

Town and Country Planning Act 1990 (as amended)

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

In the following appeal:

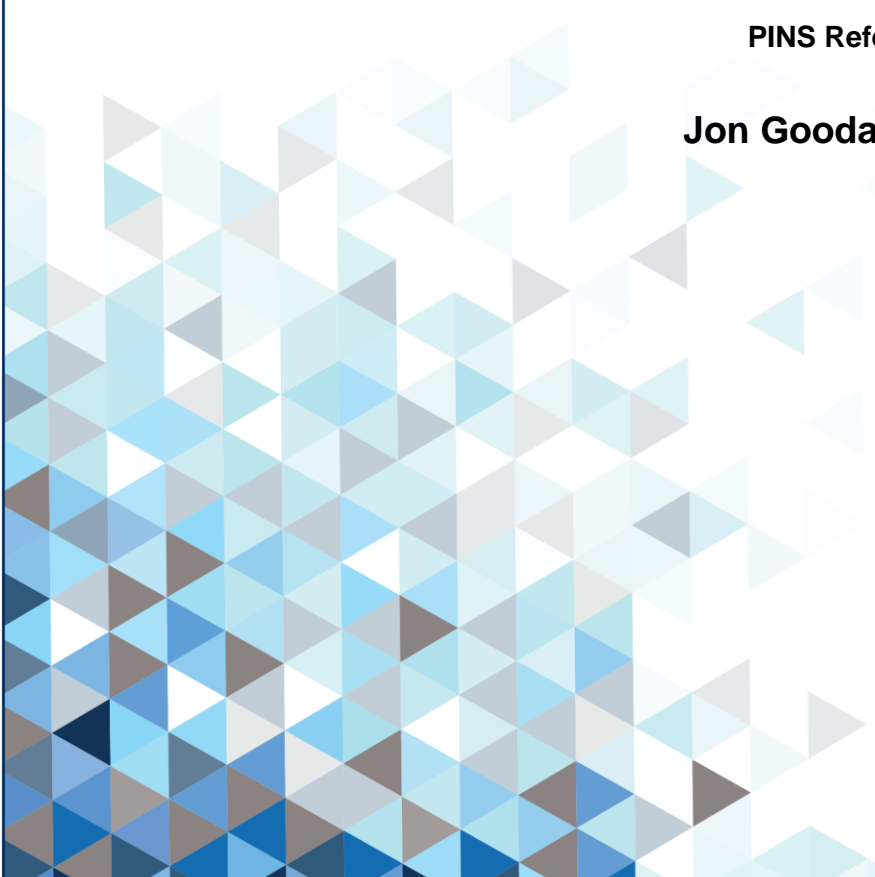
Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from access

**OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of,
Camp Road, Heyford Park**

PINS Reference: APP/C3105/W/23/3326761

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November 2023



Inspectorate Ref: APP/C3105/W/23/3326761

Planning Application Ref: 21/04289/OUT

Appeal Site: OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of, Camp Road, Heyford Park

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

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

**Prepared on behalf of
Cherwell District Council**

**Evidence of
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1.0 EXPERIENCE AND SCOPE OF EVIDENCE


a) Experience

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

b) Scope of this Evidence

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

my true and professional opinions.

Signed	
Name	Jon Goodall MA (Cantab) MSc MRTPI
Position	Director
Date	7 November 2023

2.0 INTRODUCTION

- 2.1 This Proof of Evidence sets out my evidence on behalf of Cherwell District Council (“the Council”) in respect of the appeal submitted by Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles, A L C Broadberry (“the Appellant”) under Section 78(1) of the Town and Country Planning Act 1990 against the Council’s refusal of Planning Permission ref 21/04289/OUT pertaining to land known as OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of, Camp Road, Heyford Park (“the Site”).
- 2.2 The planning application, received by the council on 20th September 2022 sought planning permission for redevelopment of the site, and was described by the council as follows:

“Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from access.”

a) My Instructions on Behalf of the Council

- 2.3 I was approached and have been instructed by Cherwell District Council to give evidence for the purposes of this Appeal. I have been instructed by the Council to present evidence on the Council’s five-year housing requirement and land supply for the purposes of this Inquiry.
- 2.4 I was appointed to act for the Council in this case upon submission of the Appeal and receipt of the Appellant’s Statement of Case. I have subsequently attended the Inspector’s Case Management Conference and commenced engagement with the Appellant regarding a draft Topic Statement of Common Ground.
- 2.5 At the point of submission of this Appeal I was already instructed by the Council to act on housing land supply matters for preceding cases.
- 2.6 The evidence adduced within this proof, save for some minor updates on site specific delivery, follows that adduced by myself for an Appeal against non-determination of proposals at Charlotte Avenue, North West Bicester (APP/C3105/W/23/3315849) (CD/M.17) in May 2023.
- 2.7 Housing land supply and the requirement against which supply should be assessed was a substantive issue in dispute between the parties at the point of submission of written Proofs of Evidence but upon opening the Inquiry the Appellant advised they were content to accept the position of a supply in excess of five years and the written material was thus not tested in detail. While the Inspector does not address housing land supply in detail in their decision letter dated 25 July 2023 it is nonetheless relevant to note the observations at Paragraph 128:
- “128. The main parties have agreed that for the purposes of this appeal, the Council can demonstrate a five year housing land supply. Given the evidence that underpins the identified supply, I have no reason to take an alternative view on this matter. I apply the appropriate planning balance on this basis.” (CD/M.17)*
- 2.8 Prior to my appointment on this first case I undertook my own review of the Council’s most recently published assessment of supply¹. I confirmed my view that on the anticipation that the Appellant would seek to contest the requirement against which supply should be assessed for the purposes of NPPF2023 paragraph 74 I would be able to provide my professional opinion in support of the position published by the Council.
- 2.9 I confirmed I would provide my professional opinion on the assessment of deliverability for any sites subsequently disputed sites by the Appellant and whether this produces a surplus

¹ Housing Land Supply Statement (CD/I.1) published in February 2023

or deficit in the five-year requirement against which supply is to be assessed.

- 2.10 My instructions to prepare evidence on behalf of the Council for this Appeal in respect of the Council's published assessment have been undertaken without prejudice to the Council's normal monitoring practices. This includes updates to the assessment of supply it may provide in the future. The Council has commenced preparation of an updated assessment of deliverable supply against the relevant housing requirement for the period 1 April 2023.
- 2.11 Cherwell District Council's draft Annual Monitoring Report (2022 to March 2023) is provisionally scheduled to be presented to the Council's Executive on Monday 4th December 2023. This document will include an updated assessment of housing land supply. My understanding is that this is dependent on papers being published on line, on Friday 24th November 2023.
- 2.12 Subject to confirmation of any timescale for its publication I acknowledge that the release of any updated of assessment of supply against the relevant requirement may be considered by the Inspector to be material to the determination of the Appeal. Should any updated assessment be published and accepted by the Inspector prior to issue of the Decision Letter I confirm that subject to the Inspector's invitation I reserve my ability to comment further as required.
- 2.13 I confirm that as a result of my instructions for this Appeal my advice extends to that of a 'critical reviewer' for the preparation of the scheduled update of the Housing Land Supply Assessment prior to the Council formally adopting a new published calculation. This includes reviewing the Council's conclusions on the assessment of deliverable supply and summarising its approach to calculation of the five-year requirement.

b) Understanding of the Appellant's Case

- 2.14 As is detailed in the Appellant's Statement of Case, the extent of the disagreement between parties in respect of HLS comprises the following points;
- *The approach taken to calculating supply pertaining to Oxford's unmet need and the approach taken by the Council to calculate supply separately from that pertaining to Cherwell District.*
 - *The application of the tilted balance; and*
 - *The approach taken in respect of buffer further to the outcome of the Housing Delivery Test.*
- 2.15 It follows from the above there is a substantial level of disagreement between the parties in relation to the calculation of the requirement against which supply should be assessed.
- 2.16 The parties agree that the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' (CD/G.3) or "Partial Review" which was adopted on 7 September 2020 and is less than five years old. The parties disagree having regard to the housing requirement within the separate adopted strategic policies of the Partial Review. While the parties agree that these specify a provision of a contribution towards part of Oxford's unmet needs the parties disagree on the relevance of these policies to identifying the requirement against which supply is to be assessed.
- 2.17 In essence the Appellant denies the possibility that the housing requirement within the adopted strategic policies can be applied separately. The Appellant relies on the proposition that where local housing need applies for the purposes of NPPF2023 paragraph 74 a contribution towards unmet needs must be included in a way that provides a single figure for the requirement against which supply must be assessed for the district. The Appellant applies this position irrespective of the nature and status of relevant strategic policies and practice guidance in relation to local housing need.
- 2.18 The Appellant relies on one recent Appeal Decision in the Vale of White Horse ('the Grove Decision') (CD/M.40) and the calculation of the Housing Delivery Test in order to support its propositions. I address these elements of the Appellant's case within my evidence (in Sections 5(f) and 6 respectively). These sections address the relationship with the adopted development plan in Cherwell and provide an assessment of whether the propositions are internally consistent.
- 2.19 At the time of preparing my evidence discussions remain ongoing regarding preparation of a draft Topic SoCG (CD/E.9) that summarises the disagreement between the parties regarding the requirement against which supply should be assessed. The draft Topic SoCG also details that there is a relatively more limited dispute between the parties in relation to the assessment of deliverable supply from specific sites. This equates to -443 dwellings applicable to supply relevant to the Council's case for the housing requirement and -523 dwellings under the Appellant's case for the housing requirement (including the contribution towards part of Oxford's unmet need within a single requirement figure for Cherwell District).
- 2.20 I address the current position regarding disputed supply separately within my Proof of Evidence. At the time of preparing my evidence I am aware that the Appellant has submitted requests for information to the Council regarding identification of the Council's windfall allowance and commitment comprising small sites with planning permission but has not specified any figure for disputed supply.
- 2.21 I reserve the right to respond to any further evidence the Appellant provides in relation to specific sites or the abovementioned components of the supply at the point of exchanging evidence.

3.0 SUMMARY OF RELEVANT ISSUES AND STRUCTURE OF MY EVIDENCE

- 3.1 The structure of the following sections of my proof of evidence is as follows.
- 3.2 In **Section 4** I summarise the Council's published assessment of housing land supply and provide updates in respect of the parties' cases in respect of the calculation of local housing need in accordance with national policy and guidance
- 3.3 In **Section 5** I address the Appellant's case in respect of the housing requirement against which supply should be assessed. I provide a response to the Appellant's case having regard to national policy and guidance, the housing requirement in adopted strategic policies and with reference to relevant Appeal Decisions. I also address the background to plan-making in the authority undertaken to identify sites contributing towards part of Oxford's unmet needs. I further outline that no weight should be given to the Council's emerging Plan for the purposes of the requirement against which supply should be assessed.
- 3.4 In **Section 6** (and Appendix 1) I respond to the Appellant's reliance on the Housing Delivery Test and explain that this is a separate element of national policy.
- 3.5 In **Section 7** I provide a response to the Appellant's case for sites where the Council's assessment of deliverable supply is in dispute based details within the draft Topic SoCG. I do so having regard to relevant policy and guidance.
- 3.6 **Section 8** provides conclusions and should be taken as my Summary Proof of Evidence

4.0 THE COUNCIL'S PUBLISHED ASSESSMENT OF HOUSING LAND SUPPLY

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

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

b) Matters Understood to Be Agreed

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

i) The Application of NPPF2023 Paragraph 74 and Footnote 39

- 4.4 Paragraphs 7 to 19 detail the Council's conclusions that the housing requirement in adopted strategic policies of the Part 1 Local Plan requires updating. The Appellant has indicated that this will be agreed via the draft Topic SoCG (CD/E.9). Local housing need for Cherwell District therefore applies for the purpose of calculating the five-year requirement against which supply should be assessed.

ii) The Appropriate Buffer

- 4.5 The published HLSS confirms a 5% buffer applies (see paragraph 28). This is dealt with in my Section 6 (Housing Delivery Test) to be read together with Appendix 1.

iii) Windfall Allowance

- 4.6 Paragraph 40 confirms that a windfall allowance of 100 dwellings per annum is applied from year 4 of the forecast period only. At the time of preparing my Proof of Evidence the Appellant has not provided any specific figure for the contribution of supply from this component considered to be in dispute.

iv) Lapse Rate

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

c) Matters Understood to be Not Agreed

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

i) Calculation of the Standard Method

4.9 Paragraph 42 and the following table within the HLSS illustrate that the five year requirement is derived from the calculation of a local housing need of 742 dwellings per annum (row b).

4.10 The Council's position for this Appeal provides for a calculation of local housing need of 710 dwellings per annum. This corresponds to the latest inputs to the calculation in accordance with national policy and guidance. The same position was agreed in evidence for the NW Bicester Inquiry (CD/I.8).

4.11 The Appellant does not agree that the latest inputs to the calculation should be used. The justification for the Council's position is provided in sub-section (d) to this section of my evidence.

