

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 up to 147 homes, public open space, flexible recreational playing field area and sports pitches with associated car parking, alongside landscaping, ecological enhancements, SuDs, green/blue and hard infrastructure, with vehicular and pedestrian/cycle accesses, and all associated works (all matters reserved except for means of access)

Land South of Green Lane, Chesterton

PINS Reference: APP/C3105/W/23/3331122

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January 2024



Inspectorate Ref: APP/C3105/W/23/3331122

Planning Application Ref: 23/00173/OUT

Appeal Site: Land South of Green Lane, Chesterton

**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	9 January 2024

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 Wates Developments Ltd (“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 Land South of Green Lane, Chesterton (“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 up to 147 homes, public open space, flexible recreational playing field area and sports pitches with associated car parking, alongside landscaping, ecological enhancements, SuDs, green/blue and hard infrastructure, with vehicular and pedestrian/cycle accesses, and all associated works (all matters reserved except for means of 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 been provided with the Note of the Inspector’s Case Management Conference and commenced engagement with the Appellant regarding a draft Topic Statement of Common Ground. While this remains incomplete at the point of exchanging evidence a great deal of progress has assisted in clarifying the parties’ respective positions.

2.5 At the point of submission of this Appeal I had previously acted or was continuing to act on behalf of the Council as expert housing land supply and requirement witness on an extensive series of cases since April 2023. These are summarised in Table 1 below:

Table 1. Other Relevant Appeals Addressing Evidence on Housing Land Supply

CDC Ref	PINS Ref	Type	Address	No. of Dwellings	Decision	Date
21/01630/OUT	3315849	Inquiry	Charlotte Avenue, North West Bicester	530 dwellings	Dismissed	25/07/23
21/03066/OUT	3309489	Hearing	Land West Of Chinalls Close Adj To Banbury Road, Finmere	30 dwellings	Dismissed	31/10/23
22/02104/F	3325113	Hearing	Land to Rear of No. 12 and South of Dismantled Railway, Heath Close, Milcombe, OX15 4RZ	35 dwellings	Allowed	12/12/23
22/03741/F	3324251	Hearing	Land Adj to Wise Crescent, The Laurels, Fringford	6 dwellings	Allowed	1/12/23

CDC Ref	PINS Ref	Type	Address	No. of Dwellings	Decision	Date
22/03802/OUT	3324704	Hearing	Part Of OS Parcel 8752 East Of Combe Cottage And South Of St Johns Way, Hempton Road, Hempton	9 dwellings	Dismissed	8/12/23
22/02866/OUT	3327213	Inquiry	Land East Of Ploughley Road, Ambrosden	120 dwellings	Inquiry Awaited	
21/04289/OUT	3326761	Inquiry	OS Parcel 1570 Adjoining and West of Chilgrove Drive and Adjoining and North of Camp Road, Heyford Park	230 dwellings	Awaited	
23/00065/OUT	3327581	Hearing	Parcel 0006 Adjoining North Side of Ells Lane, Bloxham	30 dwellings	Hearing Awaited (10 January)	

- 2.6 Prior to my appointment on the first case at Charlotte Avenue 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 previous NPPF2023 paragraph 74 I would be able to provide my professional opinion in support of the position published by the Council. This remains my position following the publication of the new NPPF(Dec)2023 and provisions of paragraph 77.
- 2.7 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 or deficit in the five-year requirement against which supply is to be assessed. This remains the basis of my instructions following publication of the Council's December 2023 AMR (CD/3.14).
- 2.8 The assessment of deliverable supply and the requirement against which supply should be assessed have been substantive matters in dispute in all of the cases listed above with the exception of the Finmere Appeal (PINS Ref 3309489) (CD/4.16) where only the assessment of supply was contested.
- 2.9 In the appeal relating to Charlotte Avenue, North West Bicester (APP/C3105/W/23/3315849) (CD/4.20) the Appellant advised in opening that 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

¹ Housing Land Supply Statement (CD/3.16) published in February 2023

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/4.20)

- 2.10 In one of the other cases mentioned above the matters in dispute regarding the assessment of deliverable supply and requirement against which this should be assessed were not considered to be determinative (PINS Ref: 3324251) (CD/4.30).
- 2.11 There are two Decision Letters that have subsequently been issued for the Appeals at Hempton and Milcombe (PINS Refs 3324704 and 3325113) (CD/4.18 and CD/4.19) where conclusions have been reached on the requirement against which supply is to be assessed as a substantive matter in determination of the Appeal.
- 2.12 In both these Decision Letters the case for the requirement against which supply is to be assessed has been resolved in favour of the Council and reflects the position put forward in my Proof of Evidence for this Inquiry. With reference to the most recent Decision Letter in Milcombe (CD/4.19), which is consistent with the Hempton Decision Letter released several days earlier, I draw attention to the following conclusions to be considered alongside my evidence for this Inquiry:
- The Inspector was provided a Topic SoCG on requirement and supply that followed the format proposed by the LPA for this Inquiry (a copy of the signed Housing SoCG for Milcombe is included as CD/5.23)
 - Evidence was prepared and heard against the requirements of the NPPF (September 2023 version) as it was in force until 19th December 2023
 - The DL (para.25) deals with the adopted development plan, and (para.26) summarises the parties’ respective positions on the requirement. DL (para.27) specifies the age of adopted strategic policies under the language of NPPF Sept. 2023 paragraph 74;
 - DL (para.27) confirms that local housing need applies for the purposes of the requirement to assess supply. DL (paras.28 and 29) have regard to national policy, the outcomes and adopted strategic policies of the Partial Review and the relevance of emerging policy in support of the Council’s case that contributions towards meeting part of Oxford’s unmet needs do not form part of the requirement to assess supply in respect to Milcombe;
 - DL (para.30) confirms use of the ‘current year’ for the calculation of LHN and DL (para.31) confirms that the HDT has exceeded delivery expectations over the past 3 years and the HDT is therefore passed.
- 2.13 For the purposes of this Inquiry, it is agreed in the Topic HLS SoCG (CD/6.5) that the Council’s most recent assessment of housing land supply against the relevant requirement(s) is set out in the Housing Land Supply Statement (HLSS) contained within the December 2023 Authority Monitoring Report (CD/3.14) The base date of the latest assessment within the HLSS is 1st April 2023. It is therefore agreed that the relevant base date for calculating the 5YHLS is 1st April 2023 and the five-year period runs to 31st March 2028.
- 2.14 For the avoidance of doubt, I confirm that my instructions did not extend to contributing to or preparing the contents of the December 2023 AMR and I had no sight of the document prior to its publication.
- 2.15 My input to the Council’s evidence amounted to provision of general advice as a ‘critical

reviewer'. This related to non-specific advice on how the Council might seek to collect clear evidence of a realistic prospect for completions beginning within five years from relevant sites and how the Council might exercise its judgement on the assessment of deliverability corresponding to the (non-exhaustive) requirements of national policy and guidance.

