

Rebuttal Proof of evidence by Ben Pycroft re: Housing Land Supply
For Archstone Ambrosden Ltd, Bellway Homes Ltd and Rosemary May | 23-425

Residential development of up to 120 dwellings at Land east of Ploughley Road,
Ambrosden (LPA refs: 22/02866/OUT and 23/00091/REF, PINS ref:
APP/C3105/W/23/3327213)

Project: 23-510
Site Address: Land east of Ploughley Road, Ambrosden
Client: Archstone Ambrosden Ltd, Bellway Homes Ltd and Rosemary May
Date: 06 March 2024
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1. Introduction

1.1 This rebuttal is submitted on behalf of Archstone Ambrosden Ltd, Bellway Homes Ltd and Rosemary May (the Appellants) in support of their appeal against the decision of Cherwell District Council (the Council) to refuse to grant outline planning permission 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”

at land east of Ploughley Road, Ambrosden (LPA refs: 22/02866/OUT and 23/00091/REF, PINS ref: APP/C3105/W/23/3327213).

1.2 This brief rebuttal addresses two issues in relation to housing land supply:

- Firstly, the claim in Jon Goodall’s supplemental proof of evidence that the local housing need for Cherwell used in the 5YHLS calculation is 703 dwellings per annum rather than 710 dwellings per annum; and
- Secondly, the points made in Tom Webster’s supplemental proof of evidence in relation to Oxford’s Unmet Housing Need.



2. Local Housing Need

- 2.1 The Council's latest published position on housing land supply is set out in the AMR (published December 2023) and the HLSPS Update (published January 2024). Both documents explain that the Local Housing Need for Cherwell (excluding any unmet need from Oxford) to be used in the 5YHLS calculation at the agreed base of 1st April 2023 is 710 dwellings per annum. I agree.
- 2.2 Jon Goodall however disagrees with the Council's published position and now claims that the Local Housing Need is 703 dwellings per annum. The reason for this is because Jon Goodall now uses the annual average household growth over the period 2024 to 2034 in his calculation of local housing need rather than using the annual average household growth over the period 2023 to 2033. As I understand it, the reason for this is because the wording in paragraph 2a-004 of the PPG refers to the "current year" being used as the starting point for calculating the projected annual household growth over a 10 year period in step 1.
- 2.3 The application of 703 dwellings per annum rather than 710 dwellings per annum reduces the 5YHLS requirement from 1st April 2023 by 35 dwellings. I disagree with this approach because it results in an unbalanced assessment of need and supply as I explain below.
- 2.4 Firstly, the household projections used in step 1 are based on population projections for that year (including data in relation to mortality, fertility and migration rates) and then apply household formation rates to convert the population to households. The household projections are therefore the outcome of the number of households that would result if assumptions based on previous demographic trends in population and rates of household projections are rolled forward.
- 2.5 Consequently, if the base year is 2023 then the starting point uses the given population projection at 2023 and calculates household growth based on population levels assumed at that date. However, if the base year is 2024 then the starting point uses the population figure for 2024 and calculates household growth based on the population levels assumed at that date.
- 2.6 The population is assumed to change between 2023 and 2024 because some of the household growth will have been realised in part through housing completions that took place between 2023 and 2024. However, these completions would be on sites already included in the Council's deliverable supply at 1st April 2023. Therefore, the use of the household projections at 2024 amends the need without updating the deliverable supply available to that population. It results in an unbalanced assessment.
- 2.7 Secondly, the agreed base date of the 5YHLS calculation is 1st April 2023. This is the date that both the requirement and supply should relate. Paragraph 77 of the Framework requires the Council to:



“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”. (my emphasis)

- 2.8 As part of the annual assessment, the Government requires the Council to “identify” both the deliverable supply and (in this case) the local housing need, which the supply is to be assessed against. By undertaking an annual assessment, the need at the base date and the supply at the same date would be assessed at the same time.
- 2.9 Consistency is required between the base date for the supply and the base date for the requirement. There have been several appeal decisions, which have concluded this is the case. One example is a decision relating to an appeal made by Landex Ltd against the decision of Mid Suffolk District Council to refuse permission for the erection of 49 dwellings at land on the east side of Green Road, Woolpit¹. In that case, Mid Suffolk Council had included sites that were not deliverable at the base date, but had since received planning permission. The Inspector concluded that such an approach would “skew” the data. Paragraph 67 of the appeal decision states:

“In my view the definition of ‘deliverable’ in the Glossary to the NPPF 2018 does not relate to or include sites that were not the subject of an allocation but had a resolution to grant within the period assessed within the AMR. The relevant period is 1 April 2017 to 31 March 2018. There is therefore a clear cut-off date within the AMR, which is 31 March 2018. The Council’s supply of deliverable sites should only include sites that fall within the definition of deliverable at the end of the period of assessment i.e. 31 March 2018. Sites that have received planning permission after the cut-off date but prior to the publication of the AMR have therefore been erroneously included within the Council’s supply. **The inclusion of sites beyond the cut-off date skews the data by overinflating the supply without a corresponding adjustment of need.** Indeed that is why there is a clear cut-off date set out in the AMR. Moreover, the site West of Barton Road, Thurston, should be removed from the supply as its permission postdates the cut-off for the relevant period of assessment.” (my emphasis)

- 2.10 More recently, an appeal decision regarding land south of Post Office Lane, Kempsey, Worcestershire (Malvern Hills)² was published where the calculation of local housing need was considered at a public inquiry in detail. In that case, Malvern Hills Council’s 5YHLS has a base date of 1st April 2022 but it sought to update its local housing need based on updated affordability ratios published in March 2023 and

¹ PINS ref: 3194926 – 28th September 2018 – core document **M28**

² PINS ref: 3313440 – 14th August 2023 – core document **M26**



household growth using a current year of 2023 (paragraph 38). In doing so, Malvern Hills Council referred to paragraph 2a-004 of the PPG. However, the Kempsey Inspector concluded that:

- Consistency is required in terms of the base date for the need and supply;
- The Framework does not support an approach where the local housing need calculation is updated but the deliverable supply is not; and
- To do so would skew the assessment.

2.11 Paragraphs 38-42 of the appeal decision state:

“38. For the purposes of the HLSRa the Council sought to update its calculation of local housing need based on updated affordability ratios published by the Office of National Statistics in March 2023 and household growth using a current year of 2023. This resulted in a reduced figure of 386 dwellings per annum (405 dwellings per annum including a 5% buffer). It argues that this aligns with the PPG on the application of the standard method and in particular, as regards ‘the current year being used as the starting point from which to calculate growth’ and ‘the most recent median workplace-based affordability ratios..., should be used’.

39. In support of that view the Council has drawn attention to a Report to the Secretary of State concerning appeal Ref. APP/D3505/W/18/3214377. In it the Inspector determined that it was not necessary to ensure consistency between the base date for the supply and either the ‘current year’ as the starting point from which to calculate growth or the then available affordability ratios. Whilst acknowledging that his conclusion did not align with the approach taken in an earlier appeal decision Ref. APP/P0119/W/17/3189592, the Inspector reasoned that if it was necessary to ensure consistency, then the PPG would have said so. In the event, the Secretary of State did not need to determine the point, as the Council submitted a new annual update to the Secretary of State following the close of the associated Inquiry.

40. **To my mind, the PPG is not intended to be read in isolation. So far as relevant to this case, the use of the standard method is required by the Framework as part of the process to ‘identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing...against their local housing need...’.** In this context, consistency, in terms of need and supply data, is likely to flow from the application of the standard method as part of the process of annual update.

41. Whilst the HLSRa corrected the assumptions regarding the delivery of a small number of sites included in the supply position at 31 March 2022, as referred to above, it did not comprehensively review the supply of specific deliverable sites as part of the annual update required by the Framework. The Council indicated at the Inquiry that that would be done at a later date, as part of its annual monitoring cycle. **In my judgement, the approach set out in HLSRa of assessing the housing land supply position on the basis of an updated local housing needs calculation, but not a similarly updated**



supply position for specific deliverable sites is not the approach supported by the Framework. Against this background, I consider that little weight is attributable to the HLSRa calculated housing land supply figure of 5.24 years (a surplus of 96 dwellings). In the Housing Need and Supply Statement of Common Ground Addendum, April 2023, it is acknowledged that this approach provides for a skewed assessment, as the supply in 2022/23 will be included both in the supply and will have influenced the need. This adds further weight to my finding.

42. My overall findings regarding the HLSR2022 and the HLSRa are consistent with those of my colleague who determined appeal Ref. APP/J1860/W/22/3304685.”