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

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

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

iii) Assessment of Deliverability and Supply from Specific Sites

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

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

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

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

d) The Calculation of Local Housing Need Using the Standard Method

- 4.17 The wording of the Planning Practice Guidance ('PPG') (ID: 2a-004) is clear that the most recent inputs to the calculation of local housing need using the standard method should be used. Use of the most recent inputs is the means of ensuring that the relevant chapter of the PPG relating to the assessment of housing needs can be applied consistently and objectively for the purposes of decision-taking and the relationship with plan-making (including where relevant strategic policies require updating). The calculation of local housing need is undertaken separately to the base-date for assessing supply.
- 4.18 This Council's approach for this and previous Appeals to rely upon the latest inputs to the calculation of local housing need is supported by relevant Appeal Decisions including the Inspector's reasoning in Paragraphs 53-55 of the Poplar Hill Decision Letter (CD/M.44) (PINS Ref: 3214324).
- 4.19 There are numerous other Appeal Decisions that support the application of the PPG in this way. The conclusions at Paragraph 46 for an Appeal at Sutton Road, Witchford (East Cambridgeshire) (CD/M.50) deal with the application of the current inputs to the calculation of local housing need to an earlier base-date. This followed later conclusions that the requirement in adopted policies requires updating (PINS Ref: 3245551 CD/M.50). An Appeal Decision at Loxley Works, Sheffield where the latest inputs to the local housing need calculation provided the objective means of reflecting all elements of the standard method that applied (including introduction of the urban and cities uplift) irrespective of an earlier base-date (PINS Ref: 3262600 CD/M.47). I address this further below.
- 4.20 The Appellant seeks to introduce a recent appeal decision regarding land south of Post Office Lane, Kempsey, Worcestershire (Malvern Hills)² (CD/M.21) to suggest that the inputs to be used in the calculation would correspond to a figure for local housing need of 742 dwellings per annum. I disagree. I note as follows:
- The Appellant has initially referred to one Appeal Decision to support its position, meaning Inspectors have now issued dissenting views. The position that the current inputs to LHN should be used is one that has been and continues to be expressed in Decision Letters.
 - Several Appellants within the district have continued to agree to use of the most recent inputs (see for example CD/I.8 and CD/I.9 comprising Statements of Common Ground for previous appeals in the district) or had proposed to use them prior to the issue of the abovementioned Malvern Hills Decision Letter.
 - The Kempsey Decision Letter suggests that the PPG should not be read in isolation and that those elements relating to the calculation of local housing need must be considered with reference to the base-date and process for and timings of setting out the assessment of housing land supply. I disagree.
 - The PPG relating to housing needs assessment does itself need to be read and applied consistently in terms of how it applies for decision-taking. For example, PPG ID: 2a-037 introduced the urban and cities uplift for use in decision-taking from June 2021 following a six-month transition. Paragraphs 13 and 21 of the Decision Letter relating to an Appeal at Loxley Works, Sheffield (CD/M.47) illustrate why the urban and cities uplift was applied from this date, using all other current inputs to the local housing need calculation, irrespective of the local planning authority in that case having a 1 April 2020 base-date for the assessment of supply. This is entirely consistent with utilising the latest calculation of local housing need for decision-taking.
 - The Kempsey Decision Letter suggests that to use inputs that post-date the published base-

² PINS ref: 3313440 – 14th August 2023

date for a published assessment could skew details of need and supply. I disagree. In respect of step 1 and the ten-year trend in household projections these are provided by the 2014-based projections to provide stability in the standard method. These projections are not affected by annual completions. In respect of the affordability ratio the metadata³ for this utilise earnings to the year ending April. In that respect the most recent 2022 ratio more closely reflects circumstances at the start of the monitoring period. House prices are based on a year-ending September with an April mid-point. In that respect the 2021 ratio omits six months of data (September 2021 to March 2022) that may have been relevant to circumstances at the base-date of the published assessment. This is not different to the most recent ratio including six months of data within the 2022/23 monitoring year.

- In another recent example with reference to an Appeal at Gotherington, Tewkesbury⁴ (CD/M.46) it is noted that for the purpose of calculating the correct LHN, a ten year period of 2022-2032 (from projections) was utilised, but with the most recent 2022 Affordability Ratio being utilised for the purpose of the adjustment factor. The figure cited in the Decision Letter is summarised in Table 1 below. This approach was agreed between all parties and was not identified as being an erroneous approach by the Inspector.

Table 1. Gotherington Appeal Approach to Calculating LHN

Requirement	
Households 2022 - 2032 (2014 based)	4,372
Average annual household growth (2022-2032)	437.2
Ratio of median house price to median gross annual workplace-based earnings (2022)	9.14
Adjustment factor	1.3213
Annual Local Housing Need (2014 based)	578
Annual Local Housing Need (including buffer)	607
Total Housing Requirement (2022-2027)	3,033

4.21 The summary provided above supports my opinion that the most recent inputs to the calculation of local housing need should be applied. Full details of the calculation of a local housing need of 710 dwellings per annum will be provided within the Topic SoCG currently under preparation but are summarised in Table 2 for completeness.

³ "Affordability ratios calculated by dividing house prices by gross annual earnings, based on the median and lower quartiles of both house prices and earnings. The earnings data are from the Annual Survey of Hours and Earnings which provides a snapshot of earnings at April in each year. Earnings relate to gross full-time individual earnings on a place of work basis. The house price statistics come from the House Price Statistics for Small Areas, which report the median and lower quartile price paid for residential property and refer to a 12 month period with April in the middle (year ending September). Statistics are available at country, region, county and local authority district level in England and Wales." Source: ONS.gov.uk ratio of house price to median workplace based earnings published March 2023

⁴ Dealing also with the relevance of contributions towards unmet needs to the requirement against which supply should be assessed using local housing need

Table 2. Calculation of LHN for Cherwell District Applicable to this Appeal

Requirement	
Households 2023 – 2033 (2014 based)	5,273
Average annual household growth (2022-2032)	527.3
Ratio of median house price to median gross annual workplace-based earnings (2022)	9.55
Adjustment factor	1.346875
Annual Local Housing Need (2014 based)	710
Annual Local Housing Need (including buffer)	746
Total Housing Requirement (2022-2027)	3,728

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

- 4.22 Paragraph 42 of the HLSS and the table that follows detail the assessment of supply versus the requirement for Cherwell District excluding provision for need and supply addressed within the Partial Review.
- 4.23 I have replicated these details in my Table 3 below. For completeness I have illustrated the breakdown of forecast supply by location (Paragraphs 37-40 refer) and with a separate column showing the current calculation of Local Housing Need of 710 dwellings per annum.

Table 3. Supply versus Requirement (Cherwell District LHN)

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

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

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

Table 4. Supply versus Requirement (Oxford’s Unmet Needs following Partial Review)

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

5.0 THE HOUSING REQUIREMENT AGAINST WHICH SUPPLY IS ASSESSED

a) Introduction and Summary of the Council's Case

- 5.1 Within this main section of my Proof of Evidence I address the principal issue between the parties on the matter of housing land supply. This concerns the requirement against which supply should be assessed. On the Council's case – that the five-year requirement is provided by local housing need calculated for Cherwell District – the Appellant's own position on supply (which the Council does not accept) at the point of exchanging evidence would result in a deficit of just 163 units (equivalent to 4.8 years' deliverable supply).
- 5.2 I present the Council's case within the context that it is agreed that the housing requirement in adopted strategic policies relating to the needs of Cherwell District has been reviewed and it is agreed that this requires updating. The first sentence of footnote 39 to paragraph 74 of the NPPF2023 is not engaged. I have therefore not addressed in detail the contents of the Council Regulation 10A Review of Policies (CD/G.11) within my Proof of Evidence. I reserve the right to do so should the Appellant's evidence contradict the agreed position that this results in local housing need forming the basis of the requirement to assess supply.
- 5.3 The Council's case is simple. It is consistent with national policy and accords with the adopted development plan and supported by relevant Appeal Decisions^{5 67}.
- 5.4 NPPF2023 Paragraph 74 is clear regarding the use of local housing need to assess housing land supply in the circumstances of Cherwell District. The calculation of LHN operates housing need purely on administrative boundaries.
- 5.5 The central premise of the Appellant's case is that the application of local housing need alters how supply should be accounted for. This fundamentally conflates need and supply. It is not correct, and it is not supported by either the wording of NPPF2023 paragraph 74, the Planning Practice Guidance or the approach to the standard method calculation.
- 5.6 In the circumstances for Cherwell District the errors with the Appellant's position are compounded by the point that the clear approach to accounting for supply related to Oxford's unmet needs remains as set out in adopted strategic policies of the development plan that are less than five years old and fully consistent with national policy. These provide for a specific approach to managing supply for the housing requirement related to these needs. The approach to managing supply is consistent with the spatial strategy to provide for sustainable development.
- 5.7 The Appellant has not through either the Topic SoCG or its Statement of Case offered evidence that directly supports its approach to alter the management of supply or to disapply the approach to Oxford's unmet needs identified by the housing requirement in adopted strategic policies of the Cherwell Local Plan Partial Review. I nonetheless use this section of my Proof of Evidence to support the Council's position and respond to those elements I understand that the Appellant relies upon for its case. I therefore structure the remainder of this section as follows:
- b. I provide clarification of the housing requirement in adopted strategic policies and their status and operation in Cherwell District
 - c. I clarify the operation of NPPF2023 paragraph 74 with particular emphasis that it cannot change the status of the adopted development plan, and that it contains a

⁵ Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (CD/M.45)

⁶ Part Parcel 0025, Hill End Road, Twynning, Gloucestershire, GL20 6JD, 389971, 237249 PINS Ref: 3284820 (CD/M.48)

⁷ Appeal Ref: APP/G1630/W/23/3314936 Land at Trumans Farm, Manor Lane, Gotherington, Cheltenham (CD/M.46)

clear reference to *policies* (plural)

- d. I summarise national policy in relation to plan-making and provision for unmet needs.
- e. I address the background for and approach to the assessment of supply related to part of Oxford's unmet needs within the separate strategy policies of the Cherwell Local Plan (Part 1) Partial Review – Oxford's Unmet Needs (CD/G.3)
- f. I respond to the Grove Appeal Decision (CD/M.40) relied upon by the Appellants and distinguish between the circumstances in Cherwell District and Vale of White Horse District
- g. I address the emerging Cherwell Local Plan Review 2040 and its evidence base and explain how this does not engage NPPF2023 paragraph 74 with respect to the requirement against which supply is to be assessed
- h. I summarise my response to the Appellant's case

b) The Housing Requirement in Adopted Strategic Policies

5.8 The development plan for Cherwell contains three strategic policies relevant for consideration under paragraph 74 of the NPPF2023:

- **Policy BSC1** from the Cherwell Local Plan (Part 1) (adopted July 2015) (CD/G.1) which has been found to require updating for the purposes of providing the housing requirement in adopted strategic policies in the NPPF2023 paragraph 74 and footnote 39.

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

- **Policies PR1 and PR12a** of the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review - Oxford's Unmet Housing Need' or "Partial Review" (CD/G.3) respectively specify the contribution towards unmet needs (4,400 dwellings) and arrangements for maintaining housing land supply to meet these needs. These policies are less than five years old.

The policy of the NPPF2023 at paragraph 74 and footnote 39, to apply local housing need where the strategic policies are more than five years old and to use the standard method, is therefore not applicable to the housing requirement in the adopted strategic policies of the Partial Review.

5.9 The Maintaining Housing Supply chapter of the Partial Review sets out how the plan is intended to be monitored and is supported by Policies PR12a and PR12b. It states (at paragraphs 5.159 – 5.160) (CD/G.3):

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

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

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

"The Council will manage the supply of housing land for the purpose of constructing

4,400 homes to meet Oxford's needs. A separate five-year housing land supply will be maintained for meeting Oxford's needs." (CD/G.3 my emphasis)

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

"Policy PR12a is concerned with delivery and the maintenance of housing supply. I can see the sense of the Council wanting to separate out their commitment to meeting Oxford's unmet needs from their own commitments in the Local Plan 2015, as set out in the first paragraph of the policy. That would avoid the situation where meeting Oxford's unmet needs could be disregarded because of better than expected performance on the Local Plan 2015 Cherwell commitments, or vice versa." (CD/G.13 my emphasis)

5.12 The Main Modifications supported by the Inspector and required to ensure the Plan was considered sound support these conclusions within the Inspector's Report. At Paragraph 151 of the Inspector's Report the conclusion that "it is maintaining a five-year supply overall that matters" specifically relates to proposed Main Modification 136 that provides a reference to the Housing Trajectory within the Partial Review (at Appendix 3 of the Plan (CD/G.3)). This calculates land supply specifically against the requirement within the adopted strategic policies of the Partial Review.

5.13 The current situation, on the Council's case, is that absent a five-year housing land supply monitored separately from within those sites making a contribution towards part of Oxford's unmet needs the tilted balance would be engaged for the purposes of decision-taking against the policies and allocations provided to meet those needs within the Partial Review. However, it would not be engaged in the remainder of Cherwell District where the standard method is applicable to the requirement against which supply should be assessed.

