adopted September 2020.

#### Emerging plan

- 2.4 The latest draft of the Local Plan Review 2040 was taken to the Executive Committee on 19 January 2023. The Council’s website states that:

“a meeting of the council executive took the decision to defer consideration of the item until a later date. This will give the council the opportunity to take on board and respond to comments made at an overview and scrutiny meeting on 11 January before proceeding to public consultation.”

- 2.5 No further updates have been provided. However, it is of note that whilst the Council claims its 5YHLS should be measured against 742 dwellings per annum, the draft Local Plan proposes a housing requirement over the period 2020 to 2040 (i.e. including the 5YHLS period) of 25,587 dwellings (i.e. 1,297 dwellings per annum). This figure comprises 20,180 dwellings for Cherwell and 5,667 dwellings for Oxford’s unmet need. This reflects the objectively assessed need for housing as set out in the Housing and Economic Needs Assessment (HENA, December 2022).
- 2.6 The HENA identifies the local housing need calculated by the standard method and then considers the 2021 Census adjusted scenario, the economic baseline scenario and the economic development led scenario. The HENA makes clear that the local housing need calculated by the standard method does not provide an appropriate level of housing in Oxfordshire. The local housing need does not capture population growth that has occurred in Oxfordshire since 2014 and will not provide sufficient housing to



match the level of job creation expected up to 2040. Nor will it meet the identified need for affordable housing.

## Other material considerations

### National planning policy and guidance

#### The National Planning Policy Framework (“the Framework”)

2.7 The Framework was published in March 2012. It was revised in July 2018, February 2019 and again in July 2021. The relevant sections of the Framework in relation to our statement are:

- Section 5: Delivering a sufficient supply of homes, including:
  - Paragraph 60, which refers to the Government’s objective of significantly boosting the supply of homes;
  - Paragraph 61, which explains that the minimum number of homes needed should be informed by a local housing need calculated using the standard method set out in the PPG;
  - Paragraph 71, in relation to an allowance for windfall sites;
  - Paragraph 74, which explains which figure the five year housing land supply should be measured against and which buffer applies;
  - Paragraph 75, which explains the circumstances in which a five year housing land supply can be demonstrated through a recently adopted plan or subsequent annual position statement; and
  - Paragraph 76, in relation to Housing Delivery Test Action Plans; and
- Annex 2: Glossary, including:
  - The definition of “deliverable” on page 66; and
  - The definition of “windfall sites” on page 73.

#### Planning Practice Guidance (PPG)

2.8 The PPG was first published in March 2014 and has been updated since. The relevant chapters of the PPG in relation to our statement are:

- Chapter 2a - Housing and economic needs assessment;
- Chapter 3 – Housing and economic land availability assessments; and
- Chapter 68 – Housing supply and delivery.





### Cherwell Housing Land Supply Statement (published February 2023)

- 2.9 The Council's Housing Land Supply Statement was published in February 2023. It claims that at 1<sup>st</sup> April 2022, Cherwell had a deliverable five year housing land supply of 4,244 dwellings, which against the local housing need and a 5% buffer equates to a supply of **5.4 years**. It also claims that at 1<sup>st</sup> April 2022 the 5YHLS for Oxford's unmet needs is just 0.2 years.



## 3. Housing Delivery

### Housing Delivery Test

- 3.1 The definition of the Housing Delivery Test (HDT) is provided in the Glossary to the Framework on page 67 as follows:

“Housing Delivery Test: Measures net additional dwellings provided in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England every November”

- 3.2 The HDT is measured as a percentage each year. The following implications apply where the HDT results confirm delivery falls below specific thresholds.
- 3.3 Firstly, as explained in footnote 7 of the Framework, the tilted balance to the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework applies where the HDT indicates that the delivery of housing was “substantially below” the housing requirement over the previous years. The transitional arrangements set out in Annex 1 of the Framework explain that “substantially below” means for the 2018 HDT results below 25%, for the 2019 HDT results below 45% and for the 2020 HDT and beyond below 75%.
- 3.4 Secondly, paragraph 74 and footnote 41 of the Framework explain that where the HDT result is below 85%, the 20% buffer will apply for purposes of calculating the five year housing land supply.
- 3.5 Thirdly, Paragraph 76 of the Framework explains that where the HDT result is below 95%, the local planning authority should prepare an action plan to assess the causes of under delivery and identify actions to increase delivery in future years.
- 3.6 The HDT Measurement Rule Book (July 2018) explains that HDT is calculated as a percentage of net homes delivered against the “number of homes required”. Paragraph 12 then explains that where the latest adopted housing requirement figure is less than five years old, or has been reviewed and does not need updating (which was the case in Cherwell when the latest HDT was published), the figure used will be the lower of:

“EITHER the latest adopted housing requirement, including any unmet need from neighbouring authorities which forms part of that adopted housing requirement. This requirement will be the stepped housing requirement (or the annual average requirement where there is no stepped requirement)...



OR the minimum annual local housing need figure (and any need from neighbouring authorities which it has been agreed should be planned for, and which has been tested at examination) for that authority calculated with a base date of 1<sup>st</sup> April each year”

3.7 The HDT results for 2021 were published on 14<sup>th</sup> January 2022. The result for Cherwell is summarised in the table below:

**Table 3.1 – Published 2021 Housing Delivery Test Result**

	Housing requirement				Housing delivery				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%

3.8 As can be seen from the table above, Cherwell delivered 3,840 new homes over the last three years against a “requirement” over the same period of 2,505 dwellings. This results in a HDT measurement of 153% and means that the HDT has been passed. Consequently, the tilted balance set out in paragraph 11(d) of the Framework is not triggered because of the HDT result, the buffer is not increased to 20% and an action plan is not required.

3.9 We discuss the requirement used in the HDT calculation later in this statement. However, in summary it is the local housing need for Cherwell plus the unmet need from Oxford which is to be addressed in Cherwell. A separate HDT result has not been published for Oxford’s unmet needs to be met in Cherwell.

### Housing delivery against the adopted housing requirement

3.10 The base date of the Cherwell Local Plan is 1<sup>st</sup> April 2011. Between 1<sup>st</sup> April 2011 and 31<sup>st</sup> March 2022, 10,703 dwellings were completed in Cherwell against a housing requirement of 12,562 dwellings. The shortfall at 31<sup>st</sup> March 2022 is therefore 1,859 dwellings as shown in the table below.



Table 3.2: Housing delivery in Cherwell since 2011 against the adopted housing requirement

Year	Requirement (dwellings p.a.)	Completions (net)	Over / under provision	Cumulative
2011/12	1,142	356	-786	-786
2012/13	1,142	340	-802	-1,588
2013/14	1,142	140	-1,002	-2,590
2014/15	1,142	946	-196	-2,786
2015/16	1,142	1,425	283	-2,503
2016/17	1,142	1,102	-40	-2,543
2017/18	1,142	1,387	245	-2,298
2018/19	1,142	1,489	347	-1,951
2019/20	1,142	1,151	9	-1,942
2020/21	1,142	1,192	50	-1,892
2021/22	1,142	1,175	33	-1,859
<b>Total</b>	<b>12,562</b>	<b>10,703</b>	<b>-1,859</b>	
<b>Average</b>	<b>1,142</b>	<b>973</b>		



## 4. The Review of Strategic Policies

### National Planning Policy and Guidance

- 4.1 The second sentence of paragraph 74 of the Framework is within chapter 5: *“Delivering a sufficient supply of homes”* and is under the title: *“Maintaining supply and delivery”*. The second sentence of paragraph 74 of the Framework states:

“Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old”.

- 4.2 Footnote 39 of the Framework is referred to at the end of this sentence and states:

“Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance”.

- 4.3 Paragraph 68-005 of the PPG<sup>1</sup> provides additional guidance. It answers the question: *“What housing requirement figure should authorities use when calculating their 5 year housing land supply?”*. It states:

“Housing requirement figures identified in adopted strategic housing policies should be used for calculating the 5 year housing land supply figure where:

- the plan was adopted in the last 5 years, or
- the strategic housing policies have been reviewed within the last 5 years and found not to need updating.

In other circumstances the 5 year housing land supply will be measured against the area’s local housing need calculated using the standard method.”