- 2.16 I did not, therefore, personally provide the Council's conclusion on deliverability or forecast of supply from any individual site as contained within the AMR and Updated HLSS at Appendix 1.
- 2.17 All previous Appeal Decision Letters since my involvement as expert housing land supply and requirement witness on behalf of the Council considered the assessment of deliverable supply against a base date of 1st April 2022. As noted above, a base date of 1st April 2023 and a five year period ending 31st March 2028 is agreed for the purposes of this Inquiry. I therefore do not intend to set out in detail the findings in previous Decision Letters in relation to the assessment of deliverable supply.
- 2.18 I provide background to the Council's most recent assessment in the December 2023 Authority Monitoring Report in my Section 8. This includes providing my view on the Council's most recent AMR where it is relevant to clarifying the dispute between the parties regarding the assessment of deliverability and forecast of supply from specific sites. This is relevant to confirming where my professional opinion supports the Council's assessment.
- 2.19 At the time of preparation and submission of this Proof of Evidence there are no Decision Letters providing findings on the Council's assessment of deliverable supply at 1st April 2023. I will be able to provide comments on any Decision Letters that subsequently provide conclusions based on the most recent HLSS should they be issued before the determination of this appeal, if the Inspector considers it appropriate for me to do so.

b) Understanding of the Appellant's Case

- 2.20 As is detailed in the Appellant's Statement of Case that matters that are proposed to be disputed in relation to 'housing land supply' are set out in paragraphs 5.5 and 5.6 only;
- "5.5 The Appellant will provide evidence of the housing land supply position in Cherwell having regard to the date of the development plan, the Standard Methodology and the Council's evidence on housing need.*
- 5.6 The Appellant will argue that the Council cannot demonstrate a policy compliant housing land supply position when having regard to the overall needs for the District as well as the needs for Oxford City."*
- 2.21 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. The Appellant's Statement of Case nonetheless provides very limited details of how it intends to present a specific position on calculation of the requirement against which supply is to be assessed.
- 2.22 My understanding of this position is further informed by progress with preparation of the draft Topic SoCG on HLS matters (CD/6.5).
- 2.23 The parties agree that the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' (CD/3.5) 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 in this appeal.
- 2.24 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 NPPF(Dec)2023 paragraph 77 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.
- 2.25 At the time of preparing and submitting my Proof of Evidence the Appellant has not specifically indicated any Appeal Decisions it intends to rely upon to support its case but has indicate that it will draw upon the approach being taken in other Oxfordshire local authorities together with the operation of the Housing Delivery Test. I address these elements of the Appellant's case within my evidence (in Sections 5(xx) 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.
- 2.26 I note that the Appellant's Statement of Case was provided before publication of the revised December 2023 version of the NPPF. An initial understanding of the parties' respective cases has been provided as part of without prejudice to the discussions related to preparation of the Topic SoCG. I reserve the right to respond further to any changes to the Appellant's case for the requirement against which supply is to be assessed or the extent of supply to be demonstrated that arise from the revised NPPF and are identified following the exchange of evidence.
- 2.27 At the time of preparing my evidence discussions remain ongoing regarding preparation of a draft Topic SoCG (CD/6.5) 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 613 dwellings.

- 2.28 I address the current position regarding disputed supply separately within my Proof of Evidence.
- 2.29 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 implications of the most recent changes to national policy in revised National Planning Policy Framework first published 19 December 2023 ('NPPF(Dec)2023').
- 3.4 In **Section 6** 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.
- 3.5 In **Section 7** (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.
- 3.6 In **Section 8** 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.
- 3.7 **Section 9** 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 (Appendix 1 to the December 2023 Authority Monitoring Report)

- 4.1 The Council's most recent assessment of the 5YHLS is set out in the Housing Land Supply Statement (HLSS) contained within the December 2023 Authority Monitoring Report (CD/3.14).
- 4.2 The base date of the 5YHLS assessment within the HLSS is 1st April 2023. It is therefore agreed that the relevant base date for calculating the 5YHLS is 1st April 2023 and the five-year period runs to 31st March 2028.
- 4.3 This is understood to be agreed as the Council's most recent evidence for use during the Inquiry. This section provides a summary of the HLSS and its relevance to this Inquiry.

b) Matters Understood to Be Agreed

- 4.4 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 NPPF(Dec)2023 Paragraph 77 and Footnote 42

- 4.5 Paragraphs 4 to 12 detail the Council's conclusion 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/6.5). 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

- 4.6 Upon publication the HLSS confirmed a 5% buffer applies (see paragraph 22). The December 2023 AMR was published before revisions to the NPPF on 19 December 2023 and publication of the 2022 Housing Delivery Test ('HDT') Result. In accordance with paragraph 77 of the revised NPPF(Dec)2023 I understand it will now be agreed that no buffer is to be applied for the purposes of the requirement against which supply is to be assessed.
- 4.7 This implications of the HDT in my Section 6 (Housing Delivery Test) to be read together with Appendix 1.

iii) Small Sites with Planning Permission

- 4.8 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. The corresponding totals for detailed permissions in the most recent assessment are 62 units' supply in Banbury, 45 units in Bicester and 202 units elsewhere in Other Areas (309 units total) and it is my understanding that the Appellant does not seek to contest this component of deliverable supply.

iv) Windfall Allowance

- 4.9 Paragraph 39 confirms that a windfall allowance of 125 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.

v) Lapse Rate

- 4.10 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. It is my understanding that the Appellant does not seek to adduce evidence on the application of a lapse rate.

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

- 4.11 The published HLSS addresses these sites within a separate schedule of the Housing Delivery Monitor Document (at Appendix 1). Paragraph 42 provides a summary that progress towards delivery has been made to substantiate the assessment of only 80 units' deliverable supply. It is my understanding that the Appellant does not seek to dispute the assessment of supply from these sites.

- 4.12 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 do not therefore consider it necessary to address in detail the Council's evidence for these sites.