5.14 To include the policies and allocations specifically identified to meet part of Oxford's unmet needs within the assessment of supply against requirements within a single figure for the District would mean that the tilted balance would be engaged throughout the District giving a presumption in favour of sustainable development in all areas.

5.15 That would materially undermine the spatial strategy of the Council as such an approach would potentially lead to a response to increase supply across the District due to under-delivery against policies and allocations to provide for unmet need in Oxford in the most accessible and well-related locations in the District as identified for this purpose. This would ignore the objectives for the Partial Review and provision to contribute towards part of Oxford's unmet needs.

c) The Application of National Policy in NPPF2023 Paragraph 74

5.16 Paragraph 74 of the NPPF2023 has two limbs. The first limb requires identification of the housing requirement set out in adopted strategic policies for the purposes of paragraph 74.

5.17 Paragraph 74 of the NPPF, not being the adopted development plan, cannot and does not seek to change the housing requirement set out in the adopted development plan. By referring to "*adopted strategic policies*" in the plural, the NPPF contemplates that regard may need to be had to more than one strategic policy.

5.18 Paragraph 74 of the NPPF2023 does not prejudice the flexibility with which relevant strategic policies might be applied for the purposes of applying and assessing deliverable supply against the housing requirement. This is necessarily the case in order that the national policy requirement for the assessment of housing land supply does not hinder support elsewhere

in national policy for either:

- a. joint plan-making arrangements; or
- b. where authorities are required to consider contributions towards needs that cannot be met in neighbouring areas and provide for these needs in a sustainable way.

5.19 The relevant components of the housing requirement in adopted strategic policies may be adopted at different times, across different development plans and subject to different conclusions in terms of how supply should be assessed. Paragraph 74 of the NPPF2023 does not state that the housing requirement in adopted strategic policies must be identified based on the sum of all relevant components. Neither does paragraph 74 state that one set of figures within (or across) given policies should take precedence.

5.20 Any such reading of paragraph 74 would be inconsistent with the relevant legislative framework. Part 8, Section 34 (3) of The Town and Country Planning (Local Planning) (England) Regulations 2012 requires that:

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

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

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

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

5.21 Contributions towards unmet needs are an outcome from the preparation of strategic policies and a component of the development plan. These contributions only result from testing as part of the development plan process. This results in their inclusion as part of the housing requirement(s) of adopted strategic policies for the purposes of the first limb of NPPF2023 paragraph 74.

5.22 The inclusion of contributions towards unmet needs is not assumed or expressly dealt within in national policy in NPPF2023 paragraph 74.

5.23 Firstly, where the first limb of Paragraph 74 is engaged and the housing requirement in adopted strategic policies is used to assess supply this does not stipulate that any contribution towards unmet needs is to be assessed as part of an overall total for the authority.

5.24 Secondly, Paragraph 74 provides no qualification for considering unmet needs where local housing need calculated using the standard method provides the requirement against which supply is assessed (i.e., where the second limb is engaged).

5.25 National policy supports the plan-making process to achieve potential contributions to unmet needs where the outcome is to be reflected in adopted strategic policies that may take various forms and approaches (see NPPF2023 paragraph 17) and ultimately applicable to the housing requirement against which supply is assessed for the purposes of NPPF2023 paragraph 74.

5.26 Paragraph 11(b) (subject to criteria (i) and (ii)) provides for the presumption for sustainable development in plan-making to prepare strategic policies that provide for any needs that cannot be met within neighbouring areas.

5.27 Paragraph 35 provides for the Examination of Plans and stipulates that unmet need should be accommodated as part of a positively prepared strategy consistent with the aims of

sustainable development.

- 5.28 Paragraph 61 stipulates that any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for as part of the preparation of strategic policies (see also PPG ID: 2a-010-20201216). Paragraph 66 explains that the role of establishing a housing requirement for the whole of a strategic policy-making authority's area is to show the extent to which needs (including unmet needs from neighbouring areas) can be met over the plan period.
- 5.29 Support for this process is part of a plan-led approach to ensuring opportunities to increase the provision of land towards overall housing needs and significantly boost supply. Within Cherwell District the evidence base for this plan-making process includes the detailed testing of reasonable alternatives contributing towards the identification of exceptional circumstances for Green Belt release in locations best-suited to contribute towards Oxford's unmet needs (CD/G.16 and CD/G.17).
- 5.30 Disregarding relevant strategic policies providing for the housing requirement in respect of those outcomes and applicable under the first limb of NPPF2023 paragraph 74 where they are less than five years old is a departure from the development plan, contrary to the objectives of national policy, and would run contrary of the objectives of the Partial Review.

e) The Assessment of Supply Related to the Cherwell Local Plan (Part 1) Partial Review – Oxford's Unmet Needs

- 5.31 Adoption of the separate housing requirement in adopted strategic policies against which the contribution towards part of Oxford's unmet needs is assessed and the identification of sites to meet these needs reflects the approach in national policy and guidance summarised above. I consider the context and outcomes of strategic plan-making in the remainder of this sub-section.
- 5.32 Unlike VoWH, Chiltern District Council planned to meet needs on specific, allocated sites. The rationale for the approach is clearly set out within the Partial Review and is the reason why Cherwell has **not** added the unmet needs to the overall requirement.
- "1.4 The Partial Review provides a vision, objectives and specific policies for delivering additional development to help meet Oxford's housing needs. It seeks to do this in a way that will best serve Oxford's needs and provide benefits for existing communities in Cherwell and adjoining areas. The Partial Review is a positively prepared Plan. It avoids undermining the existing Local Plan's development strategy for meeting Cherwell's needs and detracting from the delivery of growth at Bicester, Banbury and former RAF Upper Heyford. The Plan aims to achieve sustainable development which will be deliverable by 2031."* (CD/G.3 my emphasis)
- 5.33 The reasons that progress regarding delivery of sites allocated within the Partial Review relates to the wider context for the sites and their functional relationship with addressing part of Oxford's unmet needs is enshrined in the development plan (CD/G.3). Figure 10 (comprising the Key Diagram) illustrates the spatial relationship between the sites and Oxford City. Figure 10 also summarises the relationship of the sites with existing and proposed enhancement to sustainable transport (including expanded Park & Ride facilities) and delivery of the A44/A40 link road proposed by the County Council.
- 5.34 I have outlined that exceptional circumstances for amendment of Green Belt boundaries were not identified through preparation of the Local Plan Part 1 (CD/G.1). Exceptional circumstances were expressly identified for the purposes of the Partial Review to provide for sustainable patterns of development associated with Oxford's unmet need.
- 5.35 This is a point specifically endorsed by the Part 2 Local Plan Inspector's Report at

Paragraph 46 and presented separately from the approach to plan-making within the Part 1 Local Plan:

“Chief amongst these is the obvious and pressing need to provide open-market and affordable homes for Oxford; a need that Oxford cannot meet itself. On top of that, in seeking to accommodate their part of Oxford’s unmet need, the Council has undertaken a particularly rigorous approach to exploring various options. That process has produced a vision and a spatial strategy that is very clearly far superior to other options. There is a simple and inescapable logic behind meeting Oxford’s open market and affordable needs in locations as close as possible to the city, on the existing A44/A4260 transport corridor, with resulting travel patterns that would minimise the length of journeys into the city, and not be reliant on the private car. On top of that, existing relationships with the city would be nurtured. Finally, this approach is least likely to interfere with Cherwell’s own significant housing commitments set out in the Local Plan 2015.” (CD/G.13 my emphasis)

- 5.36 The evidence base and site selection process to inform this clear strategy is evidently different to that informing the Part 1 Local Plan and aligned to the objectives of the Partial Review. An example is the Transport Topic Paper which outlines how the Transport Assessment initially informed a high-level assessment of 9 options against metrics including commuting flows and access to public transport (paragraphs 2.5-2.6) (CD/G.15).
- 5.37 This was further aligned with Sustainability Appraisal findings to support the selection of areas A (Kidlington and Surrounding Area) and B (North and East of Kidlington) represent the locations where Cherwell District could most sustainably accommodate Oxford’s unmet housing need. However, site assessment and site selection was then informed through an assessment of impacts, identifying packages of options to support growth and aligning this with the objectives of the Local Transport Plan and national infrastructure projects to inform future requirements for development. This illustrates why the Partial Review set out to meet a series of separate objectives (see paragraph 3.12) (CD/G.15)
- 5.38 The suite of policies within the Partial Review therefore establish requirements for additional consultation and cooperation with key stakeholders jointly involved in delivery, including Oxford City Council, on matters such as design and affordable housing. Policy PR11 (Infrastructure Delivery) reflects this cooperative approach (see paragraph 5.146, for example). Moreover, the approach is embedded within the Strategic Objectives of the Plan, specifically those that are additional respect to the Partial Review (SO16 – SO19) with infrastructure matters being summarised in Strategic Objective 19:
- “To provide Cherwell’s contribution to meeting Oxford’s unmet housing needs in such a way that it complements the County Council’s Local Transport Plan, including where applicable, its Oxford Transport Strategy and so that it facilitates demonstrable and deliverable improvements to the availability of sustainable transport for access to Oxford.” (CD/G.3)*
- 5.39 As part of the preparation and Examination of the Partial Review the Cherwell Delivery Position Paper (2019) summarises the relationship between planned investment relied upon to achieve this objective such as the Oxfordshire Growth Deal (CD/G.14). Projects identified within the Position Paper, or arising subsequently from strategies informing the Partial Review, are relevant to assessing deliverability of the sites identified to address part of Oxford’s unmet needs.
- 5.40 Strategic transport and connectivity projects form early priorities within these related strategies, summarised between Paragraphs 3.18 to 3.24 of the Position Paper. Those relevant to the assessment of deliverability at the 1 April 2022 base-date include A44

public transport improvements, which are under construction (including provision of bus lanes). Pear tree roundabout interchange improvements including bus lanes are also under construction. These will help deliver and are necessary for the Partial Review proposals. Funds from the Growth Deal are being used for this.

- 5.41 Monitoring of infrastructure funding and delivery is actively undertaken by the Future Oxford Partnership and indicates delivery of both projects in 2023⁸ (Copy at Appendix 2). Given the location and purpose of the projects to enhance connectivity with Oxford these projects are grouped with those related to the city itself. Oxfordshire County Council also undertakes monitoring of its role in the planning, funding and delivery of transport infrastructure projects at Kidlington and their relationship to sites within the Partial Review. This records, for example, that detailed design work has been undertaken for southbound bus lanes and cycle facilities at Kidlington Roundabout (related to sites PR6 and PR7a/b).
- 5.42 Engagement with the Department for Transport to secure funding and provide delivery timescales for other projects has also continued since the adoption of the Partial Review. The proposed closure of level crossings at Yarnton and Sandy Lane facilitates pedestrian and cycle access between site PR8 and Kidlington and funding forms part of a £68m package as part of the Oxford Corridor Phase 2 project. Receipt of the Secretary of State's Screening Decision⁹ (Copy at Appendix 3) is consistent with proposed timescales for a planning application and commencement of construction in 2024 and represents firm progress with infrastructure delivery.
- 5.43 In relation to affordable housing Policy PR2 of the Cherwell Local Plan Partial Review makes broader policy provisions to inform allocations to be made in accordance with an approach to be agreed between Cherwell District and Oxford City Councils. These provisions have regard to specific components of housing need including the proportion of affordable housing for rent and key-worker housing and applicable to sites specifically identified to contribute towards part of Oxford's unmet needs. This is different to circumstances in the Vale of White Horse where paragraph 2.25 of the Part 2 Local Plan for that authority states the allocation of affordable housing was to be agreed and there were no specific rights or allocations (CD/G.20).
- 5.44 The assessment of deliverable supply from sites identified in the Partial Review is therefore not relevant to the Council's case for the requirement against which supply should be assessed for the reasons outlined below. The Appellant disputes the Council's assessment of deliverable supply from these sites and therefore I deal with these for completeness in my Section 7.
- 5.45 In section 7 I outline reasons why undertaking the correct approach to assessing deliverability for these sites is not an exercise undertaken in isolation from the adopted development plan and is by necessity one that may look beyond the status of individual sites. This is an intrinsic element of the approach to managing and supporting the delivery of sites specifically identified to address Oxford's unmet needs.

⁸ [Copy of Growth Board website Dec_2021 \(003\).xlsx \(futureoxfordshirepartnership.org\)](#)

⁹

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

f) The Grove Appeal Decision

5.46 The Appellant for this Appeal relies on the outcome of the inclusion of unmet needs as part of the requirement against which supply should be assessed in relation to the Grove Appeal Decision (APP/V3120/W/22/3310788) (CD/M.40). The Appellant does not address the point that as part of the Vale of White Horse District Council's evidence to that Inquiry it expressly relied on the housing requirement in adopted strategic policies as its starting point and expressly stated that there.