- 4.4 Therefore, the basis on which the five year housing land supply is calculated is a binary position. The five year housing land supply should be calculated against either:

- a) the housing requirement set out in adopted strategic policies where:
- i. those policies are less than five years old or

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<sup>1</sup> Paragraph: 005 Reference ID: 68-005-20190722



- ii. are more than five years old but have been reviewed and found not to require updating: or
- b) the local housing need calculated using the standard method set out in national planning guidance where the policies are more than five years old and either:
  - i. have not been reviewed or
  - ii. have been reviewed and found to require updating.

4.5 It is important to note that the Framework does not distinguish between those local planning authorities who have a Local Plan which is less than five years old and those local planning authorities who have a plan which is more than five years old, but the relevant policy has been reviewed and found not to require updating. In both cases, the Framework is clear that the five year housing land supply should be measured against the adopted housing requirement.

4.6 The aim is for all local authorities to have up to date Local Plans and therefore any situation where the five year housing land supply is measured against the local housing need is a “stop gap” until the new Local Plan has been adopted.

#### The review of policy BSC 1: “District Wide Housing Distribution”

4.7 The adopted housing requirement for Cherwell is set out in the Cherwell Local Plan Part 1 (adopted July 2015). Policy BSC 1: “*District Wide Housing Distribution*” sets out that the Cherwell District will provide for 22,840 dwellings between 1<sup>st</sup> April 2011 and 31<sup>st</sup> March 2031. This equates to an annual average of 1,142 dwellings per annum.

4.8 The policy became more than five years old in July 2020. However, the Council continued to calculate 5YHLS against the 1,142 figure (plus shortfall) because a review (for the purposes of footnote 39 of the Framework) took place in 2020 and was approved by the Executive in January 2021 found policy BSC 1 to be up to date. This was based on the latest evidence available at that time including the Strategic Housing Market Assessment (SHMA, 2014). The 2020 review found that the adopted requirement was higher than the local housing need and that it was up to date.

4.9 However, in February 2023, another review took place for the purposes of footnote 39 of the Framework. This concluded that the adopted requirement was out of date. This is because a new Housing and Economic Needs Assessment (HENA) was produced in 2022, which found the SHMA out of date. The second review found that the housing requirement needed updating and this would be done



through a new Local Plan (“Local Plan Review 2040”). In the meantime, 5YHLS should be measured against the LHN of 742 dwellings per annum.

4.10 The latest draft of the Local Plan Review 2040 was taken to the Executive in January 2023 (but not put out to consultation due to the need for further information). It sets out a requirement of 25,587 dwellings over the period 2020-40, (1,000 p.a. for Cherwell and 5,667 dwellings in total for Oxford’s unmet needs). Whilst only a draft, it is relevant that the Council is essentially promoting a drop in the annual requirement for Cherwell (excluding Oxford’s unmet needs) from 1,142 to 742 to then increase again to 1,000 when the new plan is adopted.

4.11 Nevertheless, the February 2023 review confirms that policy BSC1 is out of date and therefore it is agreed that the local housing need for Cherwell should be used in calculating the 5YHLS. The difference between our assessment and the Council is that we conclude that to this should be added the requirement to meet Oxford’s unmet need as we discuss in the following section of this statement.



## 5. Separate or single 5YHLS calculations?

5.1 The Council claims that 5YHLS within Cherwell should be measured with two calculations:

- A calculation provided for Cherwell excluding Oxford's unmet needs; and
- A separate calculation for Oxford's unmet needs.

5.2 Whilst the Local Plan Partial Review states that a separate 5YHLS calculation will be undertaken for Oxford's unmet needs, this plan was examined under the previous (2012) Framework and our firm view is that such an approach is contrary to the current Framework and associated guidance and 5YHLS should be calculated on an administrative area basis.

5.3 It is the Framework that sets out what a 5YHLS is, how it should be calculated and what the consequences are for not being able to demonstrate a 5YHLS, not the development plan. Indeed, were the approach taken in the development plan followed then a 5YHLS could not be identified because it sets out a significantly higher housing requirement than the Council now uses in its calculation. Further, whilst the Local Plan sets out how it intends housing delivery and supply to be measured as set out above, it is the Framework which explains how 5YHLS is to be measured.

5.4 Paragraph 60 of the Framework explains that the Government's objective is to significantly boost the supply of homes. Paragraph 61 of the Framework then states:

*"To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need 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" (emphasis added).*

5.5 Whilst the wording of paragraph 74 of the Framework does not specifically state that a five year housing land supply should be assessed on an "administrative area" basis, this is clearly the case for the following reasons:

- Firstly, paragraph 74 of the Framework sets out a requirement for "local planning authorities" to identify a five year housing land supply. There is no requirement for anyone other than a local planning authority to demonstrate a five year housing land supply. Therefore, there is no requirement for a separate calculation of Oxford's unmet needs to be made. Clearly Oxford's unmet need is not a local planning authority. Indeed, whilst local planning authorities must





update their position on 5YHLS annually, there is no requirement for any other calculation. The Council's approach is clearly inconsistent with paragraph 74 of the Framework;

- Secondly, as set out in footnote 8 of the Framework, the tilted balance to the presumption in favour of sustainable development is only triggered for 5YHLS purposes when a "local planning authority" cannot demonstrate a 5YHLS in accordance with paragraph 74 of the Framework, not when a calculation against unmet needs from another area such as that set out in the Partial Review cannot demonstrate a 5YHLS. In other words, by splitting the housing requirement for Cherwell, the Council is avoiding the application of the tilted balance altogether. On the one hand it claims a 5YHLS against the requirement for Cherwell excluding Oxford's unmet needs and on the other hand there is no mechanism to apply the tilted balance if there is a shortfall against Oxford's unmet needs; and
- Thirdly, the third sentence of paragraph 74 of the Framework explains that the supply of specific deliverable sites should also include a buffer, and this is increased to 20% where there has been significant under delivery of housing over the previous three years by reference to the Housing Delivery Test (HDT). As the HDT is measured on an administrative area basis, the buffer would only be increased to 20% in administrative areas, not for unmet need from another authority. Indeed, the current position statement for Oxford's unmet needs only includes a 5% buffer, despite there being significant under delivery of housing to meet Oxford's unmet needs. This is because there is simply no mechanism in the Framework to increase the buffer for the Oxford's unmet need calculation or indeed apply the presumption in favour of sustainable development due to a HDT result of less than 75%.

5.6 In addition, paragraph 74 of the Framework requires local planning authorities to demonstrate a 5YHLS against their "housing requirement". The Framework does not state that there are separate requirements which a 5YHLS would be assessed against within the same authority.

## How housing delivery in Cherwell is measured

5.7 Within this context, it is also relevant that housing delivery in Cherwell is measured against the local housing need for Cherwell plus a proportion of Oxford's unmet housing need. The local housing need for Cherwell is used even though at the time the HDT results were published the Council had undertaken a review which had found its adopted requirement was up to date. This is because paragraph 12 of the HDT rulebook explains that in such circumstances the lower of either the adopted housing requirement or the local housing need is used. In terms of the unmet need from Oxford, the HDT 2021 measurement technical note states:

"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).

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.

The annual net unmet need for each authority is then added to local housing need in 2018/19, 2019/20 and 2020/21.”

5.8 This can be seen in the latest 2021 HDT result (published January 2022). Cherwell’s requirement for 2018/19 was 974 dwellings. This is calculated as follows:

- 754 dwellings which was the local housing need for Cherwell calculated at 1<sup>st</sup> April 2018; and
- 220 dwellings of Oxford’s unmet housing need (i.e. 4,400 dwellings / 20 year plan period = 220).

5.9 The same approach has been used for 2019/20 and 2020/21 minus one month of requirement in 2019/20 and minus 4 months of requirement in 2020/21 to reflect any impact Covid-19 and associated restrictions had on house building in those years.

5.10 Therefore, on the one hand the Council seeks to split the calculate of its 5YHLS, on the other hand housing delivery is measured in Cherwell based on the administrative area. The following appeal decision in Vale of White Horse is relevant because this issue was considered at appeal which we now discuss.

## Grove appeal decision

5.11 In a recent decision dated 13<sup>th</sup> March 2023 relating to an appeal made by David Wilson Homes against the decision of Vale of White Horse Council’s decision to refuse to grant outline planning permission for up to 300 dwellings at land east of Grove, Grove<sup>2</sup>, the approach to calculating Vale of White Horse’s 5YHLS was considered.

