

Comments on the revised NPPF (published 20th December 2023) re: Housing Land Supply

For Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, N P Giles and A L C Broadberry | 23-472

Residential development of up to 230 dwellings at OS Parcel 1570 adjoining and west of Chilgrove Drive, and north of Camp Road, Heyford Park (LPA refs: 21/04289/OUT and 23/00089/REF, PINS ref: APP/C3105/W/23/3326761)

Project: 23-472

Site Address: OS Parcel 1570 adjoining and west of Chilgrove Drive, and north of Camp Road, Heyford Park

Client: Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, N P Giles and A L C Broadberry

Date: 12 January 2024

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Contents

1.	Introduction and summary _____	1
2.	Single or Separate 5YHLS Calculations _____	5
3.	Paragraph 76 and the requirement to demonstrate a 5YHLS _____	8
4.	Paragraphs 77 and 226 of the revised NPPF _____	10
5.	Monitoring _____	16
6.	Conclusions _____	17



1. Introduction and summary

- 1.1 This statement is submitted on behalf of Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, N P Giles and A L C Broadberry (i.e. the Appellants) in support of their appeal against the decision of Cherwell District Council to refuse to grant an 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”

at OS Parcel 1570 adjoining and west of Chilgrove Drive and adjoining and north of Camp Road, Heyford Park (LPA refs: 21/04289/OUT and 23/00089/REF, PINS ref: APP/C3105/W/23/3326761).

- 1.2 This statement provides the Appellants’ comments on the revised National Planning Policy Framework (NPPF, published 20th December 2023) in relation to Housing Land Supply (HLS).

Summary of the Appellants’ position in relation to HLS

- 1.3 In summary, the Appellants’ position is that the Council still needs to demonstrate a deliverable 5 year housing land supply (5YHLS) for the purposes of this appeal. For the reasons set out at the Inquiry, this should be a single calculation against the local housing need for Cherwell plus the adopted housing requirement for Oxford’s Unmet Needs. The Appellants’ view is that this approach is further supported by the revised NPPF for the reasons set out in section 2 of this statement.
- 1.4 The revised NPPF does however mean that a buffer no longer forms part of the 5YHLS calculation because the 5% buffer has been removed and the 20% buffer does not apply in this case. This means revised 5YHLS calculations need to be submitted. The Appellants’ position is that the deliverable supply of 2,855 dwellings equates to 2.26 years against a single requirement. The Council’s position is that it is a deliverable supply of 4,201 dwellings (4,121 in Cherwell and 80 for Oxford’s unmet needs). This equates to 3.32 years against a single requirement as shown in the following table.



Table 1.1 – 5YHLS positions at 1st April 2023 against a single requirement of local housing need of 710 dwellings p.a. plus Oxford’s unmet need

	Council Local housing need 710 dwellings p.a. plus Oxford’s unmet need	Appellants Local housing need 710 dwellings p.a. plus Oxford’s unmet need
Annual requirement	710 + 420 = 1,130	710 + 420 = 1,130
Shortfall	680	680
Five year requirement	6,330	6,330
Annual requirement	1,266	1,266
Deliverable supply at 1 st April 2023	4,201	2,855
Years supply	3.32	2.26
Undersupply	-2,129	-3,475

1.5 If the Inspector disagrees and concludes that separate housing land supply calculations are consistent with the revised NPPF, then the Appellant’s supply figure of 2,855 dwellings still means a 5YHLS cannot be demonstrated by a significant margin as shown in the following table.