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

3.34. Therefore, it is necessary to make an adjustment to the local housing need to add the 183 dwellings per annum set out in Core Policy 4a to accommodate Oxford's unmet need. Such an adjustment is not directly covered by advice in the NPPF, PPG or the Housing Delivery Test Measurement Rule Book, but the additional requirement in Core Policy 4a is less than 5 years old. There is nothing to indicate that the unmet need it addresses have fallen away. Indeed, the examination and adoption of the Oxford Local Plan in 2020 indicated this unmet need still existed. (CD/I.10)

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

*12. Core Policy 4a of Local Plan Part 2 is only 3 years old and has not been reviewed. However, the housing requirement in that policy, apart from the City of Oxford allowance, is the same as that set out in Core Policy 4 of Local Plan Part 1. The provenance of Core Policy 4a and its derivation from the same figure and the same ageing statistical inputs and projections as Core Policy 4 are a clear indication that its housing requirement (**apart from the Oxford allowance**) is also out of date for the purposes of assessing the 5 year housing land supply. (CD/M.40 my emphasis)*

5.48 The Cherwell Local Plan Part 1 Partial Review was progressed and adopted with its focus on the specific purpose to contribute towards Oxford's unmet needs.

5.49 In this respect there is a material difference in the planned approach to meeting Oxford's unmet needs between the Vale of White Horse (VOWH) and Cherwell District. It is relevant to identify why the circumstances for how the contribution towards Oxford's unmet needs in the Vale of White Horse is distinct from that in Cherwell District.

5.50 In my opinion and my experience of plan-making these differences should not be evaluated on the context of individual approaches have greater benefits or disbenefits in terms of the outcomes for sustainable development. The difference between the approaches and ultimately their relevance to the housing requirement in adopted strategic policies and NPPF2023 paragraph 74 are bound up in plan-making.

5.51 The matters in dispute between the parties on the operation of the requirement used to assess supply are both underpinned by references to adopted development plans. These plans have passed the relevant tests for soundness and legal compliance and thus accord with the requirements of national policy when applied to the relevant plan-making context. Having regard to the adopted development plan, and ensuring this is read as a whole, is a starting point for all decision-taking. It cannot be an exercise where, as suggested by the

Appellant, the decision to disengage the adopted Plan for the purposes of applying national policy (as a material consideration) is determined by differences and disagreements regarding quality of the past approach to plan-making.

5.52 In terms of the approach to national policy understanding the differences between the approaches requires reference to the adopted Part 1 Local Plans in each authority. The very clear test in national policy to demonstrate exceptional circumstances for the amendment of Green Belt boundaries to provide for residential development was satisfied in VOWH and not in Cherwell.

5.53 For the Part 1 Cherwell Local Plan paragraph B.256, inserted via Main Modification following the Plan's Examination, sets out that the Local Plan's housing requirements and development strategy can be achieved without the need for a strategic review of the Green Belt in the district (CD/G.1). Within this context the approach to accommodating Oxford's unmet needs were to be specifically reconsidered under the Partial Review. Paragraph 242 of the Cherwell Local Plan Part 1 Inspector's Report (CD/G.12) outlines the reasons for this conclusion:

"There are also likely to be particular complications and potential confusion that would arise for all concerned with such a review alongside the limited local OGB boundary review to meet employment needs. Additionally, there is the obvious difficulty of accurately assessing the needs that relate to Kidlington alone, rather than the wider Oxford area, especially if more than affordable housing is considered. Therefore, the Council's proposed modification to introduce such a commitment into the policy is not necessary and would be unsound, as exceptional circumstances do not exist at present to justify an OGB boundary review to help meet the local housing needs of the village [of Kidlington]."

5.54 Conversely an appropriate strategy for sustainable development within the Vale of White Horse and part of the process of preparing the Local Plan Part 1 for that authority was underpinned by the identification of exceptional circumstances for the amendment of Green Belt boundaries. The Part 2 Local Plan itself quotes paragraph 20 of the Local Plan Part 1 Inspector's Report as to why this makes allocations within the Part 1 Plan indistinguishable from their relationship with Oxford's unmet needs (CD/G.20).

5.55 Paragraph 26 of the VOWH Local Plan Inspector's Report (CD/G.19) provides an outline for why the Plan's strategy was considered to be soundly based subject to recognition that this necessitated the review of Green Belt boundaries to provide for the levels of growth proposed within the Abingdon-on-Thames and Oxford Fringe Sub-Area in locations well-related to the city. Paragraph 26 of the VOWH Part 1 Local Plan Inspector's Report concludes why adopting the Plan on this basis and addressing in-part the proposed contribution towards unmet needs that had been agreed subsequently would accord with speeding up the delivery of housing consistent with the over-arching cross-boundary strategic priorities arising from Oxford:

"given these sites' current Green Belt status, it seems to me highly unlikely that planning permission would be granted for residential development on them until they are deleted from the Green Belt through adoption of this plan. Thus, whilst the plan as submitted does not provide for all the unmet needs of Oxford which have been agreed should be provided for in the Vale (with an assumed "start date" of 2021), its adoption now would allow for some housing suitable to meet these needs to come forward quickly. Delaying adoption of the plan would allow for it to provide for all the unmet needs which have recently been agreed to be appropriately accommodated in the Vale, but would inevitably also delay the actual provision of houses to meet any of these needs." (CD/G.19 – Paragraph 26)

5.56 Paragraph 27 of the Inspector's Report explains why it would be appropriate in the circumstances to consider a further review of Green Belt boundaries to address remaining

unmet needs. Paragraph 28 goes on to explain why, with this background to plan-making, it was appropriate to incentivise that:

“if an adopted plan is not in place to cater for these housing needs within two years of the adoption of this plan, the housing requirement figure for the Vale will be a plan period total of the Vale’s own OAN plus its agreed share of Oxford’s unmet needs. The rendering out of date of relevant policies of the plan (in line with paragraph 49 of the NPPF) if a five year supply of housing could not be demonstrated to cater for both the Vale’s own and Oxford’s unmet housing needs will be a suitably strong, and thus sound, incentive for the Council to provide for its agreed share of Oxford’s housing needs as soon as possible.” (CD/G.19 – Paragraph 28)

5.57 Main Modifications corresponding to these conclusions result in the specific provisions within Policy CP2 to facilitate rapid progress with the Part 2 Local Plan (CD/G.18). More importantly, those same provisions correspond exactly with the approach set out in Policy 4a, and followed in the Grove Appeal Decision, to treat an agreed position on unmet needs as part of the overall housing requirement. Plainly this only arises because of the starting point for provision and amendment of Green Belt boundaries covered in-part through the Part 1 Local Plan.

5.58 As specified under Table 2.1 of the VOWH Part 2 Local Plan (CD/G.20) this process, following the approach outlined in Policy CP2, resulted in only one further specific strategic allocation necessitating amendment of Green Belt boundaries for land at Dalton Barracks in order to provide most sustainably for Oxford’s unmet needs. Paragraph 36 of the Part 2 Local Plan Inspector’s Report explains how the process for identifying exceptional circumstances for further Green Belt amendments was informed by the Part 1 Local Plan process:

“The NPPF makes clear that the essential characteristics of Green Belts are their openness and their permanence and, once established, their boundaries should only be altered in exceptional circumstances through a local plan. Four alterations to the Green Belt were made through the LPP1 to provide a range of housing allocations, but that plan envisaged further alteration(s) might be necessary in the LPP2. The quantum of additional housing now needed for Oxford City, and the locational requirement for this to be closely connected to Oxford, amounts to exceptional circumstances that justify the principle of one or more further alterations to the Green Belt. There are some opportunities for allocations in the Abingdon and Oxford Fringe sub area beyond the Green Belt and these are made in the LPP2 (see Issue 4). However, these are limited in extent and less well related to the City, which means they are only suited to meeting the housing needs of the Vale.” (CD/G.21)

5.59 I explain below reasons for my view that the two plan-making processes are distinct. It is further my view that national policy does not require an evaluative exercise of the merits or disbenefits of either approach to establish the relevance of policies to the requirement against which supply should be assessed.

5.60 Within the VOWH Part 2 Local Plan this commits to delivering the 2,200 homes within the Abingdon on Thames and Oxford Fringe Sub-Areas. Additional allocations were made within this sub-area. However, the sites were not ring fenced.

“2.15. The Vale is not seeking to ring fence allocations for the purposes of addressing the agreed quantum of Oxford’s unmet need to be met within the Vale. The unmet need is met by a combination of the Part 1 strategic allocations and the Part 2 additional allocations.” (CD/G.20)

5.61 The plan goes on to expand on their approach and justifications (paragraphs 2.16-2.18) noting, *“It is the case that whilst the sites listed above are allocated within the Part 1 plan with*

the primary intention of meeting the Vale’s own objectively assessed need for housing, the sites are also well located to provide for Oxford’s unmet housing need. Housing on these sites would be just as much available to those people falling into the category of Oxford’s need as to those of the Vale”. (CD/G.20 – Paragraph 2.18)

g) Cherwell Local Plan Review 2040

5.62 The Council are currently consulting, under Regulation 18, on a Local Plan Review 2040 (CD/H.1). The consultation opened on Friday 22nd September and closes on Friday 3rd of November. The emerging Plan is at an early stage of preparation. While a material consideration it carries no weight for decision-taking in this Appeal. Furthermore, under the provisions of NPF2023 paragraph 74 it does not and cannot provide for the requirement against which supply should be assessed. I nonetheless consider the current consultation version Plan below.

5.63 The Regulation 18 version of the Plan is supported by a number of technical documents, including an Oxfordshire Housing and Economic Needs Assessment (HENA, 2022) (CD/H.13) which was jointly commissioned by the Council and Oxford City. The below table sets out the distribution of growth identified in respect of housing across Oxfordshire;

Table 5. Distribution of Housing Need by Distribution of Employment in 2040

Area	Projected % of Need	Scenario 1: Standard Method	Scenario 2: Census Adjusted	Scenario 3: Cambridge Econometrics Economic Baseline	Scenario 4: Economic Development Led
Oxon	100%	3,388	4,721	4,406	5,830
Cherwell	22.3%	776	1,081	1,009	1,335
Oxford	30%	1,016	1,416	1,322	1,749
South Oxon	18%	610	850	793	1,049
Vale of White Horse	16.2%	549	765	714	944
West Oxon	12.8%	434	604	564	746

5.64 The Council are progressing on the basis that Cherwell has a need for some 1,009 homes per year to meet project needs. The Council have also assumed that Oxford has a need for some 1,322 homes per annum. Overall housing requirement included proposed contributions towards Oxford’s unmet needs could therefore be as follows:

Table 6. Projected Housing Need

Projected Housing Need	
Cherwell's Housing Need	1,009 pa
Oxford's Housing Need	1,322 pa
Oxford's Current Housing Capacity	457 pa
Oxford's Current Unmet Need	865 pa
Indicative % of Unmet Need to Cherwell	32.8%
Unmet Need Potentially Distributed to Cherwell	284 pa
Housing Need to be met in Cherwell	1,293 pa
2020-2040	25,860

5.65 Additionally, as confirmed at paragraph 3.187 of the Regulation 18 version of the Local Plan (CD/H.1), the Council, whilst acknowledging additional work required have suggested the following development options may be appropriate to provide for a net residual requirement of around 4,615 dwellings after accounting for committed supply and windfall:

Table 7. Potential Development Sites/Supply

Potential New Development Sites/Supply	
Banbury	
North of Wykham Lane	600
Withycombe Farm (conditionally approved)	230
Bicester	
South East of Wretchwick Green	800
South of Chesterton/North West of A41	500
Kidlington	
North of the Moors	300
South-East of Woodstock	450
Heyford Park	
South of Heyford Park	1,235
Rural Areas	
Indicative Allocation	500
Total	4,615

5.66 Draft Core Policy 34: District Wide Housing Distribution states that from 2020-2040 Cherwell will provide 25,860 homes in line with the below breakdown by location/element of supply:

Table 8. District Wide Housing Distribution

Banbury	5,950	Bicester	9,100
Kidlington	900	Heyford Park	3,120
Rural Areas	1,390	Partial Review Sites	4,400
Windfall	1,000		

5.67 A further 4,000 homes will be provided at North-West Bicester beyond 2040.

5.68 Aligned with the above, the Council, as part of the Regulation 18 consultation, directly in relation to draft Policy 34, provide a breakdown of current supply relative to this proposed spatial strategy (set out in Table 9 below).

Table 9. Current Summary of Housing Supply

	Completions	Existing Supply to 2040	New Supply	Total
Banbury	954	4,144	830	5,928
Bicester	817	6,979	1,300	9,096
Kidlington	109	32	750	891
Heyford Park	136	1,746	1,235	3,117
Rural Areas	351	538	500	1,389
Partial Review Sites	0	4,400	0	4,400
Windfall Projection	0	1,000	0	1,000
Totals	2,367	18,839	4,615	25,821

5.69 Paragraph 3.192 goes on to state the Council will review these emerging proposals and proposed distribution in light of further evidence on land availability and site suitability.

5.70 Notwithstanding my starting point that no weight can be attributed to the above strategy for decision-taking or NPPF2023 paragraph 74 purposes I note the Appellant's case that the Local Plan Review proposes a single figure for the requirement against which to assess supply on adoption.