5.12 Vale of White Horse’s adopted housing requirement is set out in its development plan (Core Policy 4 of Local Plan Part 1, adopted in 2016). This is over five years old and had been reviewed and found to require updating. Oxford’s unmet housing need to be addressed in Vale of White Horse was set out in its Local Plan Part 2 (adopted in 2019). The Vale of White Horse therefore calculates its 5YHLS against an annual requirement of 844 dwellings per annum based on:

- 661 dwellings per annum for Vale of White Horse’s local housing need; and
- 183 dwellings per annum for Oxford’s unmet housing need.

5.13 This approach was endorsed by the appeal Inspector as set out in paragraphs 10 to 13 of the appeal decision:

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<sup>2</sup> PINS ref: 3310788



“10. Core Policy 4 of Local Plan Part 1, adopted in 2016, states that the housing requirement for the district is 20,560 dwellings for the period 2011/12 to 2030/31. This strategic policy remains extant. Core Policy Part 4a of the adopted Vale of White Horse Local Plan 2031 Part 2, “Detailed Policies and Additional Sites”, adopted in 2019 (Local Plan Part 2), adds 2,200 dwellings to the Core Policy 4 figure as an allowance towards the unmet needs of the City of Oxford, giving 22,760 dwellings as the total housing requirement for the district over the same period as Local Plan Part 1. Apart from the element that addresses Oxford’s unmet needs, the housing requirement in Core Policy 4a is derived directly from Core Policy 4.

11. The Council has undertaken a review of Local Plan Part 1 under Regulation 10a of the Town and Country (Local Planning) (England) Regulations 2012. The review, which was not challenged, has concluded that Core Policy 4 is more than 5 years old, is out of date, and needs revision, its housing requirement being based on the 2014 strategic housing market assessment (SHMA) which used the 2011 interim household projections to 2021. National policy as set out in paragraph 74 of the National Planning Policy Framework, and Planning Practice Guidance “Housing Supply and Delivery”, state that, where strategic policies are more than 5 years old, the 5 year housing land supply will be measured against the area’s local housing need (LHN), calculated using the standard method. This is directly applicable to Core Policy 4 of Local Plan Part 1.

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. The purpose of the 5 year housing land supply calculation is to ensure that there is at least 5 years’ supply of deliverable housing land based on an up to date calculation of housing need. The more up-to-date figure from LHN should therefore be used.

13. LHN is 636 dwellings per annum, significantly lower than the 1,028 dwellings per annum requirement in Local Plan Part 1. 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 upto-date Oxford Local Plan 2036, adopted in June 2020. Taking the two components together, the total housing requirement for the district, for the purposes of the 5 year housing land supply calculation, is 819 dwellings per annum.”

5.14 We therefore consider the same approach should be applied in Cherwell. Indeed, a consistent approach should be applied across Oxfordshire as we now discuss.



- 5.15 In terms of the Cherwell Local Plan, the Local Plan Inspector's report (June 2015) explains that the plan was found sound on the basis that there was a firm commitment for Cherwell to meet some of Oxford's unmet needs once those needs had been assessed. This would trigger a partial review of the Local Plan. That was set out in main modifications to the Local Plan as set out in paragraphs B.94 to B.96.
- 5.16 Similarly in the Vale of White Horse, the Part 1 Inspector's report (November 2016) explains that there was a need for that authority to also meet Oxford's unmet needs and that would be set out in a Part 2 Local Plan.
- 5.17 In 2016, a memorandum of cooperation was then signed by Oxford Council, South Oxfordshire, West Oxfordshire, Vale of White Horse and Cherwell which explained that the unmet housing need in Oxfordshire was 14,850 dwellings and this would be apportioned as follows:
- Cherwell – 4,400 dwellings;
  - Oxford City – 550 dwellings;
  - South Oxfordshire – 4,950 dwellings;
  - Vale of White Horse – 2,200 dwellings; and
  - West Oxfordshire – 2,750 dwellings.
- 5.18 This then triggered the need for a partial review in Cherwell and provided the figure to be included in the Vale of White Horse's Part 2 Plan. South Oxfordshire and West Oxfordshire were further behind in the plan-making process and therefore their housing requirements in their Local Plans included the unmet need:
- South Oxfordshire's Local Plan (adopted December 2020) sets out a housing requirement of 23,550 dwellings (18,600 to meet its housing needs and 4,950 to meet Oxford's unmet housing need). It has a stepped requirement (900 dwellings per annum 2011/12 - 2025/26, 1,120 dwellings per annum 2026/27 - 2031/32 and 1,110 dwellings per annum 2032/33-2034/35) which the 5YHLS is measured against; and
  - West Oxfordshire's Local Plan (adopted September 2018) sets out a housing requirement of 15,950 dwellings (13,200 to meet its housing needs and 2,750 dwellings to meet Oxford's unmet housing need). It has a stepped requirement (550 dwellings per annum 2011-21, 800 dwellings per annum 2021-23, 975 dwellings per annum 2023-24 and 1,125 dwellings per annum 2024-31.
  - Neither South Oxfordshire nor West Oxfordshire can demonstrate a 5YHLS as has been confirmed at recent appeals.
- 5.19 Therefore, South Oxfordshire's 5YHLS is measured against the adopted housing requirement which includes some of Oxford's unmet housing need. West Oxfordshire's 5YHLS is measured against the adopted housing requirement which includes some of Oxford's unmet housing need. Vale of White



Horse's 5YHLS is measured against a figure which comprises of the local housing need for Vale of White Horse and the housing requirement set out in its Part 2 plan. It is only Cherwell which claims that its 5YHLS should be measured within Cherwell against the local housing need and Oxford's unmet housing need should be calculated separately.

5.20 The approach which the Council uses at the moment is also contrary to the emerging Local Plan for Cherwell which proposes a single housing requirement (including Oxford's unmet housing need) and one annual figure which its 5YHLS will be measured against.

## The 5YHLS requirement for Cherwell

5.21 Following the same approach as in the Vale of White Horse as endorsed by the Grove Inspector, the annual 5YHLS requirement for Cherwell is:

- the annual local housing need for Cherwell; and
- the unmet housing need for Oxford.

## The Local Housing Need for Cherwell

5.22 Paragraph 2a-004 of the PPG<sup>3</sup> explains how local housing need is calculated. There are four steps:

- Step 1 – set the baseline by calculating the projected annual household growth over a 10 year period using the 2014-based household projections with the “current year” being used as the starting point. For Cherwell, the annual household growth from 2023 is 527.3.
- Step 2 – make an adjustment to take account of affordability using the most recent median workplace-based affordability ratios. For Cherwell, the most recent median workplace-based affordability ratio (published 22<sup>nd</sup> March 2023) is 9.55. The affordability adjustment is therefore 1.35. The local housing need for Cherwell is therefore 710 dwellings per annum.
- Step 3 – cap the level of any increase. This is not required in this case because the local housing need is not 40% more than the figure in step 1.
- Step 4 – apply the cities and urban centres uplift – a 35% uplift does not need to be applied because Cherwell is not in the top 20 cities and urban centres list.

5.23 The position is summarised in the following table.

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<sup>3</sup> Paragraph: 004 Reference ID: 2a-004-20201216: “What is the standard method for assessing local housing need?”



**Table 5.1 - Local Housing Need for Cherwell**

	Step 1	Step 2	Step 3	Step 4	
	Projected annual average household growth 2023-33	Adjustment factor	Should the cap be applied ?	Should the City and urban area uplift be applied?	Local housing need
Cherwell	527.3	1.35	No	No	710.21

5.24 Over five years, this equates to 3,550 dwellings (i.e.  $710 \times 5 = 3,550$ ).

### The unmet need for Oxford

5.25 The Local Plan Partial Review states that 4,400 dwellings will be delivered by 2031. This is to be stepped with 340 dwellings per annum 2021-26 and 540 dwellings per annum over 2026-31. In addition, there is a shortfall of 340 dwellings over the period 2021-22. Over five years the requirement is therefore 2,240 dwellings:

- $340 \times 4 \text{ years} = 1,360$  dwellings;
- $540 \times 1 \text{ year} = 540$  dwellings; and
- 340 shortfall.

5.26 This is set out in the Council’s position statement. The annual housing requirement to meet Oxford’s unmet housing need is 448 dwellings (i.e.  $2,240 / 5 = 448$ ).