2.12 For clarity, the three appeal decisions referred to in paragraphs 38 and 42 of the Kempsey decision relate to:

- PINS ref: 3189592 – Land south of Gloucester Road, Thornbury (South Gloucestershire)³ where the Inspector considered 4 different scenarios relating to the calculation of South Gloucestershire’s local housing need at 1st April 2017, including a scenario which used the current year (i.e. 2018) for the household projections and the most recent affordability ratio (published in 2018). The Inspector dismissed that scenario because it did not provide a “like-for-like assessment” and instead favoured the position tested at the Inquiry, which set out the calculation of local housing need at 1st April 2017 (paragraph 8);
- PINS ref: 3214377 – Land off Station Road, Long Melford (Babergh)⁴ where as discussed in paragraph 39 of the Kempsey decision, the Inspector’s Report to the Secretary of State for Long Melford considered that if it was necessary to ensure consistency between the base date for the requirement and supply the PPG would say so. However, the Secretary of State did not need to make a determination on this point because an updated 5YHLS position statement was produced by Babergh before the decision was issued; and
- PINS ref: 3304685 – land at North Lodge, Main Road, Hallow (Malvern Hills)⁵. Paragraphs 21 to 29 of that decision state:

“21. I have been made aware of various recent appeal decisions from 2023 that have shown the Council has been unable to demonstrate a 5YHLS. Meanwhile, very recent appeal decisions from May 2023 found that the Council’s housing land supply was deemed to be in the region of between 4.69 and 4.92 years.

22. Indeed, the Council has also acknowledged that following publication of The South Worcestershire Councils Five Year Housing Land Supply Report (December 2022) (SWCFYHLS), several development sites that were contributing towards its 5YHLS have been found not to be deliverable within the relevant period. Consequently, I am aware that the Council has accepted during some recent

³ PINS ref: 3189592 – 14th May 2019 – core document **M29**

⁴ PINS ref: 3214377 – 1st April 2020 – core document **M30**

⁵ PINS ref: 3304685 – 25th May 2023 – core document **M31**



appeals that it was unable to demonstrate a suitable up-to-date provision of housing land.

23. Despite this, the Council now contends that it can demonstrate a 5YHLS. This is largely based upon the findings of the South Worcestershire Council's Five Year Housing Land Supply Report Addendum, published in April 2023 (the Addendum Report).

24. The Addendum Report has sought to re-examine both the housing need and supply positions for the relevant South Worcestershire authority areas. The Council's housing need requirements have been updated based upon the latest release of Office for National Statistics (ONS) data for 'House Price to Workplace based earnings ratio'. This in turn has resulted in an adjustment to the affordability ratio for the area that has been used in the standard method for calculating housing supply. Fundamentally, this has led to Malvern Hills District Council identify a reduced housing need requirement for its area. Based on the reduced needs figure, the Addendum Report suggests that Malvern Hills can demonstrate a housing land supply of 5.24 years, even when accounting for a modest reduction in supply of deliverable dwellings compared to the December 2022 Report.

25. The Addendum Report is an interim statement and not an Annual Position Statement as set out at paragraph 75 of the Framework. In preparing the Addendum Report, it is also unclear as to what extent engagement has taken place between the local planning authority and developers or other parties that may have an impact on the delivery of dwellings. Therefore, despite a reduction in deliverable sites since the December 2022 SWCFYHLS, I remain sceptical as to whether the deliverability of all sites outlined within the Addendum have been examined in detail.

26. Furthermore, I have fundamental concerns regarding the robustness of the calculation of the 5YHLS within the Addendum Report. I appreciate that the PPG recommends that the most recent ONS median workplace-based affordability ratios should be utilised in the standard methodology for calculating annual local housing need. **However, in this instance, the Council has updated its need requirement to effectively account for the period 2023 - 2028 but appears not to have correspondingly updated its supply position to cover the same period.**

27. Instead, it seems that at least in respect of Malvern Hills, the Addendum Report is reliant upon the previous supply position at its April 2022 base date, bar some sites that have subsequently been demonstrated to not be deliverable within the relevant five-year period (i.e. 2022 – 2027). It therefore does not take account of the latest housing completions or commitments within the authority area.

28. Effectively, the Addendum Report has calculated its 5YHLS based on mismatching periods of need (2023-2028) and supply (2022-2027). Given that the standard method for calculating local housing need also considers past delivery,



this also raises concerns over the prospect of double counting resulting in an inaccurate assessment.