5.71 The Appellant considers that this materially supports their position that the contribution towards part of Oxford's unmet needs identified in the separate adopted strategic policies of the Partial Review should be added to the calculation of local housing need against which the supply in the district is to be assessed at the current time. I disagree and note the following points as to why lesser weight can be afforded to the position in the emerging Local Plan as a material consideration.

- a. The starting point for the proposed housing requirement is informed by an alternative to the Government's standard method. In accordance with the PPG any alternative must satisfy PPG ID: 2a-015 and where factors may indicate a result higher than provided by the standard method this will need to be assessed prior to, and separate

from, considering how much of the overall need can be accommodated (and then translated into a housing requirement figure for the strategic policies in the plan) (PPG ID: 2a-010). The distribution of the requirement may then be considered. Plainly there is a logical but significant process required to determine the soundness of the proposed approach.

- b. I note the Local Plan Review consultation document contains no proposed housing trajectory nor any details of future phasing within the plan period. The consultation document contains no indication of the calculation of supply versus the proposed requirement at the intended adoption date. It would therefore be premature to make assumptions for how the requirement might be managed in future.
- c. The Council's proposed approach to illustrating the overall spatial strategy is different – for example separating growth at Heyford Park from Other Rural Areas.
- d. The circumstances within the Vale of White Horse (as reflected in the Grove Appeal Decision (CD/M.40) reflecting the relationship between Part 1 and Part 2 Local Plans when the confirmed level of unmet needs were the same (and to be considered as part of the total requirement) are fundamentally different to the Council here considering a change to its approach to managing the housing requirement as part of preparing a new Plan. In-particular:
 - i. The absolute level of unmet needs and the period over which they are to be addressed are expressly different to those dealt with under the Partial Review process.
 - ii. Under the proposed alternative approach the proposed contribution towards unmet needs would be a much smaller component of the total requirement proposed 2020-2040 relative to the extent of the requirement for Oxford's unmet needs in the separate strategic policies of the Partial Review when compared with residual totals for the 2011-2031 plan period from the Part 1 Local Plan.
 - iii. The Local Plan Review does not require regard to past shortfall against delivery of the Partial Review (or any component of housing need) prior to 2020, which is not the case if the separate adopted strategic policies of the Partial Review were added to the requirement used to assess supply at the present time.
 - iv. The annualised contribution of sites identified in the Partial Review over the revised proposed Plan Period 2020-2040 would be much smaller than the annualised supply envisaged by the Partial Review upon adoption. Without prejudice to the soundness of the overall approach proposed, when considered alongside the other components of the proposed distribution this may lessen the extent to which delivery of sites in the Partial Review could undermine the overall strategy if calculated together
 - v. To illustrate around 77% of the total proposed contribution to unmet needs would continue to be made by the Partial Review sites but unmet needs only 22% of the proposed requirement. This is materially different to adding the housing requirement in the separate adopted strategic policies of the Partial Review to the calculation of local housing need which it is agreed provides the starting point to assess supply for the purposes of NPPF2023 paragraph 74.

5.72 In line with paragraph 48 of the NPPF2023, the weight to be afforded to relevant policies in an emerging plan should be considered against the stage of preparation that a plan is at, with plan's at a more advance stage being afforded more weight. Additionally, consideration of

weigh should accord with the extent to which there is unresolved objections to the proposed policies.

- 5.73 The emerging Local Plan is at the very earliest stage of preparation and is currently undergoing consultation. Given that the Plan is still subject to extensive additional testing, consultation and review, I consider that no weight can be attributed to the proposed requirement or the Council's alternative assessment of housing need for the purposes of assessing housing land supply in this Appeal.

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

- 5.74 The Appellant's case relies on a departure from the adopted development plan for the purposes of identifying the housing requirement against which supply should be assessed. This is not consistent with the operation of paragraph 74 of the NPPF2023 particularly in terms of the treatment of unmet housing need.
- 5.75 Changes to the approach in the adopted development plan in terms of the location, scale and approach regarding managing supply (in this case specifically towards Oxford's unmet needs) are not appropriate for consideration as part of a S78 Appeal. This is a point summarised with the Leigh Sinton Appeal Decision in Malvern District¹⁰ (CD/M.45). This relates to the circumstances of the South Worcestershire Joint Plan but makes relevant observations on national policy including:
- a. The specific wording of NPPF2023 paragraph 74 does not stipulate a requirement for 'each individual authority' to identify a single housing requirement against which supply should be assessed. The context for the NPPF2023 does not support the view that references to the specific wording used of 'local planning authorities', 'authority' and 'their' indicate that individual authorities are required to monitor their housing land supply (or do so against a single figure) (DL Paragraph 42)
 - b. The HDT is a separate measure from the identification of the requirement against which supply should be assessed. Within the above Appeal Decision this relates to the options to measure the HDT jointly or on a single authority basis, but the same point is true for the application of the net unmet needs adjustment which differs between the two processes. The two processes, although linked to a certain degree, are still separate processes with one being backwards looking and the other forward looking (DL Paragraph 43).
 - c. The PPG does not cover every possible situation in respect of identifying how the housing requirement against which supply should be assessed is identified. In the circumstances of this Appeal, it is pertinent that there are relatively few examples of Plans that make a contributions towards part of neighbours' unmet needs. This may contribute towards why PPG does not expressly refer to how these are to be dealt with as part of the requirement against which supply is to be assessed (DL Paragraph 44 and supporting High Court case reference *Tewkesbury Borough Council v SSHCLG* [2021] EWHC 2782 (Admin) (CD/M.43)).
 - d. An alternative approach, which in this case would ignore the approach towards contributions for part of unmet needs within adopted strategic policies and accounting for these on an individual authority basis, should not be followed where it has not been tested at examination (DL Paragraph 44).
- 5.76 I do not consider that the broad range of considerations for the treatment of the requirement against which supply should be assessed as reached in this Appeal Decision are inconsistent with the conclusions of the Kempsey Appeal in Malvern Hills (CD/M.21). In that case while the assessment of need and supply is undertaken for the administrative area as a whole the requirement against which supply is assessed is again simply the calculation of local housing need (excluding the contribution to neighbours' unmet needs). To avoid conflating need and supply the scenario preferred within the Decision Letter only takes into account forecast delivery from in proportion to the expectations of the development plan in terms of their contribution to meeting needs in Malvern District and not neighbours' unmet needs.

¹⁰ Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (CD/M.45)

- 5.77 In addition to consideration of this point in the Leigh Sinton appeal, it is also relevant to note the more recent decision issued in respect of an appeal by Lioncourt Strategic Land against Tewkesbury Borough Council in respect of a proposed development comprising 45no. dwellings at Truman's Farm, Gotherington (APP/G1630/W/23/3314936) (CD/M.46). As with this appeal, the Truman's Farm appeal was determined in the context of relevant strategic policies that were more than five years old and that had been found to require updating. The central area of dispute between parties related to whether 2,000 homes derived from the three JCS urban extensions allocations should be counted toward the Borough's supply. The allocations in questions met the unmet needs arising from Gloucester city. The Inspector confirms in their decision (paragraph 35) that it is expressly stated in the NPPF and PPG that LHN was intended to shift to planning on an authority by authority basis and as such confirmed;
- "37. I therefore find that 2,000 homes arising from donor sites should be discounted from the TBC's position in respect of anticipated forward supply. Therefore on that basis alone forward housing land supply stands, at best, at 3.39 years (some 2,055 dwellings).37 That is a significant shortfall.38 Accordingly the most important policies should be deemed out of date for the purposes of NPPF paragraph 11.d), a finding which neither alters the statutory basis for decision taking nor indicates the weight to ascribe to any policy conflict". (CD/M.46)*
- 5.78 The position presented by Tewkesbury Council is in effect the reverse of that presented as part of this appeal where the local planning authority in that case sought to disregard the background to previous plan-making for sites specifically identified to meet part of a neighbouring authorities unmet needs. The Inspector rejected this view on the basis that the identification of the housing requirement is inherently related to the plan-making process and this cannot be disregarded in terms of how it informs the future management of supply (DL Paragraph 32).
- 5.79 The decision to remove the elements of supply related to unmet needs in the Tewkesbury appeal confirms firstly that local housing need forms the requirement against which supply should be assessed for the entire area of each authority; that relevant strategic policies may specifically address the contribution of specific sites identified to address unmet needs; and that in respect of identifying the contribution of supply towards the requirement based on local housing need this exercise is undertaken separately having regard to the facts of the case and background to the development plan.
- 5.80 It follows that that the circumstances of the housing requirement in adopting strategic policies related to the contribution towards part of unmet needs in Cherwell District could be (and are) distinct from those in the Vale of White Horse.
- 5.81 The Appellant does not allege that relevant strategic policies of the Cherwell Local Plan Partial Review need to be subject a review in accordance with Regulation 10A and a conclusion that they do not require updating in order to be applied separately for the purposes of NPPF2023 paragraph 74. That is correct as a matter of principle because the relevant policies are less than five years old.
- 5.82 Taken to its conclusion, the Appellant's case for treatment of unmet needs as part of the housing requirement against which supply must be assessed for the purposes of NPPF2023 paragraph 74 would be a disincentive to the preparation of strategic policies to meet these needs.
- 5.83 The Appellant's case suggests in all instances where local housing need is applicable to the assessment of supply then any contribution towards unmet needs must be added to the sum total. That would mean the policies for the housing requirement contributing towards Oxford's unmet needs in the Partial Review Local Plan would have been at risk of playing no role in

providing the spatial distribution or management of supply to meet those needs almost immediately upon adoption of that Plan in September 2020.

- 5.84 In other words, it would have been open to Cherwell District to find that the housing requirement in Policy BSC1 required updating only subject to it abandoning the approach to addressing Oxford's unmet needs in the Partial Review.
- 5.85 Depending on the circumstances it would risk the tilted balance being engaged to meet needs at locations not in accordance with the carefully designed spatial strategy and justification for the allocation of sites to contribute towards part of Oxford's unmet needs within Cherwell District.

6.0 HOUSING DELIVERY TEST AND THE APPROPRIATE BUFFER

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

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

Table 10. Housing Delivery Test Result

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

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

- 6.2 The Housing Delivery Test deals with delivery. It is agreed that the HDT is passed.
- 6.3 The relevant HDT Result of 153% is calculated on a single authority basis for Cherwell District. A 5% buffer applies across Cherwell District.
- 6.4 The HDT cannot determine the approach to calculating the housing requirement and housing land supply, which is a separate subject.
- 6.5 The approach to the housing requirement and housing land supply are set out in the development plan, which s.38(6) requires us to follow.
- 6.6 Notwithstanding any argument the Appellant may advance I demonstrate below that the calculation of the Housing Delivery Test is not relevant to the calculation of the housing requirement against which supply should be assessed:
- 6.7 There are two elements of this proposition, summarised as follows, that are both incorrect:
- That the treatment of unmet need within calculation of the HDT is the same as the contribution towards unmet needs provided for by the housing requirement in adopted strategic policies
 - That the calculation of the HDT within Vale of White Horse District corresponds to the conclusions of the Grove Appeal Decision in terms of the contribution towards Oxford’s unmet needs in that case.
- 6.8 I illustrate this with reference to the 2021 Housing Delivery Test calculations for both Cherwell

District and Vale of White Horse District. References to the national policy and Planning Practice Guidance are provided together with the Housing Delivery Test Rule Book (CD/F.4) and Housing Delivery Test Measurement Technical Note (CD/F.5).

- 6.9 As Appendix 1 to my Proof of Evidence I have prepared calculations of the number of homes required (including unmet needs adjustments) for the HDT measurement in Cherwell District and Vale of White Horse District.
- 6.10 Both illustrate that the net unmet needs adjustment is not the same as the position the Appellant relies upon to calculate the requirement to assess supply. I have also illustrated the calculation of the number of homes required for Oxford City Council to illustrate why the HDT is inconsistent with the requirement against which supply would be assessed in the city if local housing need applied. This reinforces that the Appellant's position on the HDT cannot be applied correctly or consistently to determine the requirement to assess supply.

c) Response to the Potential Use of the Housing Delivery Test

- 6.11 It is relevant strategic policies *providing* for unmet needs and how these are applied that determines the application of NPPF2023 paragraph 74 to unmet needs. Whether these continue to relate to the requirement against which supply is to be assessed for the purposes of a given application continues to be determined separately when other policies have been found to require updating.
- 6.12 There are no provisions to apply the same net unmet needs adjustment within the HDT for the purposes of NPPF2023 paragraph 74. It is my view, and consistent with the calculations summarised above, that **unless there are additional strategic policies** dealing with the level and approach of contributions towards unmet needs then unmet needs should not be considered as part of the requirement against which supply is assessed when the second limb of NPPF2023 paragraph 74 and local housing need applies. This is entirely consistent with the recent Tewkesbury Appeal Decision in PINS Ref: 3284820 (CD/M.48 see DL Paragraph 45).
- 6.13 This would also be consistent with continuing to operate separate arrangements for monitoring the supply from sites previously identified to make a specific contribution towards unmet needs. This may be the approach to monitoring even were these to no longer relate to a specific housing requirement that continues to be applied for the purposes of adopted strategic policies (which is not the case in Cherwell).
- 6.14 Such an approach would, for example, ensure that such sites were not being counted towards a local planning authority's local housing need in circumstances where there is an expectation they would continue to form part of identified provision towards future levels of unmet need to be identified in subsequent rounds of plan-making. This is consistent with how the housing requirement related to contributions towards part of Oxford's unmet needs is currently being applied and monitored through the policies of the Partial Review.
- 6.15 This relates back to the language of NPPF2023 paragraph 74 where the housing requirement in adopted strategic policies may require regard to more than one policy. The manner in which aspects of the housing requirement (such as contributions towards unmet need) are apportioned will not necessarily be the same as the net calculation of unmet needs derived on a single authority basis for the purposes of the Housing Delivery Test. In the case of Cherwell District, they are fundamentally different.