- 4.13 I would nonetheless highlight that 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)*

- 4.14 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.

- 4.15 Application of the Planning Practice Guidance for the assessment of deliverable supply may be affected by the characteristics of supply identified to contribute towards part of Oxford's unmet needs in the Partial Review. The Delivery Position Paper (paragraphs 2.10 – 2.12) (CD/3.19) 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, arising from consistent promotion of the sites as part of the Partial Review process. The PPG recognises where these may be relevant to assessing the current planning

status of sites.

- 4.16 The assessment of deliverable supply from sites identified by the Partial Review should be considered in this context and I therefore reserve the right to adduce further evidence should the Appellant seek to address the performance of this part of the strategy and housing requirement in adopted strategic policies following the exchange of evidence.

c) Matters Understood to be Not Agreed

4.17 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

4.18 Paragraph 18 within the HLSS and the subsequent calculation following paragraph 41 illustrates that the five year requirement is derived from the calculation of a local housing need of 710 dwellings per annum (row b). This reflects the inputs at the time of publication of the AMR. Paragraph 18 also states that *“the latest government standard method figure for Cherwell will be used in any future updates on supply”*.

4.19 The Council’s position for this Appeal provides for a calculation of local housing need of 703 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/4.20) and Finmere Hearing (CD/4.16). The Council’s case to rely on the latest inputs to the calculation was supported in the Decision Letters for the Milcombe and Hempton Hearings (PINS Refs 3324704 and 3325113) (CD/4.18 and CD/4.19).

4.20 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

4.21 Paragraphs 13-16 of the HLSS and Paragraph 42 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.

4.22 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

4.23 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 for example Paragraphs 28 and 42).

4.24 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): 4,121 units 1 April 2023- 31 March 2028
- Local Plan (Part 1) Partial Review (sites contributing towards Oxford’s unmet needs): 80 units 1 April 2023- 31 March 2028

4.25 I address the Appellant’s position ahead of the exchange of Proofs of Evidence together with changes affecting the published assessment of deliverable supply in my Section 8.

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

- 4.26 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.
- 4.27 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/4.23) (PINS Ref: 3214324)².
- 4.28 The use of inputs that post-date the base-date for a published assessment does not skew details of need and supply. It is only the ten-year trend in projections that requires updating to reflect the current inputs for the purposes of this Appeal.
- 4.29 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.
- 4.30 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 703 dwellings per annum will be provided within the Topic SoCG currently under preparation but are summarised in Table 2 for completeness.

² See also the conclusions at Paragraph 46 for an Appeal at Sutton Road, Witchford (East Cambridgeshire) deal with the application of the current inputs to the calculation of local housing need to an earlier base-date (PINS Ref: 3245551 CD/4.29). An Appeal Decision at Loxley Works, Sheffield also held that 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/4.26).

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

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

Requirement	
Households 2024 – 2034 (2014 based)	5,216
Average annual household growth (2024-2034)	521.6
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) (rounded)	703

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

- 4.31 Paragraph 41 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.
- 4.32 I have replicated these details in my Table 3 below. For completeness I have illustrated the breakdown of forecast supply by location (Paragraphs 33-38 refer).
- 4.33 I have included a separate column reflecting the provisions of the revised NPPF(Dec)2023 where no buffer is to be applied to the requirement against which supply is to be assessed together with showing the current calculation of Local Housing Need of 703 dwellings per annum.

Table 3. Supply versus Requirement (Cherwell District LHN)

			Five Year Period 2023/24-27/28 (current period)	
	Step	Description	LHN 2024 + NPPF(Dec)2023 Buffer Changes	Published HLSS (AMR 2023)
Five-Year Requirement	a	Standard Method Requirement (2023/24-2027/28)	3515	3550
	b	Annual Requirement (a / 5)	703	710
	c	Requirement Over 5 Years (b x years)	3515	3550
	d	5 Year Requirement plus 5% buffer (c + 5%)	N/A	3728
	e	Revised Annual Requirement over next 5 years (d / 5)	703	746
Components of Supply	(i)	<i>Banbury Supply</i>	1483	1483
	(ii)	<i>Bicester Supply</i>	801	801
	(iii)	<i>Other Areas</i>	1587	1587
	(iv)	<i>Windfall</i>	250	250
	f	Deliverable Supply over next 5 Years	4121	4121
Five Year Supply	g	Total years supply over next 5 years (f/ e)	5.86	5.53
	h	'Shortfall' / Surplus(f – d)	+571	+393

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

4.34 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 2023/24-27/28 (current period)	NPPF(Dec)2023 Buffer Changes
a	Partial Review requirement 2021/22-2025/26	1,700	1,700
b	2021/22-2025/26 Annual Requirement (a / 5)	340	340
c	Partial Review requirement 2026/27-2030/31	2,700	2,700
d	2021/22-2025/26 Annual Requirement (c / 5)	540	540
e	Requirement to date (b x years)	680	680
f	Completions 2021/22-2022/23	0	0
g	Shortfall at 31/3/23 (f - e)	680	680
h	Base requirement over next 5 years ((b x 3) + (d x 2))	2,100	2,100
i	Base requirement over next 5 years + shortfall (g + h)	2,780	2,780
j	Base requirement + shortfall over next 5 years plus 5% buffer (i x 1.05)	2,919	N/A
k	Revised Annual Requirement over next 5 years (d / 5)	584	556
l	Deliverable Supply over next 5 Years	80	80
m	Total years supply over next 5 years (l / k)	0.137	0.143
n	‘Shortfall’ (l - j)	-2,839	-2,700

5.0 IMPLICATIONS OF THE REVISED NPPF (DECEMBER) 2023 INCLUDING THE EXTENT OF DELIVERABLE SUPPLY WHICH IS TO BE DEMONSTRATED

a) Introduction

- 5.1 In the course of the preparation of evidence for this Appeal, subsequent to the submission of the Appellant's Statement of Case and publication of the Council's December 2023 AMR, changes to national planning policy have arisen from the most recent version of the National Planning Policy Framework was published in December 2023 (19 December amended 20 December) ('NPPF(Dec)2023').
- 5.2 I summarise the implications of these changes within this section of my Proof of Evidence.
- 5.3 The revisions were published following the Levelling-up and Regeneration Bill: reforms to national planning policy consultation (December 2022) alongside a Government response to the consultation document. Chapter 3 (Providing certainty through local and neighbourhood plans) and Chapter 4 ('planning for housing') both contained consultation proposals relevant to reforming the assessment of housing land supply. The revisions to the NPPF largely correspond to parts of the proposals identified previously.
- 5.4 The specific provisions within the NPPF(Dec)2023 related to the assessment of housing land supply are as set out in the chapter 'Maintaining supply and delivery' at paragraphs 75 to 81.
- 5.5 The NPPF(Dec)2023 is to be read as a whole but it is nevertheless the case that for the purposes of decision-taking where it is necessary to identify and update annually a supply of specific deliverable sites how this is to be measured is addressed specifically within the provisions of paragraph 77. Where relevant, it is the outcomes of the exercise undertaken in accordance with NPPF(Dec)2023 that determines where the consequences at footnote 8 to paragraph 11 are engaged.