### The 5YHLS requirement plus 5% buffer

5.27 The total five year requirement is therefore 5,790 dwellings (i.e.  $3,550 + 2,240$ ). In addition, a 5% buffer should be applied meaning that the 5YHLS supply to be demonstrated is 6,079.5. The annual requirement is therefore 1,216 dwellings per annum. Against this, the Council cannot demonstrate a 5YHLS on its supply figure (of 4,244 dwellings in Cherwell plus 80 dwellings in the Partial Review). This is shown in the following table. However, as we set out in the following section, the extent of the deliverable 5YHLS is disputed.



Table 5.2 5YHLS using Council's figure

A	Annual housing requirement	710 + 380
B	Five year requirement (A X 5)	5,450
C	Shortfall to be added	340
D	Five year requirement plus 5% buffer (B + C + 5%)	6,080
E	Annual requirement	1,216
F	5YHLS supply at 1 <sup>st</sup> April 2022	4,244 + 80 = 4,324
G	Supply in years	3.56
H	Over / under supply	-1,756



## 6. The extent of the deliverable supply

- 6.1 As set out above, the Council considers that it can demonstrate a deliverable 5YHLS of 4,324 dwellings (4,244 dwellings in Cherwell excluding Oxford's unmet needs and 80 dwellings in the Partial Review).

### What constitutes a deliverable site?

#### Previous National Planning Policy (2012) and Guidance (2014)

- 6.2 Footnote 11 of the 2012 Framework stated:

“To be considered deliverable, sites 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 and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.”

- 6.3 Paragraph 3-031 of the previous PPG (dated 6<sup>th</sup> March 2014): “What constitutes a ‘deliverable site’ in the context of housing policy?” stated:

“Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within 5 years.

However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the 5-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints (eg infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a 5-year timeframe.

The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust 5-year housing supply.”

- 6.4 Therefore, under the 2012 Framework, all sites with planning permission, regardless of their size or whether the planning permission was in outline or in full were to be considered deliverable until





permission expired unless there was clear evidence that schemes would not be “implemented” within five years. The PPG went further by stating that allocated sites “could” be deliverable and even non-allocated sites without planning permission “can” be considered capable of being delivered.

### Current National Planning Policy and Guidance

6.5 The definition of “deliverable” is set out on page 66 of the Framework (2021) and states:

“Deliverable: 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.”

6.6 The PPG was most recently updated on 22<sup>nd</sup> July 2019. Paragraph 68-007 of the PPG<sup>4</sup> provides some examples of the types of evidence, which could be provided to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission. It states:

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- have outline planning permission for major development;
- are allocated in a development plan;
- have a grant of permission in principle; or
- are identified on a brownfield register.

Such evidence, to demonstrate deliverability, may include:

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<sup>4</sup> Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”



- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;
- firm progress with site assessment work; or
- 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.

Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites.”

### Assessment

- 6.7 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition in the 2021 Framework is clear that only sites with detailed consent for major development should be considered deliverable and those with outline planning permission should only be considered deliverable where there is clear evidence that housing completions will begin in five years.
- 6.8 As above, the PPG has been updated to provide some examples of the type of evidence which may be provided to be able to consider that sites with outline planning permission for major development, allocated sites and sites identified on a brownfield register are deliverable.

### Relevant appeal decisions

- 6.9 There have been several appeal decisions which have considered the definition of “deliverable” as set out in the current version of the Framework and whether “clear evidence” has been provided for the inclusion of sites which only have outline planning permission for major development or are allocated without planning permission. Whilst each appeal has been determined on a case by case basis on the evidence before the decision-maker, several themes have arisen in appeal decisions, which is discussed below.

### The absence of any written evidence



6.10 Where no evidence has been provided for the inclusion of category b) sites, the Secretary of State and Inspectors have concluded that these sites should be removed. For example:

- In an appeal decision regarding land off Audlem Road, Stapeley, Nantwich and land off Peter De Stapeleigh Way, Nantwich<sup>5</sup>, the Secretary of State removed 301 dwellings from Cheshire East Council's supply from sites including: *"sites with outline planning permission which had no reserved matters applications and no evidence of a written agreement"* (paragraph 21 of the decision letter dated 15<sup>th</sup> July 2020);
- In an appeal decision regarding land to the south of Cox Green Road, Surrey<sup>6</sup> an Inspector removed 563 dwellings on 24 sites from Waverley Council's supply because the Council had not provided any evidence for their inclusion (paragraphs 22 to 24 of the appeal decision dated 16<sup>th</sup> September 2019);
- In an appeal decision regarding land at Station Road, Stalbridge, North Dorset<sup>7</sup> an Inspector removed 2 large sites from North Dorset's supply (references A02 and A04) because the Council had not provided any up to date information from the developers for these sites and applications for reserved matters had not been made (paragraphs 53 and 57); and
- In an appeal decision regarding land within the Westhampnett / North East Strategic Development Location, North of Madgwick Lane, Chichester<sup>8</sup>, an Inspector removed the second phase of a wider site that is under construction on the basis that an application for reserved matters had not been made for phase 2 and the fact that a major housebuilder was progressing phase 1 was not in itself clear evidence (paragraph 82).

### The most up to date evidence

6.11 Paragraph 68-004 of the PPG<sup>9</sup> explains that for decision-taking purposes, an authority will need to be able to demonstrate a five year housing land supply when dealing with applications and appeals. They can do this in one of two ways:

- "using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);
- 'confirming' the 5 year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework)."

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<sup>5</sup> PINS refs: 2197532 and 2197529

<sup>6</sup> PINS ref: 3227970

<sup>7</sup> PINS ref: 3284485

<sup>8</sup> PINS ref: 3270721

<sup>9</sup> Paragraph: 004 Reference ID: 68-004-20190722: *"How can an authority demonstrate a 5 year supply of deliverable housing sites?"*



6.12 In this case, the Council’s five year housing land supply has not been confirmed through a recently adopted plan or an annual position statement and therefore the latest available evidence should be used. As above, paragraph 68-007 of the PPG also states that *“robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions”*. It also states that the *“current”* planning status of a site is one example of the type of evidence that could be used to support the inclusion of category b) sites. Therefore, the latest available evidence should be used.

6.13 In an appeal regarding land on the east side of Green Road, Woolpit<sup>10</sup>, the Inspector found Mid Suffolk Council’s approach in publishing its AMR and then retrospectively seeking evidence to justify its position *“wholly inadequate”*. Paragraph 70 of the appeal decision states:

*“the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published.”*

6.14 However, evidence can post date the base date. This is because many authorities publish their position statement long after the base date. In an appeal regarding land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands (Milton Keynes)<sup>11</sup>, the Secretary of State agreed with Inspector Gilbert-Woolridge that the latest available evidence should be used when considering deliverability. Paragraph 12 of the Secretary of State’s decision letter dated 25<sup>th</sup> June 2020 states:

*“For the reasons given at IR12.8-12.12 the Secretary of State agrees with the Inspector that it is acceptable that the evidence can post-date the base date provided that it is used to support sites identified as deliverable as of 1 April 2019 (IR12.11)”*.

6.15 Similarly, in a decision regarding land off Darnhall School Lane, Winsford<sup>12</sup>, the Secretary of State agreed with Inspector Middleton that it is appropriate to take into account information received after the base date if it affects sites included in the supply<sup>13</sup>.

6.16 This means for example that sites with outline planning permission at the base date can be included in the five year supply even if there was no clear evidence at the time the position statement was published but an application for reserved matters has since been approved. It also means the latest position can be taken into account where sites have not progressed as the Council’s trajectory claimed at the time the position statement was published.

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<sup>10</sup> PINS ref: 3194926

<sup>11</sup> PINS ref: 3169314

<sup>12</sup> PINS ref: 2212671

<sup>13</sup> Paragraph 344 of the Inspector’s Report and paragraph 15 of the Decision Letter.



6.17 In the Audlem Road appeal<sup>14</sup>, the Secretary of State removed from Cheshire East Council's supply;

“a site where there is no application and the written agreement indicates an application submission date of August 2019 which has not been forthcoming, with no other evidence of progress”. (paragraph 21 of the Decision Letter dated 15<sup>th</sup> July 2020)

6.18 Cheshire East Council's Housing Monitoring Update (HMU) had a base date of 31<sup>st</sup> March 2019 and was published in November 2019. Representations by both parties on the HMU were received with the final comments received on 12<sup>th</sup> February 2020 (DL paragraph 7). Therefore, whilst the written evidence for this site explained a planning application would be made on this site in August 2019 because the application was not forthcoming by the time the decision was made and no other evidence of progress had been provided, the Secretary of State removed the site from the supply.

