

Town and Country Planning Act 1990 (as amended)

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

In the following appeal:

Outline planning application for up to 120 dwellings, vehicular and pedestrian access off Ploughley Road, new pedestrian access to West Hawthorn Road, surface water drainage, foul water drainage, landscaping, public open space, biodiversity and associated infrastructure. Access off Ploughley Road is not reserved for future consideration
Land East of Ploughley Road, Ambrosden, OX25 2AD

PINS Reference: APP/C3105/W/23/3327213

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November 2023

(CD Refs Amended February 2024)

Inspectorate Ref: APP/C3105/W/23/3327213

Planning Application Ref: 22/02866/OUT

Appeal Site: Land East of Ploughley Road, Ambrosden, OX25 2AD

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

**Rebuttal 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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| CONTENTS | PAGE |
|---|-------------|
| 1.0 Introduction and Scope of Rebuttal Evidence | 4 |
| 2.0 My Understanding of Mr Pycroft's Case | 5 |
| 3.0 Background to Joint Working and Site Selection in Oxfordshire..... | 7 |
| 4.0 West Oxfordshire Local Plan 2031 | 8 |
| 5.0 South Oxfordshire Local Plan 2035..... | 11 |

1.0 INTRODUCTION AND SCOPE OF REBUTTAL EVIDENCE

- 1.1 For the purposes of introducing this Rebuttal I do not repeat my qualifications and experience that remain as set out within my main Proof of Evidence.
- 1.2 I have prepared the following rebuttal subsequent to the exchange of Proofs of Evidence on matters relating to housing land supply and the requirement against which supply is to be assessed. Within this Rebuttal evidence I address only the requirement against which supply should be assessed and consider:
- a. The principles relied upon by Mr Pycroft to suggest that a single figure must be used for the housing requirement based on the examples he identifies;
 - b. Briefly, the background to joint working in Oxfordshire and its implications for plan-making;
 - c. Circumstances in West Oxfordshire resulting in the housing requirement in adopted strategic Policy H1 (now more than five years old and no longer applied), which are not comparable to those in Cherwell district; and
 - d. Circumstances in South Oxfordshire resulting in the housing requirement in adopted strategic Policy STRAT2, which are not comparable to those in Cherwell district.
- 1.3 Based on the scope summarised above, Mr Pycroft has identified substantive matters relating to the adopted Plans of neighbouring authorities and their background to work under the Duty to Cooperate. I have therefore proposed that these Plans and relevant aspects of their evidence base are introduced as Core Documents to this Inquiry.
- 1.4 I confirm that this rebuttal 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 | 10 November 2023 Core Document Refs Amended 23 February 2023 |

2.0 MY UNDERSTANDING OF MR PYCROFT'S CASE

- 2.1 Within his evidence Mr Pycroft considers the background to requirements for plan-making under the Duty to Cooperate relevant to cross-boundary strategic priorities for housing amongst the local planning authorities within Oxfordshire. At paragraph 2.12 Mr Pycroft ("BP") (CD/G.7 – BP) specifies an agreed apportionment related to unmet needs from Oxford City Council.
- 2.2 It is agreed based on Paragraph 2.11 of Mr Pycroft's evidence that the apportionment for Cherwell District to provide for part of Oxford's unmet needs was agreed following the Examination and adoption of the Cherwell Local Plan Part 1 (CD/I.1).
- 2.3 I have addressed the approach to plan-making and making provision for part of Oxford's unmet needs through the relevant adopted strategic policies of the Local Plan for Vale of White Horse District within my main Proof of Evidence (JG PoE Section 5(f)). I set out why the circumstances can be and are different to those in Cherwell based on how relevant adopted strategic policies have been prepared and how they are to be applied.
- 2.4 I have not previously addressed circumstances in West Oxfordshire and South Oxfordshire. Mr Pycroft relies upon these authorities making provision for a housing requirement specified within one single adopted strategic policy only therefore providing one figure to be measured that comprises local housing need and contributions towards unmet needs.
- 2.5 Mr Pycroft purports this to be representative of consistency with national policy and being the approach applied in South Oxfordshire where its Plan was Examined and adopted under the same wording as the current Framework.
- 2.6 Paragraphs 61 and 66 of the NPPF2023 relied upon to support Mr Pycroft's position on the housing requirement against which supply is assessed relate to plan-making. They do not change the status of the adopted Development Plan, nor do they prescribe a particular approach or outcome of the process.
- 2.7 It is the housing requirement(s) in adopted strategic policies (unless LHN applies), arrived at as a result of the plan-making process, that is relevant to the application of NPPF2023 paragraph 74. The outcome of adopted policies is distinct from the plan-making process, which may be approached in different ways.
- 2.8 Mr Pycroft relies on a distinction between the wording of Paragraph 47 of the former NPPF2012 and Paragraphs 61/66 of the NPPF2023. This is so as to suggest a fundamental shift in the process of plan-making and thus an outcome that must be achieved in terms the expression of the housing requirement in adopted strategic policies. At paragraph 1.35 of his PoE Mr Pycroft concludes:
- "The 2023 Framework therefore clearly envisages one housing requirement which includes the local housing need for the area and any unmet need from neighbouring areas and it is this figure which the 5YHLS should be measured against."*
- 2.9 I disagree. Behind paragraph 61 and 66 the main considerations for plan-making that govern how housing need can be addressed and how the housing requirement may be defined have not fundamentally changed. Key legal requirements, such as the Duty to Cooperate, are unchanged. The Duty to Cooperate is an ongoing process that transcends iterations of national policy. Hence paragraph 17 of the NPPF2023 continues to refer to plans potentially being prepared in different ways.
- 2.10 Paragraph 25 dealing with effective cooperation states "strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans" – noting the reference to Plans in the plural. Paragraph 74 continues to refer to