7.0 ASSESSMENT OF DISPUTED SUPPLY FROM SPECIFIC DELIVERABLE SITES

a) Introduction

7.1 At the time of writing I have outlined information relevant to supporting the Council's assessment of deliverability only upon those sites that I understand remain in dispute as part of the draft Topic SoCG.

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

7.2 Pending receipt of details for supply contested by the Appellant I set out my position on matters to be considered in providing a response.

7.3 In seeking to narrow any dispute between the parties I highlight that the Appellant's approach to identifying contested sites must be consistent and objective.

7.4 The Appellant has indicated an intention to contest sites falling under the examples given in both parts (a) and (b) of the NPPF2023 definition of deliverable including those that wholly or partly benefitted from a detailed permission at the base-date. In those circumstances the Appellants effectively seek two opportunities to contest deliverability on relevant 'part (a) sites':

1) To suggest that part (a) of the NPPF2019 test was not satisfied on 1 April 2022.

2) To consider further information post-dating 1 April 2022 to suggest *clear evidence* that homes will not be delivered within five years.

7.5 The Council's published assessment also includes sites falling under 'part (b)' of the NPPF2019 definition of deliverable where the onus falls upon the local planning authority to provide clear evidence of deliverability. Judgements on the deliverability of sites (or parts thereof) falling under part (b) is therefore also relevant to the dispute between the parties on specific sites.

7.6 Revisiting the assessment of deliverability for sites falling under part (a) or part (b) of the definition must have regard to whether these meet the NPPF central test that there is a realistic prospect that housing will be delivered within five years¹¹ – that they are available now, offer a suitable location for development now, and are achievable.

7.7 The PPG sets out a non-exhaustive list of evidence that may be considered to demonstrate deliverability and the progress of sites (ID: 68-007-20190722). The Council's published position draws upon these examples within the PPG, including in some cases the engagement with developers as outlined in Paragraph 35 of the HLSS. In themselves these are neither a pre-requisite for confirming deliverability nor confirmation of clear evidence of a realistic prospect. The published position cannot reflect the totality of information available to the Council in terms of the status of sites within the development management process and can only provide a snapshot in time in terms of the position for development of the site.

7.8 I draw attention to Inspector Clark's Decision Letter for Poplar Hill, Stowmarket (PINS Ref: 3214324) (CD/M.44) which supports my view on the approach to assessing deliverability. The second and third main criticisms of the Council's evidence in that Appeal related to respectively whether information gathered after the cut-off date may be relevant when it

¹¹ See Secretary of State decision letter concerning Land at site of former North Worcestershire Golf Club, Hanging Lane, Birmingham, 3192918 (24 July 2019) at paragraph 20: "*The Secretary of State has carefully considered the Inspector's conclusions on the meaning of the definition of deliverability in the Framework. For the reasons given at IR14.35-14.43 he agrees with the Inspector's view that 'realistic prospect' remains the central test against which the deliverability of all sites must be measured (IR14.41) (CD/M.49).*"

confirms assumptions applied when deciding what should be included in forecast supply; and whether sites without Reserved Matters approval at the base-date should be included in the supply. The Inspector found in favour of the Council on both points (DL Paragraph 61 – 63) where the Council demonstrated that its assumptions were well-founded.

7.9 Local evidence such as likely build-out rates on sites with similar characteristics, and timescales for development, as specified in the PPG for the purposes of assessing the developability or deliverability of sites (ID: 68-020-20190722) also reasonably falls into an understanding of the position on disputed sites when relevant to judgement at the base-date.

7.10 The following points are relevant:

- a. It is necessary to objectively revisit all parts of the Council's conclusions where there is a requirement to demonstrate clear evidence of a realistic prospect for completions beginning on site within five years.
- b. Where other evidence is relied upon to inform assessments of delivery rates and timescales this should be applied objectively to all sites in dispute. It should further be recognised that this information may be different to the combination of factors used to inform the Council's judgement of deliverability in the published assessment.

7.11 I would also highlight that the outcome of the Council's own approach to preparing the assessment of deliverability means that there is very limited forecast supply from sites where clear evidence is required. Sites falling under part (b) of the definition within the NPPF comprise around 27% (1,092 units') forecast supply of the total identified by my evidence (see Table 15 in Section 8). I have sought to illustrate these details of part of the Topic SoCG.

7.12 All of the 443 units' forecast supply from sites that I understand the Appellant intends to dispute at the point of exchanging evidence forms part of part (b) category sites but in my opinion the conservative nature of the Council's approach materially reduces the extent of sites to be considered.

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

7.13 In Table 11 below I have set out those sites identified by the Appellant within the Topic SoCG where the Council's published assessment of deliverable supply is considered to be in dispute.

7.14 I have included only those sites relevant to the Council's case to assess supply against the requirement based upon local housing need for Cherwell District. This excludes the contribution from any supply identified to contribute towards Oxford's unmet needs from the Partial Review Local Plan.

7.15 Prior to receipt of any further reasons to contest the Council's assessment I would note that in setting these out the Appellant is required to have regard to the Council's approach to assessing supply in the latest Statement. This includes the commentary provided for each site, together with the overarching context provided within the document.

7.16 The Statement references the range of evidence that the Council references as relevant for consideration up to December 2022 (CD/I.1 paragraph 35). Paragraph 38 of the Statement provides an illustration that the Council has generally maintained a conservative assessment to the contribution of supply from sites such as North West Bicester in terms of start dates and build-out rates.

7.17 I have highlighted within the previous sub-section that progress since the base-date is relevant to reviewing conclusions on deliverability and the Council's judgement at the previous base date. The Appellant is required also required to take this into account if guidance is to be applied consistently in contesting the Council's position.

Table 11. Summary of Disputed Supply from Specific Sites Identified Within the Draft Topic SoCG

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
Bicester 12	South East Bicester (Wretchwick Green)	1,500	50	0	-50	<ul style="list-style-type: none"> Outline planning permission in place for allocated site. Discharge of Conditions application relating to the Design Code in progress with active engagement to reach agreement with landowners and way forward on highways and drainage. Council expect RM application in 2024. No delivery forecast until year 5 (2026/27) Pioneer Roundabout now constructed. Legal Agreement signed spring 2022..
15/01357/F	Former RAF Upper Heyford	89	89	0	-89	There has been substantial progress with these two sites:
21/03523/OUT	Former RAF Upper Heyford	31	31	0	-31	<ul style="list-style-type: none"> Legal agreements sealed and Decision Notices issued 4 September 2023 on both applications subject to resolution to grant planning permission at the base date. Separate application made by David Wilson Homes for 126 homes for an alternative scheme (22/03063/F). Due to be recommended for approval at Planning Committee 7 December 2023 subject to same S106 obligations as previously agreed with Pye and with off-site BNG contributions for units on a TOE site in West Oxfordshire agreeable to CDC Ecology Officer and TOE.

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<ul style="list-style-type: none"> Start on site expected early 2024; first completions shown part-way through 2024/25 monitoring year. Committee Date expected November or December 2023 Separate application updates relevant technical work Landowners granted option to both Pye and David Wilson. Land will transfer to David Wilson homes from Pye to build out both sites (15/01357/F) and (21/0353/OUT) now that Pye legal agreements complete. David Wilson solicitors currently drafting new S106 based on Pye S106s, which is to be reported as an Appendix to the Officer report to Planning Committee. Having regard to the delivery of the wider RAF Upper Heyford site in terms of the submission and application of planning applications together with lead-in timescales for first completions and past delivery rates I consider that the parcels satisfy the central test of a realistic prospect. RAF Upper Heyford, via Policy Villages 5 of the Local Plan, has provided a substantial volume of housing completions
Bicester 1	North West Bicester Phase 2	500	20	0	-20	<p>There has been progress with delivery expectations including:</p> <ul style="list-style-type: none"> Outline planning permission in place for part of the allocated site. First completions forecast from year 5 of the trajectory.

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<ul style="list-style-type: none"> • Applications continue to be submitted for Discharge of Conditions (including Phasing Plan and Design Code) and Reserved Matters for access arrangements, road layouts and a first residential phase of 123 dwellings (23/00214/REM, 23/01493/REM and 23/01586/REM and 23/00207/DISC, 23/01496/DISC and 23/01558/DISC) • Active engagement between developer and Council relating to delivery of Reserved Matters separate to restrictions imposed by infrastructure delivery as 500 dwellings are permitted on the site for 1700 dwellings prior to strategic infrastructure needing to be in place.
Bicester 10	Bicester Gateway Business Park, Wendlebury Road	273	80	0	-80	<p>There has been progress with delivery expectations including:</p> <ul style="list-style-type: none"> • Outline planning permission in place for allocated site. Reserved Matters applied for in respect of employment (knowledge cluster) elements (22/02025/REM) • 21/02723/OUT – planning permission for variation of condition of 20/00293/OUT to remove co-working hub – Planning permission granted 12 October 2021. Will de-link the delivery of the hub and residential development allowing for faster delivery. • The Council anticipated submission of an application at the 1 April 2022 base date given previous variation of conditions related to the phasing of development and

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>with the opportunity to submit application for the approval of the Reserved Matters for residential elements up to April 2024.</p> <ul style="list-style-type: none"> The Council has advised me that a pro-forma from Thomas Homes was received in December 2022, prior to publication of the February 2023 update confirming their interest in the site and informing the assessment of deliverability. I have confirmed that the Title Register for the land lists Thomas Homes as landowner for the area of the relevant Outline permission since December 2022 and provide a copy at Appendix 4. Confidential pre-application advice issued by CDC to developer Thomas Homes on 10th October 2023. The Council's Statement does not anticipate first completions until 2026/27 (year 5), which I understand is consistent with the details provided in the proforma for first delivery of units. I consider that there is flexibility within the individual milestones for the planning process in advance of this particularly given the expectations for a flatted scheme.
Banbury 17	South of Salt Way	1,000	350	237	-113	<p>There has been further substantial progress with delivery expectations:</p> <ul style="list-style-type: none"> Allocated site with Outline permission at the base-date. Reserved matters for two of the development parcels under reference 22/02068/REM now have permission for 237 dwellings on 20 April 2023.

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<ul style="list-style-type: none"> Reserved matters consent granted for spine road (20/03702/REM) and link road (20/03724/REM) serving the school and a foul water pumping station (21/03950/REM). Forecast delivery of 200dpa not anticipated until year 5 of the trajectory anticipating further RM parcels. No known delays in developers starting on site, all conditions discharged, S106 obligations varied to allow early road construction to facilitate speedier development (21/00653/M106), ground works in place. Persimmon developing the 237 in Phases 1 & 3 currently L&Q performing role of Masterdeveloper. Council assessment allow for up to five developers. Charles Church is currently preparing an application (anticipated Dec. '23) for the Phase 2 land (south of Phases 1 & 3 – zoned for 110-122 dwellings). Sought design guidance (23/01301/PREAPP) which was provided in June '23.
Bicester 3	South West Bicester Phase 2	60	60	0	-60	<p>The following points indicate that the site satisfies the central test of a realistic prospect for delivery within five years.</p> <ul style="list-style-type: none"> Entry comprises remaining elements of allocated site with Outline Planning Permission Forecast delivery of specialist housing for older people corresponds to requirements in signed legal agreement.

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<ul style="list-style-type: none"> • Planning application expected in October 2023 and under a proposed PPA according to recent correspondence following positive pre-app discussions. • Infrastructure works including roads and utilities are already in place to service the parcel.