Table 1.2 - Appellants' 5YHLS at 1st April 2023 – separate calculations (no buffer)

		Appellants' position for Cherwell solely against the LHN	Appellants' position on Oxford's Unmet Housing Need
	Requirement		
A	Annual requirement	710	420 ¹
B	Undersupply to be addressed in 5YHLS period	0	680
C	Total 5YHLS requirement (A X 5 + B)	3,550	2,780
D	Annual requirement plus (C / 5)	710	556
	Supply		
E	Appellants' supply	2,855	0
F	Supply in years (E / D)	4.02	0
G	Under supply (F – C)	-695	-2,780

- 1.6 In accordance with footnote 8 of the revised NPPF, this means that the tilted balance to the presumption in favour of sustainable development as set out in paragraph 11d) of the revised NPPF.
- 1.7 Section 2 of this statement explains why the changes to the revised NPPF support the Appellants' case that a single housing land supply calculation should be made.
- 1.8 Section 3 of this statement explains why Cherwell must continue to demonstrate a 5YHLS for this appeal notwithstanding the new wording contained within paragraph 76 of the revised NPPF.
- 1.9 Section 4 of this statement explains why the 4 year housing land supply (4YHLS) does not apply to Cherwell in accordance with paragraphs 76, 77 and 226 of the revised NPPF. Notwithstanding this, it also explains that the Appellants' view is a 4YHLS cannot be demonstrated.

¹ i.e. 340 dwellings per annum 2023-26 and 540 dwellings per annum in 2026-28 = 2,100 / 5 = 420



1.10 Section 5 of this statement explains that the Council's AMR fails to monitor the deliverable land supply against the housing requirement as set out in adopted strategic policies as the Council is now required to do by paragraph 75 of the revised NPPF.

1.11 Section 6 sets out conclusions including HLS calculations.



2. Single or Separate 5YHLS Calculations

2.1 The Council's approach of providing separate housing land supply calculations is inconsistent with the changes made in the revised NPPF for the following reasons.

2.2 Firstly, paragraph 61 of the revised NPPF has been amended to now state:

"The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area (see paragraph 67 below)" (emphasis added).

2.3 Paragraph 67 of the revised NPPF retains the wording of paragraph 66 the previous version of the NPPF and states:

"Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period." (emphasis added)

2.4 However, new wording has now been added which states:

"The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment."

2.5 Therefore, the revised NPPF envisages a single housing requirement for the whole area which includes the need for an area and any needs that cannot be met within neighbouring areas. It now specifically recognises that "the" requirement may be higher than the identified need of an area if it includes provision for neighbouring areas. It is absolutely clear from this change that a single requirement is proposed and that this single requirement should include provision for neighbouring areas.

2.6 Paragraphs 61 and 67 of the revised NPPF do not support the Council's argument that separate housing requirements should be identified for a) a local planning authority e.g. Cherwell and b) the unmet need from a neighbouring authority e.g. Oxford. As the Appellants explained at the Inquiry, the policy included within these paragraphs was not included in the 2012 version of the NPPF, which the Part 1 Local Plan and Partial Review plan were examined under.

2.7 Paragraph 75 of the revised NPPF includes the following new wording:

"Local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies" (emphasis added)

2.8 For monitoring purposes, the revised NPPF therefore envisages a single housing requirement, which is set out in adopted strategic policies. It does not state that local planning authorities should monitor their



deliverable supply against the housing requirement for Cherwell and separately monitor the deliverable supply against the part of the requirement relating to Oxford's unmet needs. As the Appellants explained at the Inquiry and set out in the closing submissions, this differs from the 2012 version of the NPPF, which envisaged housing land supply could be assessed against a local planning authority's requirements (plural).

2.9 Paragraph 76 of the revised NPPF is new. It states:

“Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

a) their adopted plan is less than five years old; and

b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.”

2.10 This envisages that the local planning authority will have one adopted plan (which may contain more than one development plan document) and if that plan is less than five years old and a 5YHLS was identified in “that” adopted plan at the time the examination concluded the LPA is not required to identify and update annually a 5YHLS. Transitional arrangements set out in footnotes 40 and 79 then explain that this only applies to applications made after the publication of the revised NPPF. Nevertheless, the key point is whether the plan is less than five years old, not whether parts of it are more than five years old and parts of it are less than five years old.