### The form and value of the evidence

6.19 In the Woburn Sands appeal decision referred to above, the Secretary of State agreed with the Inspector that a proforma can, in principle, provide clear evidence of a site's deliverability (please see paragraph 12 of the decision letter and paragraphs 12.13 to 12.15 of the Inspector's Report). However, the evidential value of the written information is dependent on its content. The Secretary of State and Inspectors have concluded that it is simply not sufficient for Councils to provide agreement from landowners and promoters that their intention is to bring sites forward. The evidence needs to provide a realistic prospect that housing will be delivered on the site within five years.

6.20 For example, in allowing an appeal for 120 dwellings at land east of Gleneagles Way, Hatfield Peverel<sup>15</sup>, the Secretary of State found Braintree Council could not demonstrate a five year housing land supply.

6.21 Braintree Council claimed that it could demonstrate a 5.29 year supply. In determining the appeal, the Secretary of State concluded that the Council could only demonstrate a 4.15 year supply. The reason for this is set out in paragraph 41 of the decision letter (page 7), which states:

“Having reviewed the housing trajectory published on 11 April, the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more, and sites without planning permission do not meet the requirement in the Framework Glossary definition of “deliverable” that there be clear evidence that housing completions will begin on site within five years. He has therefore removed ten sites from the housing trajectory”

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<sup>14</sup> PINS refs: 2197532 and 2197529

<sup>15</sup> PINS ref: 3180729



- 6.22 The ten removed sites are listed in a table provided at Annex D on page 24 of the Secretary of State’s decision letter. Of the ten sites removed from Braintree’s supply, 9 had outline planning permission and the remaining site was an allocated site with a hybrid planning application pending determination. For these sites, Braintree Council had submitted completed forms and emails from landowners, developers and their agents providing the timescales for the submission of reserved matters applications and anticipated build rates. However, the Secretary of State removed these sites because he did not consider they met the definition of “deliverable” as set out in the Framework.
- 6.23 As part of its case in seeking to defend an appeal against its decision to refuse to grant outline planning permission for up to 140 no. dwellings at land off Popes Lane, Sturry<sup>16</sup>, Canterbury City Council claimed that it could demonstrate a 6.72 year supply. For there to be a shortfall in the supply, Canterbury Council claimed that some 1,654 dwellings (out of 6,455 dwellings) would have to be removed from the “deliverable” supply.
- 6.24 The Inspector, however, found that the Council could not demonstrate a five year housing land supply. The Inspector concluded that the deliverable supply was 4,644 dwellings, which equates to 4.8 years. The reason why the Inspector concluded that the deliverable supply was 1,811 dwellings (28%) less than the Council claimed was because he found that 10 sites should be removed from the supply because:

“there is insufficient clear evidence to show that they meet the NPPF’s definition of deliverable. Sites which are not deliverable cannot be counted as part of the supply for the purposes of meeting the 5-year requirement.” (paragraph 23)

- 6.25 In this case, Canterbury Council had provided statements of common ground between the Council and the developer or landowner to support the inclusion of several of the disputed sites. However, the Inspector found that the statements of common ground did not demonstrate that the development prospect was realistic. Paragraph 23 of the appeal decision states:

“For a number of the disputed sites, the Council’s evidence is founded on site-specific SCGs which have been agreed with the developer or landowner of the site in question. I appreciate that the PPG refers to SCGs as an admissible type of evidence, and I have had full regard to that advice. But nevertheless, the evidential value of any particular SCG in this context is dependent on its content. In a number of cases, the SCGs produced by the Council primarily record the developer’s or landowner’s stated intentions. Without any further detail, as to the means by which infrastructure requirements or other likely obstacles are to be overcome, and the timescales involved, this type of SCG does not seem to me to demonstrate that the development prospect is realistic. In addition, most of the site-specific SCGs are undated, thus

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<sup>16</sup> PINS ref: 3216104



leaving some uncertainty as to whether they represent the most up-to-date position.”

- 6.26 Similarly, as part of its case in seeking to defend an appeal made by Parkes Ltd against its decision to refuse to grant outline planning permission for up to 53 dwellings at land to the south of Cox Green Road, Rudgwick<sup>17</sup>, Waverley Council claimed it could demonstrate a supply of 5,708 dwellings, which equated to just under 5.2 years against its housing requirement and buffer.
- 6.27 The Inspector concluded that the supply should be reduced by 928 dwellings and therefore that Waverley Council could only demonstrate a “deliverable” supply of 4.3 years. The reasons why the Inspector considered the supply should be reduced are set out in paragraphs 10 to 27 of the appeal decision. We note that whilst Waverley Council’s assumptions of delivery on a site at Dunsfold Park relied on estimated numbers of delivery from a pro-forma returned by the site’s lead developer, the Inspector however considered that the details contained within it were “scant”. There was no explanation as to how the timings of delivery could be achieved including the intended timescales for submitting and approving reserved matters, applications of discharge of conditions, site preparation and installing infrastructure. The Inspector therefore did not include the site.
- 6.28 In an appeal for up to 181 dwellings at land at Caddywell Lane / Burwood Lane, Great Torrington, Devon<sup>18</sup>, Inspector Harold Stephens concluded that Torridge Council could not demonstrate a five year housing land supply. Paragraphs 56 and 57 of the appeal decision state:

“56. I have also had regard to the updated PPG advice published on 22 July 2019 on ‘Housing supply and delivery’ including the section that provides guidance on ‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions.”

This indicates the expectation that ‘clear evidence’ must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

57. Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are the planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed

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<sup>17</sup> PINS ref: 3227970

<sup>18</sup> PINS ref: 3238460



pro-forma from a developer or agent does not in itself constitute 'clear evidence'. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward" (emphasis added)

6.29 Similarly, in a recent appeal decision dated 25<sup>th</sup> June 2021 regarding an appeal made by Senior Living (Sonning Comon) Ltd and Investfront Ltd against the decision of South Oxfordshire District Council to refuse to grant planning permission for a care village of up to 133 units at Little Sparrows, Sonning Common, Oxfordshire 19, Inspector Harold Stephens found that South Oxfordshire could not demonstrate a deliverable supply because it had not provided the necessary clear evidence. Paragraphs 20 and 21 of the appeal decision reflect paragraphs 56 and 57 of the Great Torrington appeal decision above.

6.30 Finally, in an appeal decision dated 25<sup>th</sup> August 2022 regarding an appeal made by Salter Property Investments Ltd against the decision of Exeter City Council to refuse to grant outline planning permission for up to 93 dwellings at land off Spruce Close, Exeter<sup>20</sup>, the Inspector found:

- The pro-formas used by Exeter in that case were undated, unsigned and deficient (paragraph 39);
- That 2 sites with outline planning permission and no reserved matters applications pending and no clear evidence for their inclusion should be removed (paragraphs 40 and 41); and
- That even where reserved matters application had been made, where those applications are subject to outstanding objections and there is no written agreement with the developer, the sites should not be included because no clear evidence had been provided (paragraphs 42 and 43).

6.31 In summary, the above appeal decisions found that sites with outline planning permission for major development and allocated sites without planning permission should not be included in the deliverable supply where the respective Councils had failed to provide the clear evidence required. They are relevant because in this case, Cherwell Council has chosen not to publish any site-specific evidence for the inclusion of several sites which are within category b) of the definition of deliverable.

6.32 We now set out our assessment of the Council's 5YHLS.

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<sup>19</sup> PINS ref: 3265861

<sup>20</sup> PINS ref: 3292721





## 7. Assessment of sites

### Sites without planning permission

- 7.1 The Council's five year supply includes 170 dwellings on 3 sites without planning permission at the base date which we dispute, as follows.

**Table 7.1 – Disputed sites without planning permission**

LPA ref:	Address	Capacity (Net)	LPA 5YHLS	EP 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
		<b>Total</b>	<b>170</b>	<b>0</b>	<b>-170</b>

- 7.2 We discuss these sites as follows.

### Bicester 12 – South East Bicester (Wretchwick Green)

Capacity = 1,500 dwellings, Council's 5YHLS = 50 dwellings

- 7.3 At the base date, the site did not have planning permission. An outline planning application for up to 1,500 dwellings, up to 7ha of B1 employment land, a local centre with retail and community uses and a primary school was submitted in June 2016 and was pending determination at the base date.