- 7.18 Having regard to the details for each disputed site in terms of the forecast date for first completions and build-out within the five year period I would conclude that the Appellant has not considered relevant matters consistently before determining that an adjustment to the Council’s assessment is warranted. While I provide this view without prejudice to any further detailed consideration of the published assessment that may be necessitated following the exchange of evidence it is my opinion that each site identified within the disputed supply is capable of satisfying the central test of a realistic prospect for completions beginning within five years.
- 7.19 The characteristics of the sites identified within the disputed supply are such that where part (b) of the NPPF2023 definition of deliverable applies matters assessed by the Council in its judgement at the base date, and progress since 1 April 2022, are capable of constituting clear evidence of a realistic prospect. Details of the sites are such that the examples of evidence available to demonstrate deliverability can generally be considered to indicate firm progress and clear, relevant information of delivery expectations (ID: 68-007-20190722).
- 7.20 In Table 11 above I have therefore indicated relevant aspects of evidence and progress that in my view support the Council’s published assessment. These points may provide the basis for more detailed assessment dependent on the response required to the case advanced by the Appellant. In addition I highlight below some initial further observations in respect of some of the disputed sites that further reinforce the Council’s assessment of deliverability in relation to factors such as phasing, lead-in timescales and build-out rates.

i) Land East of Salt Way –

- 7.21 Details of the phasing of other site infrastructure requirements addressed under 20/01099/DISC (Condition 2) are material to the assessment of deliverability for this site. Infrastructure is set to be delivered based on the number of occupations, so this will not present a significant obstacle to delivery as any issues that need to be resolved are being worked on now as a part of delivering an undisputed 237 units including completion of the spine road (see Section 5 of the submitted Phasing Statement – copy included at Appendix 5). This corresponds to the Reserved Matters granted for site infrastructure elements including the spine road (20/03702/REM).
- 7.22 The Appellant does not dispute the proposed date of first completion from the currently approved Reserved Matters (2024/25 based on submission in July 2022). The Council’s assumed lead-in timescales for further Reserved Matters applications, based on details from the promoter, make reasonable allowances for an increase in the number of Reserved Matters parcels from 2025/26 onwards.
- 7.23 The Council has provided me with a trajectory of past overall delivery from the Salt Way site. Delivery has increased in the most recent years where this includes phases pursuant to several Outline planning permissions in place across the wider site but prior to the delivery of units from 14/01932/OUT (the application relevant to supply in dispute). This is shown in Table 12.

Table 12. Past Recorded Delivery – Banbury South of Salt Way (all parcels)

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

- 2.22 Taking all entries together for the Salt Way site within the Council’s forecast for 2022/23 to 2026/27 (150 dwellings in year 1; 98 dwellings year 2; 100 dwellings year 3; 104 dwellings year 4; and 200 dwellings in year) indicates consistency with past trends. Within year 5

capacity pursuant to disputed site 14/01932/OUT is forecast to provide the only row with forecast supply in the trajectory. Under the Council’s assessment this would still include residual capacity from the 273 undisputed units with detailed permission while engagement with the promoter suggests up to 5 parcels being developed simultaneously. This supports the assumption of maintaining or exceeding past overall delivery rates to achieve 200 completions.

ii) Former RAF Upper Heyford –

- 7.24 While the two sites in dispute at the above location did not benefit from planning permission at the 1 April 2022 base-date I highlight that the sites form part of land allocated for housing within the development plan. This is material to the assessment of deliverability.
- 7.25 The Local Plan also identifies the subject land as the ‘areas with potential for additional development’ on the proposals map i.e., where the development indicates the Council would consider it to be acceptable. As such, the ‘part (b)’ of definition of deliverable within the NPPF2023 applies irrespective of the permission status.
- 7.26 Having regard to the delivery of the wider RAF Upper Heyford site in terms of the submission and determination of planning applications together with lead-in timescales for first completions and past delivery rates I consider that the parcels in dispute satisfy the central test of a realistic prospect. RAF Upper Heyford, via Policy Villages 5 of the Local Plan, has provided a substantial volume of housing completions, as summarised in Table 13 below:

Table 13. Past Recorded Delivery – RAF Upper Heyford (all parcels)

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

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

iii) Land at North West Bicester

- 7.28 I highlight further points relevant to the disputed supply from this site because it is illustrative of the Council’s approach to ensuring firm progress towards delivery in respect of applications for the approval of Reserved Matters received following the 1 April 2022 base-date.
- 7.29 For example, application for approval of reserved matters of primary and secondary accesses (23/00170/REM and 23/00214/REM) necessary to serve the development were validated and publicised as EIA. An initial objection from Oxfordshire County Council (OCC) has been addressed further to ongoing work with the LHA. OCC and confirmed on 04/10/2023 that they are happy with the access details pertaining to condition 16 and 17. The LLFA has further confirmed the submitted drainage scheme satisfies condition 04/10/2023.
- 7.30 Application reference 23/01586/REM seeks approval of Reserved Matters for Phase 2A For 123 dwellings and should be viewed in the context of progress with the wider site. Again this has been validated and publicised as EIA. Cala actively engaged with the Council ahead of submission of this application, including responding to a request for pre-application advice. This is a first residential phase of the first 500 dwellings able to come forward ahead of strategic infrastructure. The current submission reflects CALA’s approach as the current named developer for this phase who through the submission appear to be taking a sensible approach to securing approval for an initial phase of development proportionate to satisfying

the initial requirements for development and to enable a start on site. I note for example that under application reference 23/00207/DISC CALA submitted a revised Phasing Plan in July 2023 (pending determination) to illustrate Phase 2A specifically (copy at Appendix 6).

- 7.31 Addressing outstanding objections to the approval for Reserved Matters of a residential phase should be viewed in this context. Objections should be considered capable of being overcome. In respect of where these may be dependent on the Discharge of Conditions for specific items (such as Design Codes and True Zero Carbon schemes) this may impact on design and layout but discussion is ongoing on these matters in a coordinated way. A current Extension of Time is agreed until 16 November 2023, and while a Decision Notice may not be issued before this date this should not be considered determinative to the Council's forecast supply of only 20 units.
- 7.32 For example, work is ongoing to address the Council's initial comments relating to road/block layout. Subsequent application 23/00207/DISC has been validated and addresses a number of the Council's concerns in respect of lack of amenities associated with the REM for 123 dwellings.
- 7.33 Further to this progress an outstanding objection from OCC relates only to cycling and pedestrian facilities on the spine road. The objection is not considered insurmountable, nor sufficiently complex so as to delay delivery on site (I include a copy at Appendix 7).
- 7.34 Notwithstanding the above, and while I do not seek to rely on any additional forecast supply from this site, the Council's approach to facilitating delivery of the wider NW Bicester allocation are also material to the characteristics of firm progress.
- 7.35 For example, the Council is currently working on discharging conditions on the Firethorn site (CD/M.17) it understands are needed to satisfy the potential purchaser.
- 7.36 Other components of the NW Bicester site at outline stage are progressing to deal with key issues and there are separate discussions ongoing around the strategic infrastructure including with Homes England to see if funding could be accessed (a case is being worked on with active input from two of the key developers with land required for this road).

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

- 7.37 To narrow the extent of disagreement between the parties and make best use of Inquiry time I provided factual updates on behalf of the Council during preparation of the Topic SoCG (CD/E.9) to agree the following amendments to forecast supply within the published HLSS:
- **Banbury 5 (North of Hanwell Fields)** - Difference of 5 units from the most recent published Housing Land Supply Statement to correspond to Reserved Matters agreed on the basis of 40 units.
 - **18/00487/F Land to the Rear of 7 and 7A High Street** - Difference of 14 units from the most recent published Housing Land Supply Statement to correspond to lapsed planning permission previously extant at the 1 April 2022 base date.
 - **18/01973/REM Land South of Salt Way and West of Bloxham Road** - Difference of 7 units from the most recent published Housing Land Supply Statement to correspond to the total number of units agreed through reserved matters being 343 not 350 based on the Officer Report (29/03/19)
- 7.38 I confirm all three entries relate to specifically identified sites in Banbury.
- **Graven Hill - 16/01802/OUT Outline remainder** - Difference of 150 units from the most recent published Housing Land Supply Statement to correspond to the expiration of the date for submission of applications for the approval of Reserved Matters pursuant to the outline planning permission.
 - **Graven Hill - 20/02345/LDO Local Development Order** - Difference of 60 units from the most recent published Housing Land Supply Statement to correspond to and adjustment for rounding applied to generate the original 800 unit site total (-3 dwellings), no application having been received for a 60 unit affordable housing extra care scheme originally included within the total forecast assumptions, removal of units for which approval of landscape reserved matters was not secured prior to the expiration date (-5 units) but net of approval of reserved matters for 8no. units pursuant to the outline permission but not forming part of the forecast assumptions for this row. Forecast delivery of 11 units retained beyond 2026/27. The remaining forecast total is inclusive of 93 units subject to reserved matters application 22/02312/REM of which 55 units previously benefitted from individual consents.
- 7.39 I confirm all the entries for Graven Hill relate to sites at Bicester.
- 7.40 These five entries together result in the removal of 236 dwellings from the published position (4244 – 236 = 4,008 units)

e) The Council's Assessment of Supply from Small Sites with Planning Permission and the Windfall Allowance

7.41 Without prejudice to the opportunity to comment further pending the Appellant detailing any specific figure for supply disputed from within these components I make the following points within my evidence based on my observations of the Council's most recent published position.

i) Small Sites with Planning Permission

7.42 In relation to Small Sites With Planning Permission I note that the published assessment does not contain a schedule of specific sites. Nevertheless, details of sites within this category fall under part (a) of the NPPF2023 definition of deliverable and 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). The definition of deliverable for this category of sites does not support application of a lapse rate without specific clear evidence to rebut the presumption of deliverability.

7.43 Notwithstanding the absence of a published of these commitments I note that the reported totals are lower, and therefore potentially modest, relative to previous annual averages. For example within the Council's 2014 SHLAA Table 8.3 the 2006-2014 annual average for permissions on small, unidentified sites was 483 (135 Banbury; 45 Bicester; 303 Elsewhere). With the more recent 2018 HELAA (CD/G.12 PR79 Table 4) updated averages for the period 2006-2016 remained 441 units granted permission per annum on small sites (127 Banbury; 40 Bicester; 275 Elsewhere). The corresponding totals for detailed permissions in the most recent assessment area 99 units' supply in Banbury, 34 units in Bicester and 185 units elsewhere.

ii) Windfall

7.44 The Council's windfall allowance is applied in years 4 and 5 only, as specified at Paragraph 40 of the published statement. Evidence of past windfall trends has been regularly provided as part of the Council's normal monitoring practices. The 2021 Authority Monitoring Report (CD/L.2) Table 15 shows net windfall completions on small sites of 1344 units 2011-2031 (134.4 average per annum).

7.45 This corresponds to an average of 149 units per annum 2006-2016 from all small sites and 106 units per annum on small previously developed ('PDL') sites provided by the 2018 HELAA (PR79 Tables 2 and 3) (CD/G.12). The Council's application of the 100dpa figure is broadly consistent with the justification within paragraphs 5.49-5.50 of the 2021 AMR based on the 106 units PDL figure. The Council's windfall allowance can reasonably be considered to provide a reliable source of future supply. The sources reviewed indicate that it can be considered realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends in accordance with NPPF2023 paragraph 71.

f) The Assessment of Supply Related to the Cherwell Local Plan (Part 1) Partial Review – Oxford's Unmet Need

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

7.47 While the assessment of deliverable supply from sites identified in the Partial Review is not

relevant to the Council's case for the requirement against which supply should be assessed (for the reasons outlined in Section 5) I deal with these for completeness.

7.48 Section 5 of my evidence outlines reasons relevant to adoption of the separate housing requirement in adopted strategic policies against which the contribution towards part of Oxford's unmet needs is assessed and the identification of sites to meet these needs. The circumstances for the types of evidence that might be used to demonstrate deliverability for sites identified in such a strategic context are expressly recognised by Planning Practice Guidance:

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

7.49 Two observations arise from these examples:

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

7.50 The policies of the Partial Review also determine how Planning Practice Guidance should be interpreted in terms of the decision-taking process. The Delivery Position Paper (paragraphs 2.10 – 2.12) (CD/G.14) confirms that the preparation of Development Briefs forms a requirement of policies within the Plan, and these were substantially progressed by the time the Partial Review was adopted. Planning Performance Agreements are also in place for sites where delivery is forecast. The PPG recognises where these may be relevant to assessing the current planning status of sites.

7.51 The Appellant disputes the Council's assessment of supply from the three Partial Review allocations where delivery is forecast in the five year period, summarised as follows:

- a. **PR7a Land South East of Kidlington** (22/00747/OUT pending determination – as of the 5 October 2023 meeting of the Council's Planning Committee the site benefits from resolution to grant planning permission subject to completion of a S106 agreement) – 30 units
- b. **PR7b Land at Stratfield Farm, Kidlington** (22/01611/OUT pending determination - – as of the 5 October 2023 meeting of the Council's Planning Committee the site benefits from resolution to grant planning permission subject to completion of a S106 agreement) – 20 units
- c. **PR9 Land West of Yarnton** (21/03522/OUT pending determination) – 30 units

7.52 There are common elements to the three sites identified as deliverable within the Council's assessment and highlighted by the Appellant in its evidence. In my opinion these are not adequately assessed by the Appellant in terms of the characteristics of each site and their relationship with the policies of the Partial Review. The Appellant therefore provides insufficient reasons to subsequently dispute the Council's assessment of supply and the realistic prospect of completions beginning within five years. I note as follows:

- a. All three sites are subject to Outline planning applications pending determination.
- b. The sites have been actively promoted by the same parties since preparation of the Partial Review (see Table 1 of the Delivery Position Paper) and in respect of PR7b are already under the control of a housebuilder (Manor Oak) and in respect of PR7a an experienced land promoter (Barwood Land) as applicants for the current proposals.
- c. None of the sites are forecast to deliver first completions before 2026/27 (year 5) and forecast totals would indicate first completions part-way through that year. The Appellant cites the Council’s commentary that the forecast allows for realistic lead-in timescales. This does not appear to be wholly disputed by the Appellant’s assessment. The timescales allowed for by the Council can be assessed having regard to ‘typical norms’ or averages for sites of the same size. There is no local precedent for delivery timescales for sites specifically contributing towards Oxford’s unmet needs, but it is relevant to note that the Partial Review allocates land at different scales.
- d. Having regard to Table 4 of the Partial Review the allocated sites in question provide for 100-499 units each (PR7a/PR7b) and 500-1000 units (PR9). The Lichfields’ ‘Start to Finish’ (Second Edition) Report (Figure 4) summarises typical timescales from validation to first completions (including planning approval and delivery periods) of 4 years and 5 years for these respective groupings. The Council’s assumptions are consistent with these ‘norms’, with details summarised below –

Table 14. Assumed Lead-In Timescales for Deliverable Partial Review Sites

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

- a. Each of the sites is subject to an agreed Development Brief. This is consistent with the policies of the Partial Review.
- b. The Appellant notes outstanding objections to all three sites. Ongoing engagement with statutory consultees exists for all sites subject to applications for planning permission and this can be viewed as firm progress towards the sites’ delivery. In my opinion these must be assessed with regard to the overall timescales for determination and delivery and the context for the sites within the Partial Review.