b) Summary of the Elements of National Policy That Inform the Assessment of Housing Land Supply

- 5.6 Whether sufficient supply can be demonstrated for the purposes of the requirement against which this is to be assessed for a given application to determine whether the consequences of footnote 8 are engaged can be summarised down to three relevant elements.
1. The **extent of deliverable supply which is to be demonstrated** in accordance with national policy
 2. The **requirement against which supply is to be assessed**
 3. The **period over which forecast delivery is to be considered** to inform the assessment of deliverable supply
- 5.7 With reference to the revised NPPF(Dec)2023 the relevance of the changes to national policy affecting each element can be summarised as follows:
- Differences in the extent of deliverable supply which is to be provided (a minimum supply of five years or four years dependent on the provisions in paragraph 226) is a **new element** arising from the changes to national planning policy. Sufficient provision for a minimum of five years' supply was previously applicable in all instances.
 - In terms of the requirement against which supply is to be assessed the NPPF(Dec)2023 represents **no change** to the provisions of the previous wording of the Framework with the exception of clarifying where no buffer is to be applied. The NPPF(Dec)2023 retains two limbs. The first limb requires the identification of the housing requirement in adopted strategic policies (plural). The second limb is engaged where relevant strategic policies are more than five years old and have not been

reviewed and found not to require updating and thus local housing need applies. The wording of footnote 42 to the NPPF(Dec)2023 is identical to the previous footnote 39 in this respect.

- There are **no provisions** within the revised NPPF(Dec)2023 or anticipated changes to National Planning Practice Guidance to indicate that forecast delivery should be assessed across less than a five year period, even where the provisions of paragraph 226 and a requirement to demonstrate a minimum four years' worth of housing applies. Neither paragraph 77 nor 226 contain any references to distinguish between these circumstances in terms of the period that should be considered. There have been no changes to the definition of 'deliverable', the purposes of which is to identify sites for housing with a "*realistic prospect that housing will be delivered on the site within five years*" (**Council emphasis**). Paragraphs 76, 77, 78 and related provisions for plan-making at paragraph 69 all retain references to the assessment of *deliverable* sites where the definition requires forecast delivery to be considered for the purposes of five years. This is consistent with the PPG, where the purpose of the calculation is summarised as an enabling consideration of the deliverable supply of homes *over the next 5 years* (PPG ID: 68-001-20190722).

The requirement against which supply is to be assessed is therefore an annualised figure to be measured against forecast delivery over a minimum five-year period irrespective of the extent of deliverable supply which is to be demonstrated in accordance with element (1) above.

- 5.8 I set out my position on the implications of the new element introduced through changes to national policy with respect to the **extent of deliverable supply to be demonstrated** in the remainder of this section.
- 5.9 In Section 5 I provide further details for why the changes to national policy have no effect on the requirement against which supply is to be assessed apart from removing the application of a buffer.

c) My Position on the Extent of Deliverable Supply to Be Demonstrated

- 5.10 The NPPF(Dec)2023 introduces changes to the requirement to assess the extent of deliverable supply in national policy that differ from the language of paragraph 74 of the previous version of the Framework. The effect of these changes is determined by the specific circumstances of a case concerning *inter alia* individual applications and individual local planning authorities together with the imposition of transitional arrangements.
- 5.11 The provisions of paragraph 76 of the NPPF(Dec)2023 are not engaged. Transitional arrangements determining this are provided via references in footnotes 40 and 79 of the NPPF(Dec)2023 specifying that these provisions of paragraph 76 should only be taken into account as a material consideration from the date of publication when dealing with applications made on or after the date of publication of this version of the Framework.
- 5.12 The transitional arrangements do not require any assessment of the criteria under parts (a) or (b) of paragraph 76 of the NPPF(Dec)2023 prior to being engaged.
- 5.13 The requirement to assess the extent of deliverable supply against a figure of either four years or five years against the requirement against which supply should be assessed is determined by the provisions at NPPF2023 paragraph 77 for the purposes of this Appeal.
- 5.14 The provisions of NPPF(Dec)2023 paragraph 77 apply from the date of publication of the revised Framework in accordance with the transitional arrangements in NPPF2023 paragraph 226.
- 5.15 In respect of the provisions within paragraph 226 of the NPPF(Dec) 2023, the following circumstances apply to this Appeal:

- The relevant policy approach under NPPF(Dec)2023 to demonstrate a minimum four years' worth of housing supply as specified in paragraph 77 applies from the date of publication of the revised Framework 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.
 - The Cherwell Local Plan Review 2040 – Regulation 18 Consultation Draft (CD/3.3) was published for consultation between 22 September 2023 and 3 November 2023 and:
 - The Regulation 18 Consultation Draft identifies proposed allocations towards meeting housing need (specified as a draft requirement in emerging Core Policy 34) as summarised in Table 7 and addressed in relevant emerging potential policies in area strategies that follow⁴.
 - Indicative Site Maps for the sites identified in emerging Core Policies 25 and 34 are provided in Appendix 2. Appendix 1 (retained policies list) also indicates where the proposals in Appendix 2 will replace those illustrated within the current development plan and thus policies map.
 - While separate to the illustration of sites proposed towards meeting identified needs in Core Policy 34 under Appendix 2 appendices 4 to 11 of the Consultation Draft also indicate visually proposed policies relevant to managing land use.
- 5.16 These contents of the Consultation Draft for the purposes of the requirement for the inclusion of a policies map for the purposes of a Local Plan under preparation (prior to its submission) fall for consideration under regulation 5(a) of The Town and Country Planning (Local Planning) (England) Regulations 2012 and any accompanying maps as specified in regulation 5(b).
- 5.17 For the purposes of this Appeal the requirements of NPPF(Dec)2023 paragraph 226 are thus satisfied and that the extent of deliverable supply should be assessed against a minimum provision **of four years**.
- 5.18 Under the language of NPPF(Dec)2023 footnote 80 this means that where the extent of deliverable supply is assessed against a minimum 4 years' worth of housing the standard method must be used where relevant strategic policies are more than five years old (consistent with the wording of NPPF(Dec)2023 footnote 42 and with no reference to any provision for unmet needs from neighbouring authorities).