#### Current planning status?

- 7.4 An outline planning application for up to 1,500 dwellings was submitted on 28 June 2016 and eventually approved on 20 May 2022 (ref: 16/01268/OUT). No applications for reserved matters have been submitted to date.



### **Firm progress being made towards the submission of an application?**

- 7.5 The Council has provided no clear evidence of firm progress being made to demonstrate that firm progress is being made towards the submission of a reserved matters application.

### **Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

- 7.6 There is no written agreement from the developer. The Council's 5YHLS statement simply states:

“Site is promoted by Boyer Planning on behalf of Redrow Homes/Wates. Outline planning permission is recently secured and conditions are being discharged indicating ongoing commitment to delivery. The expected delivery rates allow sufficient lead-in time for Reserved Matters approvals and construction. This is a developable site and will be kept under review”

- 7.7 We note that the Council considers this is a “developable” site, yet it includes 50 dwellings in the deliverable 5YHLS in year 5 (2026/27).

### **Firm progress with site assessment work?**

- 7.8 No clear evidence of firm progress with site assessment work has been provided.
- 7.9 In August 2022, an application was made to discharge conditions 21 (Flood Storage Compensation), 25 (Construction Environmental Management Plan), 26 (Landscape and Ecology Management Plan) & Partial discharge of conditions (relating to the Nature Conservation Area only) 17 Construction Method Statement), 18 (Construction Traffic Management Plan), 19 (Watercourses), 20 (SuDS Management and Maintenance Plan) 22 (Arboricultural Method Statement), 23 (Archaeological Written Scheme of Investigation), 24 (Programme of Archaeological Mitigation) and 28 (Ecological Buffer Zone) of 16/01268/OUT. This application (LPA ref: 22/02559/DISC) was withdrawn in November 2022.
- 7.10 In July 2022, an application was made to discharge condition 10 of the outline planning permission relating to the masterplan and the design code. This application has still not been determined and is subject to outstanding objections including from the Environment Agency in relation to ecological buffer zones.
- 7.11 An application to discharge the condition relation to a phasing plan (condition 9) has not been made and therefore the phasing of this very large site is not known.



### Clear relevant information about viability, ownership constraints or infrastructure provision?

7.12 No clear relevant information on any of these issues has been provided. Given the size of the site, the provision of key infrastructure is an important consideration in relation to the delivery / deliverability of this site.

### Summary

7.13 This very large site only has outline planning permission. No applications for reserved have been made to date and a written agreement from the developer has not been provided. In such circumstances, the Secretary of State removed sites from Cheshire East's supply in the Nantwich case discussed above.

7.14 There is no clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application. Whilst an application to discharge the condition relating to the design code / masterplan, this is still pending determination. An application for reserved matters cannot be made until a phasing plan has been approved but an application to discharge that condition has not been made.

7.15 Therefore, the Council has not provided any "clear evidence" of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The evidence that it has provided is not "clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of "deliverable" as set out on page 66 of the Framework and should be removed from the supply. This results in a deduction of **50 dwellings** from the Council's supply.

## 15/01357/F – Former RAF, Upper Heyford

Capacity = 89 dwellings, Council's 5YHLS = 89 dwellings

7.16 This is part of a very large site known as Heyford Park. At the base date, this part of the site did not have planning permission. A full planning application for 89 dwellings was submitted on 20 July 2015, which validated on 24<sup>th</sup> September 2021 and was pending determination at the base date.

### Current planning status?

7.17 A full planning application for 89 dwellings was submitted on 20 July 2015 (ref: 15/01357/F). The application was determined at planning committee on 13 January 2022 where it was recommended for approval subject to the signing of a Section 106 agreement. However, the S106 has still not been signed over 1 year later.



### **Firm progress being made towards the submission of an application?**

- 7.18 As above, a full planning application was submitted almost 8 years ago and has still not been approved. There is no clear evidence of firm progress being made towards the submission of applications to discharge the conditions.

### **Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

- 7.19 No written agreement between the LPA and the developer (Pye Homes) has been provided. The Council's position statement simply states:

“A full application for 89 homes on a greenfield site within the strategic allocation by Pye Homes was approved subject to legal agreement on 13 January 2022 discussions are ongoing and are likely to be resolved allowing the site to come forward.”

- 7.20 It is not known what the ongoing discussions are related to or why the S106 has still not been signed over a year later.

### **Firm progress with site assessment work?**

- 7.21 No clear evidence of firm progress with the site assessment work has been provided. This is not surprising because the decision notice has still not been issued. However, draft condition 3 requires the submission of and approval of details relating to an on-site sewage treatment plant before development can commence, which is of relevance.

### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

- 7.22 No evidence has been provided. Given this site forms part of the overall Heyford Park development, the infrastructure provision for this part of the site is clearly relevant in terms of assessing deliverability.

### **Summary**

- 7.23 The site does not have planning permission. A full planning application for 89 dwellings was submitted almost 8 years ago. Whilst the application was recommended for approval at planning committee in January 2022 subject to the signing of a Section 106 agreement, the S106 has been signed to date, over 1 year later. There is no clear evidence to suggest that firm progress is being made towards the signing of a Section 106 agreement.
- 7.24 Therefore, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site



fails to meet the definition of “deliverable” as set out on page 66 of the Framework and should be removed from the supply. This results in a deduction of **89 dwellings** from the Council’s supply.

## 21/03523/OUT – Former RAF, Upper Heyford

Capacity = 31 dwellings, Council’s 5YHLS = 31 dwellings

7.25 This site also forms part of the larger site known as Heyford Park, discussed above. At the base date, the site did not have planning permission. An outline planning application for 31 dwellings was submitted in October 2021 and was pending determination at the base date.

### Current planning status?

7.26 An outline planning application for 31 dwellings was submitted on 14 October 2021 and is still pending determination (ref: 21/03523/OUT). The application was heard at planning committee on 10 March 2022 where it was recommended for approval subject to the signing of a Section 106 agreement. However, no S106 has been signed to date, over 1 year later.

### Firm progress being made towards the submission of an application?

7.27 There is no clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application. This is not surprising as it is unknown if/when the Section 106 agreement will be signed and the outline planning permission issued.

### Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

7.28 No written agreement between the LPA and the developer (Pye Homes) has been provided. The Council’s 5YHLS position statement simply states:

“An outline application for 31 homes on land within the allocation as part of a potential development area by Pye Homes was approved subject to legal agreement on 10 March 2022. The expected delivery rates allow sufficient lead-in time for Outline and Reserved Matters approvals and construction time”

### Firm progress with site assessment work?

7.29 No clear evidence of firm progress with any site assessment work has been provided.

### Clear relevant information about viability, ownership constraints or infrastructure provision?

7.30 No evidence has been provided. As above, the S106 agreement has not been signed and it is not known when it will be.



## Summary

- 7.31 The site does not have planning permission. An outline planning application has been pending determination for 1.5 years. The application was determined at planning committee on 10 March 2022 where it was recommended for approval subject to the signing of a Section 106 agreement. However, the S106 has still not been signed to date, over 1 year later. Even if the S106 is signed and outline consent is granted, a reserved matters application will still need to be submitted to and approved by the Council and no details of this have been provided.
- 7.32 Therefore, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework and should be removed from the supply. This results in a reduction of **31 dwellings** from the Council’s supply.

## Sites with outline planning permission

- 7.33 The Council’s five year supply includes 665 dwellings on 6 sites with outline planning permission at the base date which we dispute, as follows.

**Table 7.2 – Disputed sites with outline planning permission**

LPA ref:	Address	Capacity (Net)	LPA 5YHLS	EP 5YHLS	Difference
Bicester 2	Graven Hill	1,095	150	0	-150
Banbury 17	South of Salt Way	1,000	350	237	-113
Bicester 1	North West Bicester Phase 2	500	20	0	-20
Bicester 10	Bicester Gateway Business Park, Wendlebury Road	273	80	0	-80
Bicester 3	South West Bicester Phase 2	60	60	0	-60
Banbury 5	North of Hanwell Fields	5	5	0	-5
		<b>Total</b>	<b>665</b>	<b>237</b>	<b>-428</b>



7.34 Our assessment of these sites is set out below.

## **Bicester 2 – Graven Hill**

**Capacity = 1,095 dwellings, Council's 5YHLS = 150 dwellings**

7.35 This is a self-build village. At the base date, the site had outline planning permission for 1,900 dwellings. A series of reserved matters applications have been approved and there have been 439 completions prior to the base date. 350 dwellings are included elsewhere in the 5YHLS. This part of the site relates to the part with outline planning permission.