2.11 Paragraph 77 of the revised NPPF replaces paragraph 74 of the previous version of the NPPF. It includes new wording. The first part of paragraph 77 states:

“In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old”. (emphasis added)

2.12 Again, this envisages that there is a single housing requirement which the supply is to be measured against.

2.13 Paragraph 79 of the revised NPPF is also new. It states:

“To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below the local planning authority's housing requirement over the previous three years, the following policy consequences should apply:



a) where delivery falls below 95% of the requirement over the previous three years, the authority should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years;

b) where delivery falls below 85% of the requirement over the previous three years, the authority should include a buffer of 20% to their identified supply of specific deliverable sites as set out in paragraph 77 of this framework, in addition to the requirement for an action plan.

c) where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8 of this Framework, in addition to the requirements for an action plan and 20% buffer

2.14 Despite there being no delivery on any of the Partial Review sites, and as set out in the Appellants' evidence and submissions to the Inquiry, the Council's approach continues to avoid the policy consequences set out in paragraph 79 of the revised NPPF because there is no separate Housing Delivery Test result for Oxford's unmet needs. This is contrary to the revised NPPF and the Government's objective of significantly boosting supply (as retained in paragraph 60 of the revised NPPF).

2.15 The 2022 Housing Delivery Test results were published on 19th December 2023. The HDT records delivery in Cherwell in 2021/22 was 1,175 dwellings. All those dwellings were in Cherwell and not on any of the sites allocated in the Partial Review to meet Oxford's unmet need. However, the requirement for that year in the HDT was 934 dwellings, which is the local housing need for Cherwell plus 220 dwellings for Oxford's unmet need. Whilst no dwellings were delivered on the Partial Review sites, delivery in Cherwell meant that the HDT was passed both in terms of addressing the local housing need for Cherwell and addressing the unmet need for Oxford on sites in Cherwell. As set out in the Appellants' evidence and submissions to the inquiry, a single housing land supply calculation would be consistent with the approach used in the HDT.

2.16 In summary, the changes to the revised NPPF support the Appellants' case that a single housing land supply calculation should be made. The Council's approach of separate HLS calculations is inconsistent with the revised NPPF.



3. Paragraph 76 and the requirement to demonstrate a 5YHLS

- 3.1 As above, paragraph 76 of the revised NPPF is new. It states that local planning authorities are not required to identify and update annually a 5YHLS for decision-making purposes if their adopted plan is less than five years old and that adopted plan identified a 5YHLS at the time the examination concluded.
- 3.2 Cherwell's adopted plan is less than five years old. Whilst the Cherwell Local Plan 2011-2031 Part 1 was adopted in July 2015, a partial review of the Local Plan has taken place since then and the Cherwell Local Plan 2011-31 (Part 1) Partial Review – Oxford's Unmet Housing Need was adopted in September 2020 (i.e. 3.5 years ago). Paragraph 1.3 of the Partial Review explains that it is a supplement or addendum to the adopted Local Plan and it is clear in the title of the document that it is a partial review of the Local Plan Part 1.
- 3.3 The Part 1 plan and the Partial Review sit alongside each other. Indeed, paragraphs 1.17 to 1.21 of the Partial Review (page 17) explain that there was a commitment to a partial review in the Local Plan which was essential for it to be found sound. This is also reflected in paragraph B.95 of the Local Plan Part 1 (page 59).
- 3.4 At the time the examinations took place, a 5YHLS was identified (for Cherwell and for Oxford's Unmet Need).
- 3.5 Therefore, paragraph 76 of the revised NPPF applies. However, footnote 40 of the revised NPPF states:

“Transitional provisions relating to the application of this paragraph are set out in footnote 79.”

- 3.6 Footnote 79 relates to paragraph 224 of the revised NPPF, which states:

“The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication”

- 3.7 Footnote 79 itself then states:

“As an exception to this, the policy contained in paragraph 76 and the related reference in footnote 8 of this Framework should only be taken into account as a material consideration when dealing with applications made on or after the date of publication of this version of the Framework”

- 3.8 Therefore, whilst paragraph 76 applies to Cherwell, this is only to be considered as a material consideration when dealing with applications made on or after 20th December 2023. This does not disapply paragraph



76 but instead that it should not be a material consideration when dealing with applications in these circumstances.

