

Re: Milcombe appeal decision (12th December 2023, PINS ref: 3325113)

1. The Milcombe appeal was made by the Appellant in August 2023. The Appellant's statement of case in relation to 5YHLS was set out in Emery Planning's statement dated 12th May 2023. A statement of common ground (SoCG) on 5YHLS had been submitted on 16th October in advance of the hearing, which took place on 18th October 2023.
2. The appeal was determined within the context of the previous 5YHLS position at 1st April 2022. Against the local housing need (of 710 dwellings p.a.) solely for Cherwell, the Appellant's 5YHLS at 1st April 2022 was 4.78 years, which was also the Appellants' case for the current appeal at the time of exchange of evidence¹. The Council's case was that it had a 5.37 year supply, which again was the Council's case for the current appeal at the time of exchange of evidence²
3. Paragraph 8 of the appeal decision identifies that 5YHLS was a main issue. The Inspector's conclusions in relation to 5YHLS are then set out in paragraphs 25 to 44. Paragraph 30 of the appeal decision addresses the dispute in terms of the Local Housing Need (LHN) at 1st April 2022 (i.e. whether it should be 710 dwellings per annum or 742 dwellings per annum), which is no longer of relevance for the current appeal as the LHN at 1st April 2023 is agreed to be 710 dwellings per annum.
4. Paragraphs 27 to 29 address whether Oxford's unmet needs should be included within the 5YHLS calculation with the Inspector agreeing with the Council that it should not be. At paragraph 29, the Inspector states that there has been no change in circumstances since the Partial Review Inspector accepted the approach separating the Council's commitment to meeting Oxford's unmet needs from their own commitments. With respect, that is wrong as a matter of fact. There has been a material change in circumstances since the Partial Review was examined in that the current Framework now applies, and it contains different provisions to the NPPF12 that existed when the PR was adopted. It is important for the Inspector in this appeal to proceed on the correct basis, that is, that there has been a change in national policy since the Partial Review was adopted. It is then for the Inspector in this appeal to consider what implications that has – a matter with which the Milcombe Inspector did not engage. Section 7 of BP's main PoE (pages 42-61) provides detailed evidence on this issue, which was discussed at the RTS. This was not before the Milcombe Inspector. The Inspector in this appeal is therefore respectfully invited to (a) correctly

¹ Please see BP Main PoE, Appendix EP1, Table C, third column

² Please see JG Main PoE, Table 15 on page 54.

recognise that there has been a change in national policy since the PR was adopted and (b) draw a conclusion on this issue based on the evidence submitted and presented at this appeal.

5. Whilst the Appellants will respond separately on the revised Framework by 10th January 2024, paragraph 67 of the revised Framework includes new wording that states “the requirement [singular] may be higher than the identified housing need, if for example, it includes provision for neighbouring areas”. This confirms the Appellants’ case on the requirement and is a material change since the adoption of the Partial Review. This wording in the revised Framework was not before the Milcombe Inspector.
6. In terms of the supply, the position has moved on a year to a base date of 1st April 2023. However, the Inspector concluded that the deliverable supply at 1st April 2022 was 3,595 dwellings, which equates to 4.82 years (paragraph 44). In doing so, the Milcombe Inspector found the following sites were not deliverable and should not be included in the 5YHLS. The Appellants in the current case also conclude they are not deliverable at 1st April 2023 for the reasons explained in appendix EP9 of BP’s supplementary proof of evidence and discussed at the RTS:
 - “Site O” – Bicester 1 – North West Phase 2 (paragraph 35) – the Milcombe Inspector concluded that whilst reserved matters applications have been made, they are still pending approval and subject to unresolved objections, which remains the case; and
 - “Site M” – Salt Way East (paragraphs 40 and 41) – the Milcombe Inspector found that 237 dwellings should be included and there is no clear evidence to include any further dwellings.