adopted strategic policies – anticipating that regard may be had to more than one policy.

- 2.11 It is agreed that this Inquiry is concerned with the use of local housing need providing the figure against which to assess supply and in relation to adopted strategic policies only those prepared under the NPPF2012 regime. Notwithstanding, I fundamentally disagree that the NPPF2023 regime definitively prescribes that a single figure for the housing requirement must be identified.
- 2.12 Just as with the Vale of White Horse I do not agree that either South Oxfordshire or West Oxfordshire lend any support to the Appellant's case for the housing requirement against which supply should be assessed in Cherwell District. Mr Pycroft fails to correctly apply the wording of NPPF2023 Paragraph 74; fails to properly reflect the distinction between plan-making and decision-taking; and has no regard to the circumstances for plan-making within each authority.
- 2.13 In principle and before considering the details of other Plans there are key components Mr Pycroft's argument that are not comparable with Cherwell in terms of applying the wording of NPPF2023 paragraph 74 consistently.
- In West Oxfordshire and South Oxfordshire relevant strategic policies are less than five years old, or where they are more than five years old have been reviewed and found not to require updating;
 - Local Housing Need calculated using the standard method forms no part of the requirement used to assess supply in either of the examples cited unlike the Appellant's case in Cherwell.
 - Only one relevant adopted strategic policy applies for the purposes of assessing whether the contribution towards part of Oxford's unmet needs are less than five years old. This is not the case in Cherwell.
- 2.14 In the case of West Oxfordshire, the components of Mr Pycroft's case no longer apply and following the conclusions of a Regulation 10A Review (CD/I.35) the authority applies local housing need calculated using the standard method to assess supply (see CD/I.36).

3.0 BACKGROUND TO JOINT WORKING AND SITE SELECTION IN OXFORDSHIRE

- 3.1 It is important to note that what is comparable in terms of the position of all Oxfordshire authorities contributing towards part of Oxford's unmet needs is that appropriate opportunities to achieve this were underpinned by sound planning principles and assessment of potentially suitable locations.
- 3.2 The site-specific nature of the approach governing the potential apportionment of unmet needs and guiding the relevant plan-making activities of each authority was outlined in detail within the Report 'A Countywide Approach to Meeting the Unmet Housing Need of Oxford' prepared for and subsequently agreed by the Oxfordshire Growth Board on 26 September 2016 (CD/I.39).
- 3.3 A summary is provided at Paragraph 48 of the Part 1 Inspector's Report for the West Oxfordshire Local Plan:

"During the suspension of the examination the Oxfordshire Growth Board formally agreed that a 'working assumption' figure of 15,000 represents Oxford City's unmet housing need and that West Oxfordshire will accommodate 2,750 of these homes in the period 2021-2031. The 2,750 figure is based on extensive joint work on both capacity within Oxford City and on potential options for meeting the city's housing needs beyond the city boundary. The latter work includes a Green Belt study, a Spatial Options Assessment, a Transport Infrastructure Assessment and an Education Assessment." (CD/I.34)

- 3.4 It is important to note that the conclusions of the Growth Board's work expressly references that it would be role of individual Local Plans to address site selection and the relationship between options potentially suitable to address unmet needs and other spatial strategy considerations. Paragraph 55 of the Growth Board Report therefore states:

*"55) Each of the studies considered a set of thematic issues relating to the areas of search and in particular the relationship of the areas of search to Oxford City, given the Programme was concerned with considering how best to apportion the unmet need of Oxford. Reconciling the tension between a spatial strategy developed for each District with those options judged most appropriate to meet Oxford's unmet housing need, i.e., **the judgment about which areas and sites within them serve each District's needs and those which serve Oxford's, are matters for each District to address through the Local Plan making process after the apportionment has taken place.**"* (CD/I.39 - my emphasis)

- 3.5 On the basis that each authority was at a different stage in the plan-making process then the application of these sound planning principles would result in the justification for site selection and identification of the housing requirements in strategic policies being expressed differently. Contributions towards part of Oxford's unmet needs in Cherwell form a distinct part of an appropriate spatial strategy.

4.0 WEST OXFORDSHIRE LOCAL PLAN 2031

- 4.1 While no longer the approach applied by the authority for the purposes of NPPF2023 paragraph 74, Paragraph 5.45 of the adopted West Oxfordshire Local Plan (CD/I.33) confirms the rationale for measuring performance against a single figure:

“5.45 Oxford’s unmet needs are set out separately in the phased requirement table for illustrative purposes only. As Policy H2 makes clear, housing supply and delivery will be assessed against the combined totals which will be derived from annual completions across the District. Thus, whilst it is anticipated that Oxford’s unmet needs will be largely accommodated through delivery of the Oxfordshire Cotswolds Garden Village, the housing requirement is not disaggregated so that under or over supply at this location will not be treated separately when calculating the five year housing land supply.” (CD/I.33)

- 4.2 For the reasons outlined below the position in adopted strategic policies does not conflate need and supply based on the spatial strategy adopted in West Oxfordshire.
- 4.3 The implications for the approach in West Oxfordshire are not simply mathematical but reflect real world differences when compared with Cherwell. The West Oxfordshire Local Plan provides specific expectations for the scale, distribution and proposed phasing of housing provision.
- 4.4 Specific sites identified to meet part of Oxford’s unmet needs for the period 2021-2031 cannot be distinguished separately from the wider strategy. The reality is that very similar considerations for the justification of site selection and overall distribution proposed were applied to justify the extent of supply identified within Eynsham-Woodstock part of the Plan Area. The was relevant to all allocations identified in this part of the Plan Area and where pre-existing committed and allocated supply informs the total distribution.
- 4.5 This point on indistinguishability was relevant to preparation of the Development Plan in the Vale of White Horse. Paragraph 51 of the Inspector’s Report for the West Oxfordshire Local Plan (CD/I.34) summarises the similarity of circumstances in that authority:

“It has been argued that the Oxford City unmet housing needs requirement should apply immediately rather than being provided for only in the last ten years of the plan period (i.e., 2021-2031). However, this timescale is supported by all the local authorities, and it reflects the realities of delivery in the light of the strategy and lead-in times for the specific sites deemed most appropriate to meet these needs. Moreover, nothing in the plan prevents delivery of housing to contribute towards the city’s unmet housing needs before 2021. Indeed, notwithstanding the theoretical need that they are provided to meet, in reality, all homes built in the Eynsham – Woodstock sub-area (the part of West Oxfordshire closest to Oxford) will be as much available for households who would be considered to be an Oxford City housing need as to households who would be considered to be a West Oxfordshire need.”

- 4.6 A simple summary is provided in Table 1 below. In summary even in the event that the adopted spatial strategy in West Oxfordshire made no contribution towards Oxford’s unmet needs and removed provision specific through sites referenced for that purpose, around 22% of growth would still arise from the Eynsham and Woodstock sub-area reflecting its proximity to Oxford and contribution to sustainable development.

Table 1. Illustration of the Spatial Strategy and Relationship With Unmet Needs – West Oxfordshire

| West Oxfordshire | Total Provision | % of Total | Contribution towards Oxford (unmet needs) | Total provision Less Unmet Needs | % of Total |
|------------------------------|-----------------|-------------|---|----------------------------------|-------------|
| Witney sub-area | 4702 | 30% | | 4702 | 36% |
| Carterton sub-area | 2680 | 17% | | 2680 | 21% |
| Chipping Norton sub-area | 2047 | 13% | | 2047 | 16% |
| Eynsham – Woodstock sub-area | 5596 | 35% | 2750 | 2846 | 22% |
| Burford – Charlbury sub-area | 774 | 5% | | 774 | 6% |
| Total | 15799 | 100% | | 13049 | 100% |

4.7 This is very different to circumstances in Cherwell. As shown in Table 2 below the contribution towards unmet needs within the sites specifically identified within the areas of the Partial Review are essentially a freestanding total and distinct from supply identified to meet the district’s needs. I highlight this without prejudice to the point that the requirement in adopted strategic policies was never to be measured jointly in Cherwell.