- 3.9 As the appeal application was made before then, paragraph 76 and the related reference in footnote 8 to paragraph 76 should not be considered as a material consideration in the determination of the appeal. Therefore, paragraph 76 applies but it remains the case that the Council must demonstrate a 5YHLS because of transitional arrangements. This is relevant when considering paragraphs 77 and 226 of the revised NPPF as we discuss in the next section of this statement.



4. Paragraphs 77 and 226 of the revised NPPF

4.1 Paragraph 77 of the revised NPPF states:

“In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years’ worth of housing, or a minimum of four years’ worth of housing if the provisions in paragraph 226 apply⁴¹. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old⁴². Where there has been significant under delivery of housing over the previous three years⁴³, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period). National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.”

4.2 Footnote 42 states:

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

4.3 Footnote 43 states:

“This will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement. **For clarity, authorities that are not required to continually demonstrate a 5 year housing land supply should disregard this requirement.**” (emphasis added)

4.4 Firstly, a 20% buffer would not be applied in Cherwell because it is not required to continually demonstrate a 5YHLS for the reasons set out in section 3 above. However, in any case, the latest Housing Delivery Test was above 85%.

4.5 Secondly, whilst the last sentence of paragraph 77 states that the PPG provides further information on calculating HLS, it has not been updated at the time of writing to reflect the revised NPPF. Chapter 68 of the PPG provides guidance on housing land supply calculations but it is dated July 2019 and relates to the previous version of the NPPF. It is of note that there is a very significant past shortfall in Cherwell but the current version of the PPG does not indicate that this should be included as part of the 5YHLS calculation relating to Cherwell’s needs because under delivery is factored in to the local housing need using the affordability ratio. Therefore, at the present time, the Appellants have not made any adjustment to the case presented to the inquiry in relation to the shortfall against Cherwell’s requirement. Should the PPG



be updated prior to the determination of the appeal, the Appellants request the opportunity to make further representations on it.

4.6 Thirdly, paragraph 77 explains that a minimum of four years' worth of housing applies "if the provisions in paragraph 226 apply". Paragraph 226 of the revised NPPF is new and states:

"From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old⁸⁰, instead of a minimum of five years as set out in paragraph 77 of this Framework. **This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76.** These arrangements will apply for a period of two years from the publication date of this revision of the Framework." (emphasis added)

4.7 Footnote 80 states:

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

4.8 The penultimate sentence of paragraph 226 explains that the 4YHLS provision does not apply to authorities who are not required to demonstrate a housing land supply as set out in paragraph 76. Therefore, paragraph 226 does not apply to Cherwell. In summary, paragraph 76 applies which means that paragraph 226 does not apply but the transitional arrangements in footnotes 40 and 79 mean that Cherwell is still required to demonstrate a 5YHLS for this appeal.

4.9 If the Inspector disagrees and considers that paragraph 77 applies to Cherwell, then paragraph 226 would not mean that Cherwell must only demonstrate a 4YHLS because the recent regulation 18 consultation did not include a policies map, as explained in the advice from leading Counsel that is submitted alongside these representations.

4.10 If the Inspector disagrees, and the 4YHLS provision were to apply, then Cherwell cannot demonstrate a 4YHLS for the reasons set out below.



Four Year Housing Land Supply

4.11 As above, paragraph 226 of the revised NPPF states:

“certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years’ worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old”

4.12 This reflects the wording set out in paragraph 77 of the revised NPPF where a 5YHLS is to be demonstrated. Therefore, if paragraph 226 applies, it must follow that this is a 4 year supply is to be tested against a 4 year requirement in the same way as a 5 year supply is to be tested against a 5 year requirement.