29. Notably, the housing completions for the year 2022/23 will influence the affordability ratio used when setting the minimum local housing need for the base year 2023. Hence, if considering the 5YHLS over the period 2022-27 against the minimum local housing need from 2023, the supply in 2022/23 will be included in both the supply but also influenced the need.” (emphasis added)

2.13 Following the Kempsey appeal decision, two further decisions were issued in Malvern Hills relating to appeals made by H2Land Ltd on sites in Collett’s Green⁶. The appeal decisions were consistent with the findings of the Hallow and Kempsey Inspectors in relation to the mismatch of the requirement and supply calculations. Paragraph 51 of the appeal decisions state:

“It was established at the hearing that the 5YHLS in the Addendum Report has also been calculated on mismatching periods of need (2023-2028) and supply (2022-2027). Taking into consideration that the standard method for calculating local housing need also considers past delivery, this raises concerns of double counting thereby resulting in an inaccurate assessment.”

2.14 In summary, ensuring that the supply is being assessed against the housing need it responds to provides consistency. This approach is also consistent with the Housing Delivery Test, which measures housing in Cherwell against the local housing need as calculated at 1st April each year (plus Oxford’s unmet needs as I explained in my updated proof of evidence). Therefore, the Government expects the Council to deliver 710 dwellings in 2023/24, not 703 (plus some of Oxford’s unmet housing needs).

2.15 For these reasons, the LHN for Cherwell at 1st April 2023 is 710 dwellings, not 703 as claimed by Jon Goodall.

⁶ PINS refs: 3300301 and 3316416 – 31st August 2023 – core document **M32**



3. Oxford's unmet need

3.1 Tom Webster's Supplementary Proof of Evidence claims that "significant progress" has been made on the Partial Review sites since the inquiry was postponed on 15th November 2023. However, the Council's own evidence in the AMR is that:

- **No dwellings will be delivered by 2026** – a shortfall of 1,700 dwellings which the Partial Review claims would be delivered by then;
- **Just 80 dwellings should be considered deliverable by 31st March 2028;** and
- **Only 1,405 dwellings** will be delivered on the Partial Review allocations by the end of the plan period. This is **a very significant shortfall of 2,995 dwellings** by the end of the plan period against the adopted housing requirement.

3.2 The failure of Cherwell to deliver any homes to meet Oxford's unmet needs to date and the failure of the Partial Review to deliver the 4,400 dwellings apportioned to Cherwell by the end of the plan period is within the context of the other Oxfordshire authorities also failing to meet Oxford's unmet housing need by 2031:

- West Oxfordshire's Local Plan (adopted September 2018) provides a commitment to deliver 2,750 dwellings of Oxford's unmet housing need by 2031. This was to be achieved by delivering 2,200 dwellings at the Oxfordshire Cotswold Garden Village and 550 dwellings at West Eynsham (out of a total allocation of 1,100 homes). The Garden Village is now only expected to deliver in the last 3 years of West Oxfordshire's plan period (i.e. around 255 dwellings based on the delivery set out in the AAP Inspector's Report). West Oxfordshire does not provide a trajectory to 2031 but even were the 550 homes at West Eynsham to be delivered (which is not realistic as West Oxfordshire includes no dwellings to meet Oxford's unmet needs by 2028), there would be a shortfall of 1,945 dwellings by 2031;
- South Oxfordshire's Local Plan (adopted December 2020) provides a commitment to deliver 4,950 dwellings of Oxford's unmet housing need by 2031. Three allocations at Northfield, Bayswater Brook and Grenoble Road were allocated to address the Oxford's unmet need however there has been no delivery to date and only 375 dwellings are included in South Oxfordshire's trajectory to 2031 – a shortfall of 4,575 dwellings; and
- Vale of White Horse's Part 2 Plan (adopted October 2019) provides a commitment to deliver 2,200 dwellings of Oxford's unmet housing need by 2031. 438 dwellings have been delivered and a further 1,340 dwellings are expected by 2031, leaving a shortfall of 422 dwellings.



3.3 In total, 14,300 dwellings were apportioned to Cherwell, West Oxfordshire, South Oxfordshire and Vale of White Horse to meet Oxford's unmet housing need to 2031. However, the evidence is that only 4,363 dwellings could be delivered by 2031, a very significant shortfall of **9,937 dwellings**.



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