### **Current planning status?**

7.36 An outline planning application for 1,900 dwellings was submitted on 03 October 2011 and approved on 08 August 2014. A Local Development Order for 198 dwellings was adopted on 15 December 2015 (ref: 15/01670/LDO). This was revised on 18 January 2017 (ref: 16/02197/LDO) and again on 20 December 2017 to extend the land to which the Order applies to cover 276 plots (ref: 17/02107/LDO). A further LDO was then adopted on 20 November 2020, to extend the time limit for implementation to December 2023 (ref: 20/02345/LDO).

7.37 Since the original LDO was adopted, over 100 reserved matters applications have been approved, totaling 680 dwellings.

7.38 In addition, a reserved matters application for 93 dwellings was submitted on 01 August 2022 and is pending determination (22/02312/REM).

7.39 The Council's trajectory states that 439 dwellings have been completed on the wider site to date. Therefore, 241 dwellings remain with detailed planning permission, with a further 93 dwellings pending determination (i.e., a total of 334 dwellings). However, the Council already includes 350 dwellings from this site separately in the supply.

7.40 No further reserved matters applications have been made to date.

### **Firm progress being made towards the submission of an application?**

7.41 No clear evidence has been provided to demonstrate that firm progress is being made towards the submission of any further reserved matters applications.



### **Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

- 7.42 No written agreement with the developer(s) has been provided. The Council's position statement simply states that 1,095 dwellings remain with outline planning permission and of these the Council includes 150 dwellings in its 5YHLS. This is not clear evidence of deliverability.

### **Firm progress with site assessment work?**

- 7.43 No clear evidence of firm progress with site assessment work has been provided.

### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

- 7.44 No clear evidence on any of these points has been provided.

### **Summary**

- 7.45 Whilst 241 dwellings remain with detailed planning permission, with a further 93 dwellings pending determination (i.e., a total of 334 dwellings); the Council already includes 350 dwellings from this site separately in the supply. Therefore, the remainder of the site only has outline planning permission. No further reserved matters applications have been made and there is no clear evidence to demonstrate that firm progress is being made towards the submission of any further reserved matters applications.
- 7.46 Therefore, the Council has not provided any "clear evidence" of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The evidence that it has provided is not "clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of "deliverable" as set out on page 66 of the Framework and should be removed from the supply. This results in a reduction of **150 dwellings** from the Council's supply.

## **Banbury 17 – South of Salt Way**

**Capacity = 1,000 dwellings, Council's 5YHLS = 350 dwellings**

- 7.47 At the base date, the site had outline planning permission for up to 1,000 dwellings.

### **Current planning status?**

- 7.48 An outline planning application for up to 1,000 dwellings was submitted on 17 November 2014 and approved on 19 December 2019 (ref: 14/01932/OUT).
- 7.49 A reserved matters application for 237 dwellings was submitted on 11 July 2022 and has been recently approved (ref: 22/02068/REM).





### **Firm progress being made towards the submission of an application?**

7.50 As above, a reserved matters application for part of the site has been approved. No clear evidence of firm progress being made towards other reserved matters applications has been provided.

### **Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

7.51 The Council's statement states that:

“Outline permission for the Gallagher Estates' 1000 homes is secured. This covers the remaining area of the site which is the majority of the strategic allocation. L&Q Estates will perform the role of master developer for the site. L&Q to service the sites themselves and sell land parcels to housebuilders. The expected delivery rates is based on a peak of 5 developers, 50 homes per year per developer. It also allows sufficient lead-in time for Reserved Matters approvals based on historic data for Banbury. Reserved matters for parts of the development permitted in 2021 and 2022. Reserved matters for two of the development parcels is currently pending under reference 22/02068/REM. Initial notice submitted to Building Control for full 1,000 home development in December 2021.”

7.52 However, no written agreement with a developer has been provided.

### **Firm progress with site assessment work?**

7.53 No clear evidence of firm progress on site assessment work has been provided. Whilst some site assessment work has been undertaken as part of the pending reserved matters application, other conditions on the outline planning permission have not been discharged.

### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

7.54 Reserved matters consent has been granted for a spine road to serve the development. No information has been provided regarding viability or ownership constraints.

### **Summary**

7.55 The site has outline planning permission for up to 1,000 dwellings. And detailed consent for 237 dwellings. No clear evidence has been provided to demonstrate how these will be addressed. No clear evidence of firm progress with other reserved matters applications has been provided.

7.56 Therefore, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site



fails to meet the definition of “deliverable” as set out on page 66 of the Framework and should be removed from the supply. This results in a deduction of **113 dwellings** from the Council’s supply.

## **Bicester 1 – North West Bicester Phase 2**

**Capacity = 500 dwellings, Council’s 5YHLS = 20 dwellings**

7.57 At the base date, the site had outline planning permission for 1,700 dwellings. A reserved matters application for 500 dwellings was submitted on 05 July 2021 and was pending determination at the base date.

### **Current planning status?**

7.58 An outline planning application for 1,700 dwellings was submitted on 19 December 2014 and approved on 30 January 2020 (ref: 14/02121/OUT). A reserved matters application for 500 dwellings was submitted on 05 July 2021 however the application was withdrawn on 03 November 2022 (ref: 21/02339/REM).

7.59 No further reserved matters applications for residential development have been made.

### **Firm progress being made towards the submission of an application?**

7.60 There is no clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application.

### **Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

7.61 No written agreement with the developer has been provided.

### **Firm progress with site assessment work?**

7.62 No clear evidence of firm progress with site assessment work has been provided.

### **Clear relevant information about viability, ownership constraints or infrastructure provision?**

7.63 The Council’s evidence states that:

“A Reserved Matters application (21/02339/REM) for 500 of the 1700 homes (forming phase 1) was submitted on behalf of Countryside Properties in July 2021 and was subsequently withdrawn. A variation to the condition requiring submission of the condition requiring submission of the RM has been approved and discussions with the developer are ongoing to find a resolution. To support NW Bicester, 2 bridges



were installed under the railway at the start of April 2021. The delivery of roads is to follow and work is ongoing to resolve any funding gaps. The Reserved Matters application on this parcel is unlikely to be restricted by the supporting road infrastructure. **However, due to the delay this site is now considered developable, rather than deliverable as per the 2021 HDM.**” (Emphasis added)

7.64 Therefore, the Council’s own evidence is this site is not considered deliverable.

### Summary

7.65 The site has outline planning permission for up to 1,700 dwellings. Whilst a reserved matters application for 500 dwellings was made in July 2021, the application was subsequently withdrawn. No further reserved matters applications for residential development have been made, nor has any evidence been provided to suggest that progress is being made towards the submission of a reserved matters application. The Council’s own evidence states that the site does not meet the definition of deliverable.

7.66 Therefore, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework and should be removed from the supply. This results in a reduction of **20 dwellings** from the Council’s supply.

## Bicester 10 – Bicester Gateway Business Park, Wendlebury Road

Capacity = 273 dwellings, Council’s 5YHLS = 80 dwellings

7.67 At the base date, the site had outline planning permission for a mixed-use development, including 273 dwellings. No reserved matters applications had been made at the base date.

### Current planning status?

7.68 An outline planning application for a mixed-use development, including 273 dwellings and 4,400 sq m of B1 floorspace, was approved on 10 April 2021. A reserved matters application for Class E units was approved on 11 November 2022 (ref: 22/02025/REM). No further reserved matters applications have been made to date.

### Firm progress being made towards the submission of an application?

7.69 There is no clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application. The Council’s evidence states that:



“Outline planning permission is secured. Bloomridge plan to submit a full residential application on the site in Q2 2023 and therefore the expected delivery rates allow sufficient lead-in time for Reserved Matters approvals and construction. This is therefore a deliverable site.”

7.70 However, no evidence has been provided to support this and an application has not been made.

**Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

7.71 No written agreement between the LPA and the developer has been provided.

**Firm progress with site assessment work?**

7.72 No evidence of firm progress with site assessment work has been provided.

**Clear relevant information about viability, ownership constraints or infrastructure provision?**

7.73 No clear evidence in relation to these issues have been provided.

**Summary**

7.74 The site has outline planning permission for 273 dwellings. No reserved matters applications in respect of residential development have been made to date. There is no clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application.