4.13 Paragraphs 77 and 226 do not state that where a 4YHLS is required, the LPA is required to have at least a four year supply of deliverable housing sites against its five year housing supply requirement. Within this context, it is of note that the wording in paragraph 14c of the previous version of the NPPF (in relation to a 3YHLS for neighbourhood plans) stated:

“the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74)”

4.14 The relevance of this is that whilst paragraph 14c of the previous version of the NPPF essentially required a lower than 5 year supply against the 5 year requirement in those circumstances, it expressly said so. The wording of the revised NPPF does not support the same approach for a 4YHLS.

4.15 Cherwell has not published a 4YHLS assessment. However, the trajectory in the AMR provides the following supply over the 4 year period 2023/24 to 2026/27. This is the Council’s claimed supply over the 5YHLS period with year 5 (i.e. 2027/28) removed:

Table 4.1 – Cherwell’s 4YHLS over 2023-27

	2023/24	2024/25	2025/26	2026/27	4YHLS
Cherwell	853	761	703	890	3,207
Partial Review	0	0	0	0	0
Total	853	761	703	890	3,207



4.16 Against a single four year requirement of 4,400 dwellings (710 for Cherwell X 4 years = 2,840 plus stepped requirement for Oxford’s unmet needs of 1,560 dwellings over 4 years²), this equates to 2.9 years. This calculation does not include the shortfall of 680 dwellings against the requirement set out in the partial review.

4.17 If separate calculations should be made, then the Council’s supply figure for Cherwell equates to 4.5 years (i.e. 3,207 / 710 = 4.52 years) and 0 years for Oxford’s unmet needs. On any basis, and as set out in the Appellants’ evidence and closing submissions, it remains the case that there is a very substantial shortfall (in fact, no supply at all) for Oxford having regard to the minimum requirements of the NPPF and therefore the tilted balance set out in paragraph 11d is engaged.

4.18 However, the Appellants’ case is that the Council has not provided clear evidence for the inclusion of several sites in the deliverable supply in Cherwell as shown in the following table. These are the disputed sites which were discussed at the Inquiry. However, year 5 (i.e. 2027/28) has been removed. This means that 602 dwellings should be removed from Cherwell’s 4YHLS of 3,207, leaving 2,605 dwellings.

Table 4.2 - List of disputed sites and impact on the 4YHLS

Site		2023/24	2024/25	2025/26	2026/27	4YHLS	Difference in 4YHLS
B - Canalside, Banbury	Council	0	0	0	33	33	-33
	Appellants	0	0	0	0	0	
C - Bankside Phase 2	Council	0	0	0	0	0	0 ³
	Appellants	0	0	0	0	0	
D - Hanwell Fields	Council	0	0	0	28	28	-28
	Appellants	0	0	0	0	0	
E - Withycombe Farmhouse	Council	0	0	0	0	0	0 ⁴
	Appellants	0	0	0	0	0	
F - Grange Farm	Council	0	0	0	30	30	-30
	Appellants	0	0	0	0	0	

² 340 dwellings per annum for 2023/24 to 2025/26 and 540 in 2026/27

³ The Council’s 5YHLS for this site relied on delivery in year 5 only (i.e. 2027/28)

⁴ The Council’s 5YHLS for this site relied on delivery in year 5 only (i.e. 2027/28)



Site		2023/24	2024/25	2025/26	2026/27	4YHLS	Difference in 4YHLS
G - Deerfields Farm	Council	0	0	0	26	26	-26
	Appellants	0	0	0	0	0	
H - OS Parcel 3489, Ambrosden	Council	0	0	0	25	25	-25
	Appellants	0	0	0	0	0	
I - North of Railway House	Council	0	0	0	25	25	-25
	Appellants	0	0	0	0	0	
J - Kidlington Garage	Council	0	0	15	0	15	-15
	Appellants	0	0	0	0	0	
K - Former RAF Upper Heyford	Council	143	194	198	175	710	-200
	Appellants	143	194	123	50	510	
L - Drayton Lodge Farm	Council	0	50	50	75	175	-45
	Appellants	0	30	50	50	130	
M - South of Salt Way - East	Council	50	75	75	100	300	-100
	Appellants	50	50	50	50	200	
O - NW Bicester 2	Council	0	0	0	50	50	-50
	Appellants	0	0	0	0	0	
Small sites windfall allowance	Council	0	0	0	125	125	-25
	Appellants	0	0	0	100		
Total							-602