⁴ Banbury Area Strategy emerging Core Policy 62; Biester Area Strategy emerging Core Policy 70; Kidlington Area Strategy emerging Core Policy 76; Heyford Park Strategy emerging Core Policy 82

6.0 THE HOUSING REQUIREMENT AGAINST WHICH SUPPLY IS ASSESSED

a) Introduction and Summary of the Council's Case

- 6.1 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 requirement is provided by local housing need calculated for Cherwell District and the extent of deliverable supply should ensure a minimum provision equivalent to four years – the Appellant's own position on supply (which the Council does not accept) at the point of exchanging evidence would result in a surplus of 585 units (equivalent to 4.82 years' deliverable supply).
- 6.2 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 42 to paragraph 77 of the NPPF(Dec)2023 is not engaged. I have therefore not addressed in detail the contents of the Council Regulation 10A Review of Policies (CD/3.13) 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.
- 6.3 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}.
- 6.4 NPPF(Dec)2023 Paragraph 77 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 purely on the basis of the need within the local authority's administrative boundary.
- 6.5 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 77, the Planning Practice Guidance or the approach to the standard method calculation.
- 6.6 In the circumstances of Cherwell District, the errors in the Appellant's position are compounded by the fact 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.
- 6.7 The Appellant has not offered any 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 77 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/4.24)

⁶ Part Parcel 0025, Hill End Road, Twynning, Gloucestershire, GL20 6JD, 389971, 237249 PINS Ref: 3284820 (CD/4.27)

⁷ Appeal Ref: APP/G1630/W/23/3314936 Land at Trumans Farm, Manor Lane, Gotherington, Cheltenham (CD/4.25)

clear reference to *policies* (plural)

- d. I summarise national policy in relation to plan-making and provision for unmet needs.
- e. I summarise what, if any, are the implications of revisions to national policy following publication of the December 2023 version of the NPPF and illustrate why these changes reinforce rather than alter the Council's case for the requirement against which supply is to be assessed.
- f. I provide a comparison with the circumstances for Plan-Making in Neighbouring Oxfordshire Authorities and illustrate why these are distinct from those in Cherwell
- g. 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/3.5)
- h. 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
- i. I summarise my response to the Appellant's case

b) The Housing Requirement in Adopted Strategic Policies

6.8 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/3.1) which has been found to require updating for the purposes of providing the housing requirement in adopted strategic policies in the NPPF(Dec)2023 paragraph 77 and footnote 42.

The policy of the NPPF(Dec)2023 at paragraph 77 and footnote 42, 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/3.5) 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 NPPF(Dec)2023 at paragraph 77 and footnote 42 (i.e. 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.

6.9 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/3.5):

"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.”

6.10 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/3.5 my emphasis)

6.11 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/3.18 my emphasis)

6.12 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 references to the Housing Trajectory within the Partial Review (at Appendix 3 of the Plan (CD/3.5)). This calculates land supply specifically against the requirement within the adopted strategic policies of the Partial Review. The Partial Review was not subject to any legal challenge alleging that this approach was wrong in law and the time for bringing any such challenge has long passed. In any event, the housing requirement for Cherwell District identified in Policy BSC1 is now over five years’ old and that requirement is clearly relevant in this case. Therefore, NPPF(Dec)2023 paragraph 77 requires the use of the standard method based on an assessment of local housing need and makes no provision for taking account of any unmet needs in neighbouring areas.

6.13 Accordingly, regardless of whether the ‘tilted balance’ might be engaged in another case where the policies of the Partial Review were relevant and applicable, it is not engaged in a case like this, relating to a site which could never conceivably assist in meeting Oxford’s unmet needs, and where NPPF paragraph 77 expressly requires supply to be assessed solely against local housing need.

6.14 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 therefore not be consistent with NPPF paragraph 77.

6.15 Furthermore, if the Appellant were right, it would mean that the tilted balance would be engaged throughout the District giving a presumption in favour of sustainable development in all areas.

6.16 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 specifically intended 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.

6.17 It would ignore the correct application of the provisions of NPPF(Dec)2023 for proposals upon sites not identified in the Partial Review. Specifically, an assessment of supply to meet local housing need in the district excluding any contribution from those sites specifically identified

to meet part of Oxford's unmet needs and covered by separate adopted strategic policies that are less than five years old.

c) The Application of National Policy in NPPF(Dec)2023 Paragraph 77

- 6.18 Paragraph 77 of the NPPF(Dec)2023 retains two limbs. The first limb requires identification of the housing requirement set out in adopted strategic policies for the purposes of paragraph 74.
- 6.19 Paragraph 77 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.
- 6.20 Paragraph 77 of the NPPF(Dec)2023 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.
- 6.21 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 77 of the NPPF(Dec)2023 does not state that the housing requirement in adopted strategic policies must be identified based on the sum of all relevant components nor must it utilise a singular figure. Neither does paragraph 77 state that one set of figures within (or across) given policies should take precedence. As noted above, the Inspector who examined the Partial Review clearly took the view that the previous version of the NPPF(2012) did not require this and there was no legal challenge brought to this.
- 6.22 Furthermore, any such reading of paragraph 77 would be inconsistent with the relevant legislative framework. Regulation 34 (3) in Part 8 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

- 6.23 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 NPPF(Dec)2023 paragraph 77.
- 6.24 The inclusion of contributions towards unmet needs is not assumed or expressly dealt within in national policy in NPPF(Dec)2023 paragraph 77.
- 6.25 Firstly, where the first limb of Paragraph 77 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.
- 6.26 Secondly, Paragraph 77 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).
- 6.27 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 NPPF(Dec)2023 paragraph 17) and ultimately applicable to the housing requirement against which supply is assessed for the purposes of NPPF2023 paragraph 77.
- 6.28 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.
- 6.29 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.
- 6.30 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 67 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.
- 6.31 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/3.21 and CD/3.22).
- 6.32 Relevant separate adopted strategic policies providing for the housing requirement in respect of those outcomes are therefore applicable under the first limb of NPPF(Dec)2023 paragraph 77. Disregarding these 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. This would further conflate the approach of those policies in relation to addressing need and supply.