7.75 Therefore, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework and should be removed from the supply. This results in a reduction of **80 dwellings** from the Council’s supply.

## **Bicester 3 – South West Bicester Phase 2**

**Capacity = 60 dwellings, Council’s 5YHLS = 60 dwellings**

7.76 At the base date, the site had outline planning permission for 60 dwellings. No reserved matters applications had been made.

**Current planning status?**

7.77 Outline planning permission for 709 dwellings was granted on 30 May 2015. The following reserved matters applications have been approved, totaling 649 dwellings:



- 18/01777/REM - RM for 176 approved 01 March 2019
- 18/00647/REM - RM 247 dwellings approved 16 Oct 2018
- 19/02225/REM - RM 226 dwellings approved 16 March 2020

7.78 The Council’s evidence states that there are 60 dwellings remaining with outline planning permission. No further reserved matters applications have been made to date.

**Firm progress being made towards the submission of an application?**

7.79 No clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application.

**Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?**

7.80 A written agreement between the LPA and the developer has not been provided. The Council’s statement simply states:

“Outline permission for up to 709 homes was secured on 30 May 2017. 60 homes remain as commitments under this Outline permission.”

7.81 This is not clear evidence of deliverability.

**Firm progress with site assessment work?**

7.82 No evidence has been provided.

**Clear relevant information about viability, ownership constraints or infrastructure provision?**

7.83 No evidence has been provided.

**Summary**

7.84 The wider site has outline planning permission for 709 dwellings, of which 649 dwellings have reserved matters consent and have been completed. Therefore, 60 dwellings remain with outline planning permission. No reserved matters applications in respect of the remaining dwellings have been submitted to date. There is no clear evidence to demonstrate that firm progress is being made towards the submission of a reserved matters application.

7.85 Therefore, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site



fails to meet the definition of “deliverable” as set out on page 66 of the Framework and should be removed from the supply. This results in a reduction of **60 dwellings** from the Council’s supply.

## Banbury 5 – North of Hanwell Fields

Capacity = 5 dwellings, Council’s 5YHLS = 5 dwellings

7.86 At the base date, the site had outline planning permission for 46 dwellings (45 net dwellings) and reserved matters consent for 40 dwellings. This entry in the supply concerns the remaining 5 dwellings with outline planning permission.

### Current planning status?

7.87 An outline planning application for 45 net dwellings was granted on 18 March 2020 (ref: 18/01206/OUT). A reserved matters application for 40 dwellings was subsequently approved on 18 November 2021 (ref: 21/00056/REM).

7.88 No further reserved matters applications have been made to date.

### Firm progress being made towards the submission of an application?

7.89 There is no evidence to suggest that firm progress is being made towards the submission of a reserved matters application.

### Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

7.90 No evidence has been provided.

### Firm progress with site assessment work?

7.91 No evidence has been provided.

### Clear relevant information about viability, ownership constraints or infrastructure provision?

7.92 No evidence has been provided.

### Summary

7.93 The site has outline planning permission for 5 dwellings. No reserved matters applications have been made to date. There is no evidence to suggest that firm progress is being made towards the submission of a reserved matters application.



7.94 Therefore, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework and should be removed from the supply. This results in a reduction of **5 dwellings** from the Council’s supply.

## Other sites

7.95 We also dispute the inclusion of the following site.

### 18/00487/F – Land to the rear of 7 and 7A High Street

Capacity = 14 dwellings, Council’s 5YHLS = 14 dwellings

7.96 At the base date, the site had full planning permission for 14 dwellings, however the permission expired on 20 March 2023.

#### Current planning status?

7.97 A full planning application for 14 dwellings was granted on 20 March 2020 (ref: 18/00487/F). However, no pre-commencement conditions were discharged and the consent expired in 20 March 2023.

7.98 No further applications have been submitted to date.

#### Firm progress being made towards the submission of an application?

7.99 There is no clear evidence to demonstrate that firm progress is being made towards the submission of a planning application.

#### Written agreement between the LPA and the developer confirming their anticipated start and build-out rates?

7.100 No evidence has been provided.

#### Firm progress with site assessment work?

7.101 No evidence has been provided.

#### Clear relevant information about viability, ownership constraints or infrastructure provision?

7.102 The Council’s evidence states:



“The developer has indicated the plans are not currently economically viable in the current climate.”

### Summary

- 7.103 Whilst the site previously had full planning permission for 14 dwellings, the permission expired in March 2023. Therefore, the site does not have planning permission. No further applications have been submitted to date, and there is no evidence to suggest that progress is being made towards the submission of an application.
- 7.104 The Council’s evidence states that the developer has indicated that the plans are not currently economically viable.
- 7.105 Therefore, the Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The evidence that it has provided is not “clear evidence that housing completions will begin on site within five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework and should be removed from the supply. This results in a reduction of **14 dwellings** from the Council’s supply.





## 8. Summary of deductions

8.1 In summary, we make the following deductions from the Council's supply.

**Table 8.1 – Summary of deductions from Cherwell's Housing Land Supply at 1<sup>st</sup> April 2022**

Source	Deduction
Sites without planning permission	170
Sites with outline planning permission	428
Other disputed sites	14
<b>Total</b>	<b>612</b>

8.2 We therefore conclude that at 1<sup>st</sup> April 2022, the deliverable supply is 3,632 dwellings (i.e., 4,244 – 612 = 3,632 dwellings).

8.3 In terms of the three sites the Council considers are deliverable in the Partial Review, the Council has not provided clear evidence for their inclusion of any of these sites and they should not be included in the deliverable 5YHLS for the reasons set out in the following table.



**Table 8.2 – Summary of sites in the Partial Review**

Ref (capacity)	Council's evidence	Council's 5YHLS	Comments
PR7a (430 homes)	A Development Brief for the site was approved in June 2022. Outline application (22/00747/OUT) for 370 homes was submitted in March 2022 and is pending consideration. The expected delivery rates allow for lead-in times of planning applications (outline followed by reserved matters) and construction	30	The site does not have outline planning permission and there is no written agreement with the developer or any clear evidence for the inclusion of this site in the 5YHLS.
PR7b (120 homes)	A Development Brief for the site was approved in November 2021. Outline application (22/01611/OUT) for 118 homes was submitted on behalf of a housebuilder (Manor Oak Homes) in May 2022 and is pending consideration. Full application (22/01756/F) for alterations and repairs to farmhouse and annexe; refurbishment and partial rebuilding of existing outbuildings to provide 2 no dwellings and erection of 2 no new dwellings was submitted in June 2022 and is pending consideration. The expected delivery rates allow for lead-in times of planning applications (outline followed by reserved matters) and construction.	20	The site does not have outline planning permission and there is no written agreement with the developer or any clear evidence for the inclusion of this site in the 5YHLS.
PR9 (540 homes)	A Development Brief for the site was approved in November 2021. Outline application (21/03522/OUT) for 540 homes was submitted in October 2021 and is pending consideration. The expected delivery rates allow for lead-in times of planning applications (outline followed by reserved matters) and construction	30	The site does not have outline planning permission and there is no written agreement with the developer or any clear evidence for the inclusion of this site in the 5YHLS.



## 9. Conclusions

9.1 In conclusion, we conclude that the deliverable 5YHLS at 1<sup>st</sup> April 2022 is 3,395 dwellings. We therefore conclude that the 5YHLS at 1<sup>st</sup> April 2022 equates to **2.99 years** against the 5YHLS requirement we have identified and a 5% buffer. However, even on the Council's approach to its 5YHLS requirement, our supply figure equates to **4.87 years**. The position is summarised in the following table.

**Table 9.1 – Cherwell's 5YHLS at 1<sup>st</sup> April 2022**

		Council's published position	Council's approach to requirement and Emery Planning's supply	Emery Planning
A	Annual housing requirement	742	710	710 + 380
B	Five year requirement (A X 5)	3,710	3,550	5,450
C	Shortfall to be added	0	0	340
D	Five year requirement plus 5% buffer (B + C + 5%)	3,896	3,728	6,080
E	Annual requirement	779	746	1,216
F	5YHLS supply at 1 <sup>st</sup> April 2022	4,244	3,632	3,632
G	Supply in years	5.45	4.87	2.99
H	Over / under supply	348	-96	-2,448



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