4.19 The Appellants' 4YHLS figure for Cherwell of 2,605 dwellings equates to a 4YHLS (against the local housing need for Cherwell only over 4 years) of 3.67 years (i.e. $2,605 / 710 = 3.67$ years). There would be a supply of 0 years for Oxford's unmet needs. Again, this is a failure to meet the minimum requirements of national policy and the tilted balance to the presumption in favour of sustainable development set out in paragraph 11d of the NPPF is engaged.



4.20 In summary, for the reasons set out above, the Appellants' view is that the provisions in paragraph 226 of the revised NPPF do not apply in Cherwell. If the Inspector disagrees then a 4 year housing supply against a 4 year housing requirement cannot be demonstrated either on a single calculation or separate calculations. On any basis, the Council is failing to comply with the minimum requirements of national policy relating to maintaining an adequate supply of housing and the tilted balance to the presumption in favour of sustainable development is engaged.



5. Monitoring

5.1 Paragraph 75 of the revised NPPF includes new wording, which states:

“Local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies.”

5.2 The Council’s AMR does not accord with paragraph 75 of the revised NPPF because it does not monitor the Council’s deliverable supply against its housing requirement set out in adopted strategic policies. Instead, it monitors the deliverable supply against the local housing need for Cherwell and separately monitors the deliverable supply for Oxford’s unmet housing need against the adopted housing requirement set out in policy PR1.

5.3 The Council’s claimed deliverable supply over 5 years of 4,121 dwellings for Cherwell (excluding Oxford’s unmet need) is very significantly less than the adopted housing requirement over the next 5 years of 5,710 dwellings (i.e. $1,142 \times 5 = 5,710$).



6. Conclusions

- 6.1 In conclusion, the revised NPPF has introduced several changes to the way housing land supply is to be calculated, which have been considered in this statement. The outcome of the changes is that the Council must still demonstrate a 5YHLS for the purposes of this appeal but a buffer is no longer included in the calculation.
- 6.2 The Appellants' view is that the revised NPPF further supports its position that a single 5YHLS calculation should be undertaken in Cherwell and therefore the supply equates to **2.26 years**. The Council's supply figure equates to 3.32 years against a single requirement. This is shown in table 6.1 below.

Table 6.1 – 5YHLS positions at 1st April 2023 against a single requirement of local housing need of 710 dwellings p.a. plus Oxford's unmet need (no buffer)

	Council Local housing need 710 dwellings p.a. plus Oxford's unmet need	Appellants Local housing need 710 dwellings p.a. plus Oxford's unmet need
Annual requirement	710 + 420 = 1,130	710 + 420 = 1,130
Shortfall	680	680
Five year requirement	6,330	6,330
Annual requirement	1,266	1,266
Deliverable supply at 1 st April 2023	4,201	2,855
Years supply	3.32	2.26
Undersupply	-2,129	-3,475

- 6.3 If the Inspector disagrees and concludes that separate housing land supply calculations are consistent with the revised NPPF, then the Council's case is that it can demonstrate a 5YHLS for Cherwell but not for Oxford's unmet needs as shown in table 6.2a below:



Table 6.2a – Council’s 5YHLS at 1st April 2023 – separate calculations (no buffer)

		Council’s 5YHLS position for Cherwell solely against the LHN	Council’s 5YHLS position on Oxford’s Unmet Housing Need
	Requirement		
A	Annual requirement	710	420 ⁵
B	Undersupply to be addressed in 5YHLS period	0	680
C	Total 5YHLS requirement (A X 5 + B)	3,550	2,780
D	Annual requirement plus (C / 5)	710	556
	Supply		
E	Council’s supply	4,121	80
F	Supply in years (E / D)	5.8	0.14
G	Over / under-supply (F – C)	571	-2,224

6.4 The Appellants’ case is that a 5YHLS cannot be demonstrated because the Council has not provided clear evidence for several disputed sites and therefore the deliverable supply for Cherwell is 2,855 dwellings. This means that even if separate calculations were made, the Council cannot demonstrate a 5YHLS as shown in the following table 6.2b.