Table 2. Illustration of the Spatial Strategy and Relationship With The Housing Requirement in Adopted Strategic Policies

| Cherwell | Total Provision (LPP1 and PR) | % of Total | Unmet Needs | Policy BSC1 Provision | % of Total |
|---------------------|-------------------------------|------------|-------------|-----------------------|------------|
| Banbury Supply | 7319 | 27% | | 7319 | 32% |
| Bicester Supply | 10129 | 37% | | 10129 | 44% |
| Other Areas | 5392 | 20% | | 5392 | 24% |
| Partial Review Area | 4400 | 16% | 4400 | 0 | 0% |
| Total | 27240 | | | 22840 | |

4.8 In the circumstances for Cherwell need and supply would be conflated by monitoring supply identified towards meeting part of Oxford’s unmet needs as part of a single figure for NPPF2023 paragraph 74 purposes. This is consistent with the outcomes of the Duty to Cooperate in Cherwell, where the authorities agreed that sites within the Partial Review were identified with specific reference to Oxford’s unmet needs – see CD/I.41 paragraph 3.27)

4.9 I therefore highlight the difference between the housing trajectories within the respective Development Plans.

4.10 In West Oxfordshire the housing trajectory is provided at Appendix 2, but this contains no specific definition of sites identified to address part of Oxford’s unmet needs.

4.11 The Cherwell Local Plan Partial Review contains a separate housing trajectory at Appendix 3. This specifically identifies sites providing for part of Oxford’s unmet needs and the requisite separate basis for measuring land supply in the Partial Review area. Reference to this housing trajectory used to inform delivery of the Plan’s specific objectives is included in Policy PR12a and the supporting text to this at Paragraphs 5.164 – 5.165 (CD/I.4)

4.12 Finally, I make further brief observations on the position in West Oxfordshire that I do not have been properly highlighted by Mr Pycroft and do not make the circumstances comparable:

- The overall housing requirement in Policy H2 of the West Oxfordshire Local Plan was 'phased' or stepped including the proposed contribution towards unmet needs. The delivery profile was effectively backloaded for the purposes of measuring supply. These considerations do not apply where LHN provides for the relevant five-year requirement;
- Shortfall was to be assessed using the 'Liverpool' methodology. Mr Pycroft provides no assessment of whether he considers this aspect of the requirement in adopted strategic policies to accord with the latest versions of the NPPF and NPPG;
- Paragraph 236 of the Local Plan Inspector's Report deals with the justification for a phased approach and management of shortfall over the plan period as appropriate in the circumstances of securing sound contributions towards unmet needs under the Duty to Cooperate. The reality is that the Plan indicates very little contribution from sites specifically identified to meet part of Oxford's unmet needs prior to the Plan becoming more than five years old.
- Local housing need is now used to assess supply. This in-effect supersedes the provisions to review the phased approach outlined in Policy H2. However, neither the review provisions nor LHN result in a situation where continuing to measure total provision against the relevant five-year requirement would conflate need and supply given the strategy adopted.

5.0 SOUTH OXFORDSHIRE LOCAL PLAN 2035

- 5.1 The outcomes of plan-making in South Oxfordshire result in a single figure against which to measure the housing requirement within Policy STRAT2 (CD/I.37). This includes a proposed contribution towards unmet needs of 4,950 dwellings.
- 5.2 A simple illustration of this is shown in Table 3 below. In summary even in the event that the adopted spatial strategy in South Oxfordshire made no contribution towards Oxford's unmet needs and removed provision specific through sites referenced for that purposes around 22% of growth would arise from capacity released from the Green Belt (compared to 36% as identified through the provision to meet requirements as set out in POLICY STRAT2).