For example, while outstanding objections for Oxfordshire County Council do exist in relation to traffic modelling this follows upon previous work undertaken jointly by the promoters/developers of respective sites. Given that progress exists on all sites (in respect of submitting applications) there is no reason to suggest such active engagement will not continue to provide updated modelling assumptions (principally in respect of use of sustainable transport) noting also the progress with other infrastructure delivery. Likewise, the objections to the delivery of pedestrian/cycle links from PR7b should be assessed in the context of progress with DFT funding for the closure of the Yarnton level crossing, expected to be complete in 2024.

- 7.53 Finally, I would also note that the three Partial Review sites (with Outline applications pending determination) do not correspond to the only examples of progress since the base-date:
- a. **Site PR6a** is also now subject to an Outline planning application currently pending determination (23/01233/OUT – up to 800 dwellings);
 - b. **Site PR8** has been the subject of pre-application discussions and completions of a Planning Performance Agreement (22/03622/PPA) with a view to submission of an application in late Summer 2023.
 - c. **Site PR7a** (northern part) is subject to separate Full Application proposals (22/03883/F – 96 dwellings). This is separate to the application assessed as deliverable by the Council which the Council continues to indicate could proceed without the northern site.
- 7.54 While neither I nor the Council consider the assessment of these sites as deliverable they are illustrative of ongoing progress for delivery of the Partial Review.

8.0 SUMMARY AND CONCLUSIONS

- 8.1 These conclusions should also be taken as providing a summary of my Proof of Evidence.
- 8.2 My overall conclusion is that the Council can demonstrate **5.37 years' deliverable supply** against the relevant housing requirement following my assessment in the preceding sections. This is set out in Table 15 below, corresponding to Council's case to be presented in draft HLS Topic SoCG at the point of exchanging evidence (CD/E.9).

Table 15. Components of Five-Year Housing Land Supply

	Step	Description	Published HLSS (February 2023) and LHN2023
Five-Year Requirement	a	Standard Method Requirement (2022/23-2026/27)	3,551
	b	Annual Requirement (a / 5)	710
	c	Requirement to date (b x years)	3,551
	d	5 Year Requirement plus 5% buffer (c + 5%)	3,729
	e	Revised Annual Requirement over next 5 years (d / 5)	746
Components of Supply	(i)	Banbury Supply	1527
	(ii)	Bicester Supply	1102
	(iii)	Other Areas	1179
	(iv)	Windfall	200
	f	Deliverable Supply over next 5 Years	4,008
Five Year Supply	g	Total years supply over next 5 years (f/ e)	5.37
	h	'Shortfall' / Surplus(f – d)	+280

- 8.3 The calculation reflects a surplus in excess of the relevant five-year requirement and indicates that the policies most important for determining the Appeal proposals remain up-to-date. Paragraph 11(d) is therefore not engaged for the purposes of decision-taking.
- 8.4 In **Section 2** of my Proof of Evidence I provide an overview of my understanding of the Appellant's case on the matter of housing land supply. I establish that there is a substantial level of disagreement between the parties in relation to the calculation of the requirement against which supply should be assessed.
- 8.5 I also outline that the Appellant intends to contest the Council's assessment of deliverable supply. This is a less significant area in dispute. On the Council's case – that the five-year requirement is provided by local housing need calculated for Cherwell District – the Appellant's own position on supply (which the Council does not accept) at the point of exchanging evidence would result in a deficit of just 163 units.
- 8.6 Within this section I identify that there is agreement between the parties that the Cherwell Local Plan (Part 1) (adopted July 2015) including relevant strategic policy **BSC1** is more than

five years old. It is further agreed that following the latest review in accordance with Regulation 10A (February 2023) (CD/G.11) the housing requirement within its adopted strategic policies requires updating for the purposes of NPPF2023 paragraph 74 and footnote 39.

- 8.7 The policy of the NPPF at paragraph 74 and footnote 39, to apply local housing need where the strategic policies are more than five years old and to use the standard method for Cherwell District, is therefore applicable.
- 8.8 The parties agree that the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' (CD/G.3) or "Partial Review" was adopted on 7 September 2020 and that relevant strategic policies **PR1 and PR12a** are less than five years old.
- 8.9 These respectively specify the contribution towards unmet needs (4,400 dwellings) and arrangements for maintaining housing land supply to meet these needs. I outline that that there is no suggestion from the Appellant that these policies should be subject to the conclusions of a Regulation 10A Review in order to be considered up-to-date (CD/G.11).
- 8.10 In **Section 4** I consider the most recent assessment of supply for Cherwell District Council comprising the Housing Land Supply Statement (CD/I.1) published in February 2023. The published position provides the starting point to the Council's case for this Appeal.
- 8.11 I set out that the published position reflects separate monitoring of the housing requirement within the separate adopted strategic policies of the Partial Review in relation to providing a contribution towards part of Oxford's unmet needs. This is central to the disagreement between the parties.
- 8.12 I have outlined my position that the calculation of local housing need should utilise the most recent inputs in accordance with PPG ID: 2a-004-20201216 and provide reference to numerous Appeal decisions supporting my evidence. The calculation of local housing need is undertaken independently from the assessment of supply and this provides. Applying the relevant chapter of the PPG relating to the assessment of housing needs consistently and objectively for the purposes of decision-taking and its relationship with plan-making is underpinned by the use of the most recent inputs.
- 8.13 In **Section 5** I respond to the Appellant's case for the requirement against which supply is assessed. I provide evidence in support of the Council's position.
- 8.14 I illustrate that the Council's case that local housing need provides the requirement against which to assess supply is simple. It is consistent with national policy and accords with the adopted development plan and supported by relevant Appeal Decisions^{12 13}.
- 8.15 The Council's case is reinforced by the clear approach to accounting for supply related to Oxford's unmet needs, which remains as set out in adopted strategic policies of the development plan that are less than five years old and fully consistent with national policy. These provide for a specific approach to managing supply for the housing requirement related to these needs. The approach to managing supply is consistent with the spatial strategy to provide for sustainable development and tested as part of plan-making.
- 8.16 The Council's case is entirely in accord with NPPF2023 Paragraph 74. It does not conflate the assessment of need and approach to managing supply, which underlies why the Appellant's position should not be followed.

¹² Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (CD/M.45)

¹³ Part Parcel 0025, Hill End Road, Twyning, Gloucestershire, GL20 6JD, 389971, 237249 PINS Ref: 3284820 (CD/M.48)

- 8.17 I have demonstrated why the Appellant's case represents a departure from the adopted development plan and represents an alteration of the approach to manage supply towards unmet needs. It is an approach that is not consistent with national policy and has not been tested at Examination.
- 8.18 I explain that Paragraph 74 of the NPPF, not being the adopted development plan, cannot and does not seek to change the housing requirement set out in the adopted development plan. By referring to "*adopted strategic policies*" in the plural, the NPPF contemplates that regard may need to be had to more than one strategic policy.
- 8.19 Paragraph 74 of the NPPF2023 has two limbs and must be interpreted and applied as such for the purposes of decision-taking. It first requires identification of the housing requirement in adopted strategic policies. It second directs circumstances where local housing need provides the requirement against which to assess supply.
- 8.20 NPPF2023 Paragraph 74 is therefore clear regarding the use of local housing need to assess housing land supply in the circumstances of Cherwell District. The calculation of LHN operates housing need purely on administrative boundaries and makes no reference to unmet need.
- 8.21 My evidence illustrates that while NPPF2023 Paragraph 74 is very clear regarding LHN, neither that paragraph, the PPG nor the inputs to the standard method calculation indicate that the method by which housing supply is to be accounted for should alter.
- 8.22 In the case of Cherwell District, the method to account for supply is provided by separate policies related to Oxford's unmet needs within the Partial Review.
- 8.23 It follows that that the circumstances of the housing requirement in adopting strategic policies related to the contribution towards part of unmet needs in Cherwell District could be (and are) distinct from those in the Vale of White Horse. I have highlighted differences in the approach to plan-making between the two authorities, including site selection, the distribution of growth and where exceptional circumstances have been identified to support the amendment of Green Belt boundaries This provides a distinction with the *Grove Appeal Decision* relied upon by the Appellants (CD/M.40).
- 8.24 I further outline that no weight should be given to the Council's emerging Plan for the purposes of the requirement against which supply should be assessed, having regard to the early stage of plan-making and untested nature of the evidence base with respect of managing the housing requirement and distribution of growth. Emerging approaches to plan making have no effect upon the operation of NPPF2023 paragraph 74 and the separate adopted strategic policies to address part of Oxford's unmet needs within the Partial Review.
- 8.25 In **Section 6** (and calculation at Appendix 1) I address the Housing Delivery Test (HDT). The HDT cannot determine the approach to calculating the housing requirement and housing land supply, which is a separate subject, but its operation in Cherwell is consistent with the Council's position on the requirement against which supply should be assessed.
- 8.26 In **Section 7** I have responded to the Appellant's case on disputed sources of deliverable supply from specific sites based on the contents of the draft Topic Statement of Common Ground currently under preparation (CD/E.9).
- 8.27 I do not consider that the Appellant's details of disputed supply amount to a deficit against the five-year requirement. I do not consider that the Appellant's approach to disputing supply is consistent or objective, having regard to national policy and guidance. While I provide this view without prejudice to more detailed consideration of the published assessment that may be necessitated following the exchange of evidence it is my opinion that each site identified within the disputed supply is capable of satisfying the central test of a realistic prospect for

completions beginning within five years.

- 8.28 The characteristics of the sites identified within the disputed supply are such that where part (b) of the NPPF2023 definition of deliverable applies matters assessed by the Council in its judgement at the base date, and progress since 1 April 2022, are capable of constituting clear evidence of a realistic prospect. Details of the sites are such that the examples of evidence available to demonstrate deliverability can generally be considered to indicate firm progress and clear, relevant information of delivery expectations (ID: 68-007-20190722).
- 8.29 Within this section I identify the removal of 236 units' supply from the published position, reducing slightly the extent of disagreement between the parties.
- 8.30 The conclusions of this section of my Proof of Evidence and evidence for the deliverability of disputed sites This amounts to a **5.37 years' supply against the relevant housing requirement** as shown in Table 15 above.

APPENDICES (PAGINATED SEPARATELY)

- APPENDIX 1** THE HOUSING DELIVERY TEST IN CHERWELL DISTRICT - TECHNICAL APPENDIX REGARDING CALCULATION OF THE NUMBER OF HOMES REQUIRED
- APPENDIX 2** OXFORDSHIRE GROWTH DEAL: INFRASTRUCTURE SCHEME LIST VIA: WWW.FUTUREOXFORDSHIREPARTNERSHIP.ORG
- APPENDIX 3** PROPOSED TRANSPORT AND WORKS ACT ORDER FOR THE CLOSURE OF YARNTON LANE LEVEL CROSSING, SANDY LANE LEVEL CROSSING AND TACKLEY LEVEL CROSSING AS PART OF THE OXFORD PHASE 2A ENHANCMENT WORKS – SCREENING DECISION REF TWA/2/2/0196
- APPENDIX 4** TITLE ON302533 CONFIRMING THOMAS HOMES DETAILS OF LAND OWNERSHIP AT BICESTER GATEWAY
- APPENDIX 5** PHASING STATEMENT LAND AT WYKHAM PARK FARMBANBURY ('SALT WAY') (20/01099/DISC)
- APPENDIX 6** REVISED PHASING PLAN LAND AT NORTH WEST BICESTER (23/00207/DISC)
- APPENDIX 7** OXFORDSHIRE COUNTY COUNCIL HIGHWAYS AUTHOURITY OBJECTION LAND AT NORTH WEST BICETSER (23/01586/REM)

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