⁵ i.e. 340 dwellings per annum 2023-26 and 540 dwellings per annum in 2026-28 = 2,100 / 5 = 420



Table 6.2b - Appellants' 5YHLS at 1st April 2023 – separate calculations (no buffer)

		Appellants' position for Cherwell solely against the LHN	Appellants' position on Oxford's Unmet Housing Need
	Requirement		
A	Annual requirement	710	420 ⁶
B	Undersupply to be addressed in 5YHLS period	0	680
C	Total 5YHLS requirement (A X 5 + B)	3,550	2,780
D	Annual requirement plus (C / 5)	710	556
	Supply		
E	Appellants' supply	2,855	0
F	Supply in years (E / D)	4.02	0
G	Under supply (F – C)	-695	-2,780

6.5 This statement and the advice from leading Counsel explain why the 4YHLS provision does not apply in Cherwell. However, were the Inspector to disagree, then as explained in section 4 of this statement, a 4YHLS is a requirement to demonstrate a 4 year supply against a 4 year requirement. This means that the supply in year 5 (2027/28) should be removed from the calculation.

6.6 Against a single requirement, the Council cannot demonstrate a 4YHLS against a single requirement as shown in the following table 6.3.

⁶ i.e. 340 dwellings per annum 2023-26 and 540 dwellings per annum in 2026-28 = 2,100 / 5 = 420



Table 6.3 – 4YHLS positions at 1st April 2023 against a single requirement of local housing need of 710 dwellings p.a. plus Oxford’s unmet need (no buffer and not including the shortfall)

	Council Local housing need 710 dwellings p.a. plus Oxford’s unmet need	Appellants Local housing need 710 dwellings p.a. plus Oxford’s unmet need
Four year requirement	4,400	4,400
Annual requirement	1,100	1,100
4 year deliverable supply at 1 st April 2023	3,207	2,605
Years supply	2.91	2.36
Undersupply	-1,193	-1,795

6.7 If the Inspector disagrees and concludes that separate housing land supply calculations are consistent with the revised NPPF, then the Council’s case is that it can demonstrate a 4YHLS for Cherwell but not for Oxford’s unmet needs as shown in table 6.4a below:



Table 6.4a – Council’s 4YHLS at 1st April 2023 – separate calculations (no buffer and no shortfall)

	Council’s 4YHLS position for Cherwell solely against the LHN	Council’s 4YHLS position on Oxford’s Unmet Housing Need
Requirement		
Total 4YHLS requirement	2,840	1,560
Annual requirement	710	390
Supply		
Council’s 4 year supply	3,207	0
Supply in years	4.52	0
Over / under-supply	367	-1,560

6.8 The Appellants’ view is that a 4YHLS cannot be demonstrated even on separate calculations as shown in table 6.4b below.

Table 6.4b – Appellants’ 4YHLS at 1st April 2023 – separate calculations (no buffer and no shortfall)

	Appellants’ 4YHLS position for Cherwell solely against the LHN	Appellants’ 4YHLS position on Oxford’s Unmet Housing Need
Requirement		
Total 4YHLS requirement	2,840	1,560
Annual requirement	710	390
Supply		
Appellants’ 4 year supply	2,605	0
Supply in years	3.67	0
Under-supply	-235	-1,560



6.9 On any basis, the Council is failing to comply with the minimum requirements of national policy relating to maintaining an adequate supply of housing and the tilted balance to the presumption in favour of sustainable development is engaged.



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