e) The Relevance of Changes to National Planning Policy in the December 2023 NPPF to the Requirement Against Which Supply Is To Be Assessed

- 6.33 In relation to plan-making, including previous outcomes under the Duty to Cooperate, the provisions of the revised NPPF(Dec)2023 do not reflect any fundamental change in approach for how strategic policies may be prepared and have no bearing whatsoever upon the application of existing adopted strategic policies that are less than five years old for the purposes of assessing housing land supply. The outcome of adopted policies is distinct from the plan-making process, which may continue to be approached in different ways.
- 6.34 Throughout the recent series of Appeals in the district I have consistently argued that any contention for a fundamental change in circumstances between the earlier NPPF2012 and the previous version of the NPPF2023 in terms of plan-making is incorrect. In terms of the outcomes of plan-making and the application of the housing requirement in adopted strategic policies (and use of local housing need, where it applies) there has been no change in circumstances in either the most recent NPPF(Dec)2023 or previous versions that supports the Appellant's case for use of a single 'hybrid' figure for the housing requirement combining both the local housing need for Cherwell and the specified contribution towards meeting Oxford's unmet needs in the Partial Review.
- 6.35 A comprehensive reading of the revised NPPF(Dec)2023 further reinforces support for the Council's case on the requirement against which supply is to be assessed. Paragraph 17 of the revised NPPF(Dec)2023 is unchanged. Paragraph 25 continues to deal with effective cooperation stating "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.
- 6.36 The provisions at paragraphs 61 to 68 of the NPPF(Dec)2023 relate to plan-making, which remains distinct from the assessment of housing land supply for the purposes of decision-taking.
- 6.37 Within these paragraphs one change can be identified in paragraph 67 that specifies where the overall requirement "*may be higher than the identified housing need, if for example, it includes provision for neighbouring areas*".
- 6.38 The additional wording incorporated into national policy in the NPPF(Dec)2023, relating to plan-making, is in effect only a reflection of existing Planning Practice Guidance at 2a-010-20201216 for circumstances where housing need may exceed the result of the standard method. The does not in itself provide indicate a requirement to use a single 'hybrid' figure to assess supply in a case such as this.
- 6.39 Paragraph 67 goes on to state "*Within this overall requirement, strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations*"
- 6.40 If, having regard to this paragraph, the use of a single 'hybrid' figure to assess supply were necessary, it would mean that, despite the carefully considered spatial strategy within the Partial Review to make specific provision for part of Oxford's unmet needs in the most sustainable locations, national policy would dictate that instead the overall requirement (including unmet needs) would be redistributed as part of considering housing requirements for designated neighbourhood areas.
- 6.41 This is patently not the case and, having regard to 'the overall strategy for the pattern and scale of development and any relevant allocations' as specific in paragraph 67, it is the separate adopted strategic policies of the Partial Review to treat the requirement for part of Oxford's unmet needs separately that ensure that need and supply are not conflated.

- 6.42 Within the relevant 'Maintaining Supply and Delivery' section it is the case that the combined changes between paragraphs 75 and 77 support the Council's case that regard may need to be had to more than one strategic policy and more than one adopted Local Plan.
- 6.43 Paragraph 75 contains a new provision for monitoring, irrespective of the assessment of five year supply, stating that 'Local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies (plural)'. This is additional to the references to adopted strategic policies (plural) that is retained in paragraph 77 (formerly paragraph 74) relating to five year supply. This is also consistent with housing requirements being contained in and having regard to more than one policy.
- 6.44 It is also relevant that the language of paragraph 76 is specific to '**Local Plan**'. Therefore, it is different to **the requirement in adopted strategic policies**. This indicates an intention on the Government's part to expressly limit the provisions to plans less than five years old. The Government cannot ensure that the NPPF covers all circumstances, and nowhere does it say policies cannot be contained in more than one plan.
- 6.45 The sensible interpretation of para 76(a) is that it applies **only to/where the local plan that contains the relevant strategic policies is less than five years old**. This plainly makes sense because these provisions cannot be engaged where the local plan is more than five years old (thus an incentive to adopting plans), which is different to assessing the requirements against which supply should be assessed for the purposes of NPPF(Dec)2023. This includes where adopted strategic policies may continue to be applied where these have been reviewed and found not to require updating (for paragraph 77 purposes). If the Government thought that should also engage paragraph 76 it would surely have said so.
- 6.46 In these circumstances, irrespective of the separate adopted strategic policies of the Cherwell Local Plan Part 1 Partial Review being less than five years old, paragraph 76 would not apply so as to remove the requirement to demonstrate a housing land supply in Cherwell excluding the Partial Review sites.
- 6.47 This provides consistency to prevent the conflation of need and supply under the Council's case that supply from this sites is not counted towards the requirement against which supply is to be assessed based on local housing need.
- 6.48 The Council's case therefore falls squarely under NPPF(Dec)2023 for the purposes of this Appeal and therefore footnotes 42 (and 80) to use the standard method apply exactly as they did in the previous version. The Council's case for the requirement against which supply is to be assessed is therefore unchanged.
- 6.49 To summarise in relation to any implications for the requirement against which supply is to be assessed the provisions of NPPF(Dec)2023 paragraph 77 apply from the date of publication of the revised Framework subject to the transitional arrangements at NPPF2023 paragraph 226.
- 6.50 In respect of the provisions within the language of the NPPF(Dec)2023 paragraph 77 (and associated footnotes) applicable for determination of the appeal in terms of the requirement against which supply is to be assessed this means that:
- There has not been a significant under delivery of housing and no buffer applies to assessing the extent of deliverable supply against the requirement against which supply should be assessed. This is determined by the result of the Housing Delivery Test exceeding 85%
 - Under the language of NPPF(Dec)2023 footnote 42 the standard method is to be used to calculate the requirement against which supply is assessed when local housing need applies (and policies are more than five years old and have not been reviewed and found not to require updating)

- Where the strategic policies setting out the relevant housing requirement are more than five years old (and thus paragraph 76 does not apply) the provision set in footnote 42 to paragraph 77 in terms of the requirement against which supply should be assessed must be considered irrespective of the application of policy in paragraph 226. Local housing need therefore applies in terms of the requirement against which supply is to be assessed, whether for a minimum provision of four years' or five years' supply.