Table 3. Illustration of the Spatial Strategy and Relationship With Unmet Needs – South Oxfordshire

| South Oxfordshire Local Plan | Total Provision | % of Total (excluding unspecified) | Unmet Needs | Total provision Less Unmet Needs | % of Total |
|--|-----------------|------------------------------------|-------------|----------------------------------|------------|
| New Strategic Allocations: GB Science Vale | 3800 | 14% | | 3800 | 17% |
| New Strategic Allocations: Green Belt (Oxford's Unmet Needs) | 5380 | 20% | 4950 | 430 | 2% |
| New Strategic Allocations: Green Belt | 500 | 2% | | 500 | 2% |
| Non-GB Strategic Allocations: Chalgrove | 2105 | 8% | | 2105 | 10% |
| Didcot (CS and New Allocations) | 6339 | 24% | | 6339 | 29% |
| Market Towns | 3873 | 15% | | 3873 | 18% |
| Larger Villages | 4673 | 18% | | 4673 | 22% |
| Windfall, Other Areas and Unspecified Commitments | 3386 | | | 3386 | |
| Provision Less Unspecified Completions, Commitments and Windfall | 26670 | | | 21720 | |
| Total Provision | 30056 | | | 25106 | |

- 5.3 As in West Oxfordshire this establishes a pattern of development where actual delivery that may provide for Oxford's housing needs is an indistinguishable component of what the Council has identified as an appropriate spatial strategy for the district's own needs.
- 5.4 I outline further below observations on why these plan-making outcomes are not comparable to those in Cherwell:
- The approach to the housing requirement and proposed distribution of supply must have regard to the significant headroom in provision (27%) considered necessary to achieve this and supporting the identification of 7 strategic sites within the Plan

- (principally via release of land from the Green Belt). This requires regard to the housing delivery policies of the Plan and further reinforces why the contribution of delivery towards Oxford's unmet needs is not distinguished separately as part of measuring need and supply. Paragraph 44 of the Local Plan Inspector's Report makes this point.
- The rationale for the spatial strategy adopted recognises a 42% uplift on needs identified in the previous Core Strategy. This is addressed in paragraph 81 of the Inspector's Report as justifying an evolution from the focus of growth at Didcot and informs the case for exceptional circumstances to amend Green Belt boundaries to sustainably meet all needs.
 - Paragraphs 70-79 of the Inspector's Report addresses support for the identification for sites within the Green Belt to meet overall needs supported by proximity to employment, delivery of infrastructure and proximity to Oxford.
 - The rationale that a greater proportion of needs would be met in the Green Belt south of Oxford is not new. Though different in name the justification for the strategy is not unrelated to the potential for the South of Oxford Strategic Development Area referenced in the previous Core Strategy.
 - Paragraph 91 of the South Oxfordshire Local Plan Inspector's Report concludes that *"The plan seeks to meet overall development needs in the right places through a logical and evidence based spatial strategy."*
 - The Housing Trajectory at Appendix 8 does not specify separately the sites selected on the basis of their ability to contribute towards Oxford's unmet needs.
 - Strategic Allocations STRAT9 and STRAT10i within the South Oxfordshire Local Plan (within the Green Belt at Culham and Berinsfield) form options assessed by the Oxfordshire Growth Board (CD/I.39) but rejected as options informing the apportionment of unmet needs. These sites were nevertheless selected in the Local Plan and would be measured towards the total requirement.
 - This is expressly different to plan-making in Cherwell, where through the Partial Review Site PR10 at Woodstock was identified but removed in the course of the Examination when found unsound against the criteria of sustainably providing for Oxford's unmet needs only. This reflects that potential contributions towards need and supply in Cherwell are not conflated and this is reflected in the separate requirement in adopted strategic policies.
 - Similar to circumstances in West Oxfordshire I note that the contribution towards unmet needs is effectively stepped and phased over a longer period of time than first anticipated in the work of the Growth Board.
 - The phased requirement for the period 2011-2026 effectively includes measurement of 125 dwellings per annum in excess of objectively assessed needs (900 – 775 = 125dpa). Provision towards this total cannot be distinguished or measured separately within the plan period before adoption in terms of its relationship with unmet needs. The requirement of 900dpa is however also informed by strategy considerations seeking to make us past shortfall as quickly as possible. Beyond 2026 policy STRAT2 would be more than five years old.
 - Because the components of the housing requirement in Policy STRAT2 are not distinguished separately it could not be said that it is a failure to provide specific supply towards part of Oxford's unmet needs that engages paragraph 11(d) where a shortfall exists. There are no provisions to conflate the measurement of need and supply in that way as part of policies in South Oxfordshire.

- 5.5 In summary, plan-making is a forward-looking exercise. In South Oxfordshire that exercise justifies a single requirement. The measurement of the adopted strategy since the base date in South Oxfordshire is inclusive of requirements in addition to objectively assessed needs.
- 5.6 The strategy adopted means that total need and supply would continue to be indistinguishable if measured as a single figure over the plan period or if measured against a different figure for the housing requirement under local housing need.

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