f) Comparison with the Circumstances for Plan-Making in Neighbouring Oxfordshire Authorities

- 6.51 In this sub-section I illustrate why the outcomes of plan-making in Cherwell district result in the specific approach to the housing requirement in adopted strategic policies. Provisions within the adopted development plans in neighbouring authorities are a unifying factor when looking at comparisons.
- 6.52 I would emphasise at the outset that there is no authority arising from these comparisons that can be applied directly to the circumstances for the requirement against which supply should be assessed in Cherwell. The only Appeal Decision I am aware of that is relevant in this regard pertains to 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/4.22) (in Vale of White Horse District).
- 6.53 In this case the approach to the requirement against which supply is to be assessed reflected the local planning authority's case with respect to contributions towards unmet needs. The appointed Inspector further indicated that the treatment of contributions towards Oxford's unmet needs was a function of the application of the strategic policies. Further discussion is contained in my Appendix 2 to confirm that this did not resolve any specific matters in dispute in relation to the application of national policy on the precise manner of the inclusion of unmet needs as part of the requirement against which supply was assessed under the facts of that case.
- 6.54 I also consider comparisons that may be drawn by the Appellant to the circumstances in neighbouring Oxfordshire authorities.
- 6.55 I further illustrate why these comparisons do not support the contention that the housing requirement against which supply should be assessed must be provided by a single figure.
- 6.56 Any such approach in Cherwell would fail to correctly apply the wording of NPPF2023 Paragraph 77; fail to properly reflect the distinction between plan-making and decision-taking; and have no regard to the circumstances for plan-making within each authority.
- 6.57 In Appendix 2 to my Proof of Evidence I consider Joint Working In Oxfordshire and Plan-Making Implications and Outcomes for Addressing Unmet Needs in **Vale of White Horse District, West Oxfordshire and South Oxfordshire**.
- 6.58 Regarding the application of national policy and comparisons with neighbouring authorities there are further overarching points that illustrate why any reliance upon these by the Appellant as part of its case for the requirement against which supply should be assessed would be incorrect:
- The principles of any comparison based on the requirement in adopted strategic policies in West Oxfordshire no longer apply and following the conclusions of a Regulation 10A Review (CD/5.8) the authority applies local housing need calculated using the standard method to assess supply (see CD/5.9).
 - The principles of any comparison in South Oxfordshire do not engage the second limb of NPPF(Dec)2023 for any aspect of decision-taking. Relevant strategic policies are less than five years old; it is necessary to have regard to only one adopted policy and

LHN calculated using the standard method forms no part of the requirement used to assess supply. It is agreed that these circumstances do not apply in Cherwell and the second limb of paragraph 77 is engaged.

- 6.59 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.
- 6.60 This is a material difference in the planned approach to meeting Oxford's unmet needs between the circumstances in neighbouring authorities, including 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 Cherwell District is distinct from these examples.
- 6.61 The difference between the approaches and ultimately their relevance to the housing requirement in adopted strategic policies and NPPF(Dec)2023 paragraph 77 are bound up in plan-making.
- 6.62 Adopted 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.
- 6.63 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 in paragraph 77 (as a material consideration) is determined by differences and disagreements regarding quality of the past approach to plan-making. Determining the application of the first limb of the NPPF(Dec)2023 in circumstances where separate relevant adopted strategic policies apply is not an evaluative exercise.
- 6.64 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 not satisfied in Cherwell.
- 6.65 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/3.1). 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/3.17) 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]."

- 6.66 For all of the neighbouring Oxfordshire authorities exceptional circumstances were demonstrated as part of the process of preparation of Part 1 Local Plans, as summarised in my Appendix 2. It is material that in each other case this makes contributions towards part of Oxford's unmet needs indistinguishable from provision towards needs in each district.

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

- 6.67 I consider the context and outcomes of strategic plan-making in Cherwell in this sub-section. I explain why the identification of sites to specifically contribute towards part of Oxford’s unmet needs reflects the approach in national policy and guidance.
- 6.68 Unlike VoWH, Cherwell 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 (and the Partial Review examiner) did **not** add 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/3.5 my emphasis)*
- 6.69 This ensures provision for sustainable patterns of development in accordance with the objectives of the strategy. 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/3.5). 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.
- 6.70 I have outlined that exceptional circumstances for amendment of Green Belt boundaries were not identified through preparation of the Local Plan Part 1 (CD/3.1). 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.
- 6.71 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/3.18 my emphasis)*
- 6.72 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/3.20).

- 6.73 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/3.21)
- 6.74 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/3.5)
- 6.75 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/3.19). 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.
- 6.76 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.
- 6.77 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 3). 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).
- 6.78 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

⁸ [Copy of Growth Board website Dec 2021 \(003\).xlsx \(futureoxfordshirepartnership.org\)](#)

Decision⁹ (Copy at Appendix 4) is consistent with proposed timescales for a planning application and commencement of construction in 2024 and represents firm progress with infrastructure delivery.

- 6.79 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/5.17).
- 6.80 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 in my evidence.
- 6.81 The correct approach to assessing deliverability for these sites is nonetheless 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.

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

h) Cherwell Local Plan Review 2040

- 6.82 The Council consulted, under Regulation 18, on a Local Plan Review 2040 (CD/3.3). The consultation opened on Friday 22nd September and closed 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 NPPF(Dec)2023 paragraph 77 it does not and cannot provide for the requirement against which supply should be assessed. Footnote 80 to paragraph 226 of the NPPF(Dec)2023 further confirms that where a relevant Plan under preparation at Regulation 18 stage does apply for the purposes of determining the extent of deliverable supply to be demonstrated the options for the requirement against which supply is to be assessed are either adopted strategic policies or local housing need where more than five years old. No regarding is to be had to the emerging requirement.
- 6.83 I consider the current consultation version Plan below to explain distinctions with the adopted development plan and any relationship with addressing part of Oxford’s unmet need in existing separate adopted strategic polices. .
- 6.84 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/3.15) 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

- 6.85 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

6.86 Additionally, as confirmed at paragraph 3.187 of the Regulation 18 version of the Local Plan (CD/3.3), the Council, whilst acknowledging that additional work is 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

6.87 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		

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

6.89 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

6.90 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.

6.91 Notwithstanding my starting point that no weight can be attributed to the above strategy for decision-taking or NPPF(Dec)2023 paragraph 77 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.

6.92 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:

- 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. Whilst this is permissible as part of plan-making, it is not permissible in a decision-making context. Nor would it even be possible to do so in practice.¹⁰

- 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/4.22) 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

¹⁰ Cf. *Hunston Properties* [2013] EWCA Civ 1610 at [26]: "I accept Mr Stinchcombe QC's submissions for Hunston that it is not for an inspector on a Section 78 appeal to seek to carry out some sort of local plan process as part of determining the appeal, so as to arrive at a constrained housing requirement figure. An inspector in that situation is not in a position to carry out such an exercise in a proper fashion, since it is impossible for any rounded assessment similar to the local plan process to be done. That process is an elaborate one involving many parties who are not present at or involved in the Section 78 appeal."

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 NPPF(Dec)2023 paragraph 77.

- 6.93 In line with paragraph 48 of the NPPF(Dec)2023, 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 plans 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.
- 6.94 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.

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

- 6.95 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 77 of the NPPF(Dec)2023 particularly in terms of the treatment of unmet housing need.
- 6.96 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 District¹¹ (CD/4.24). This relates to the circumstances of the South Worcestershire Joint Plan but makes relevant observations on national policy including:
- a. The specific wording of NPPF(Dec)2023 paragraph 77 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 NPPF(Dec)2023 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/4.21)).
 - 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).
- 6.97 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/4.25). 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

¹¹ Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (CD/4.24)

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/4.25)

- 6.98 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).
- 6.99 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.
- 6.100 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 and other neighbouring Oxfordshire authorities.
- 6.101 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 NPPF(Dec)2023 paragraph 77. That is correct as a matter of principle because the relevant policies are less than five years old.
- 6.102 Taken to its logical 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 NPPF(Dec)2023 paragraph 77 would be a disincentive to the preparation of strategic policies to meet these needs.
- 6.103 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.
- 6.104 The explicit basis for adoption of the Partial Review was instead to provide for a separate adopted spatial strategy to contribute towards part of Oxford’s unmet needs. The Partial Review was not adopted on the basis that a singular requirement was necessary and therefore did not anticipate that this would become the case where BSC1 became more than five years old. Accepting the Appellant’s proposition would be inconsistent with the views of three Inspectors on this point: the Inspector appointed to undertake Examination of the Partial Review and the conclusions on the requirement against which supply is to be assessed in Milcombe and Deddington.

- 6.105 The effect of disregarding the basis for preparation of the Partial Review would be to accept that the policies for the housing requirement contributing towards Oxford's unmet needs in the Partial Review Local Plan were 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.
- 6.106 If it were the basis that a singular figure was required it was highly unlikely that Cherwell would have proceeded with the Partial Review.
- 6.107 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.

7.0 HOUSING DELIVERY TEST AND THE APPROPRIATE BUFFER

a) The Housing Delivery Test 2022 – Result for Cherwell District Council

7.1 The official 2022 Housing Delivery Test (19th December 2023) confirms no buffer is to be applied as the Council delivered 143% of the number of homes required as calculated during the HDT.

Table 10. Housing Delivery Test Result

Annual Requirement		Cherwell District
	2019/20 Requirement	881
	2020/21 Requirement	650
	2021/22 Requirement	934
	Total	2464
Recorded Completions		
	2019/20 Completions	1159
	2020/21 Completions	1192
	2021/22 Completions	1175
	Total	3526
Housing Delivery Test Result		143%

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

- 7.2 The Housing Delivery Test deals with delivery. It is agreed that the HDT is passed.
- 7.3 The relevant HDT Result of 143% is calculated on a single authority basis for Cherwell District. No buffer is to be applied in accordance with the provisions of the NPPF(Dec)2023.
- 7.4 The HDT cannot determine the approach to calculating the housing requirement and housing land supply, which is a separate subject.
- 7.5 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.
- 7.6 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:
- 7.7 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.
- 7.8 I illustrate this with reference to the 2022 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/5.21) and Housing Delivery Test Measurement Technical Note (CD/5.22).

- 7.9 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.
- 7.10 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

- 7.11 It is relevant strategic policies *providing* for unmet needs and how these are applied that determine the application of NPPF(Dec)2023 paragraph 77 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.
- 7.12 There are no provisions to apply the same net unmet needs adjustment within the HDT for the purposes of NPPF(Dec)2023 paragraph 77. 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 77 and local housing need applies. This is entirely consistent with the recent Tewkesbury Appeal Decision in PINS Ref: 3284820 (CD/4.27 see DL Paragraph 45).
- 7.13 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).
- 7.14 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.
- 7.15 This relates back to the language of NPPF(Dec)2023 paragraph 77 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.

8.0 ASSESSMENT OF DISPUTED SUPPLY FROM SPECIFIC DELIVERABLE SITES

a) Introduction

8.1 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

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

8.3 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.

8.4 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 2023.

2) To consider further information post-dating 1 April 2023 to suggest *clear evidence* that homes will not be delivered within five years.

8.5 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.

8.6 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 years¹² – that they are available now, offer a suitable location for development now, and are achievable.

8.7 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.

8.8 I draw attention to Inspector Clark's Decision Letter for Poplar Hill, Stowmarket (PINS Ref: 3214324) (CD/4.23) which supports my view on the approach to assessing deliverability. The second and third main criticisms of the Council's evidence made by the appellant in that Appeal related to respectively whether information gathered after the cut-off date may be

¹² 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/4.28).*"

relevant when it 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.

- 8.9 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.
- 8.10 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.
- 8.11 In terms of the observations provided in my evidence on behalf of the Council, including responding to the position in dispute regarding the assessment of deliverable supply from specific sites, it follows that subsequent activity after publication of the December 2023 AMR would be relevant as a further indication that the Council's assumptions were well-founded.

c) Observations Regarding the Council's Most Recent Assessment of Supply

- 8.12 I set out the following observations to provide my view on the Council's most recent AMR (CD/3.14) where it is relevant to clarifying the dispute between the parties regarding the assessment of deliverability and forecast of supply from specific sites. This is relevant to confirming where my professional opinion supports the Council's assessment.
- 8.13 The Updated Assessment provides a base date of 1 April 2023 and covers the five year period 1 April 2023 to 31 March 2028. Appendix 1 of the AMR should not be read in isolation. I note that 'Theme 2: Building Sustainable Communities' within the main AMR document references and provides a summary of the Updated Assessment and provides relevant information relating to housing delivery at Paragraphs 4.27 – 4.34 and tables therein.
- 8.14 Paragraphs 4.121 - 4.127 and the tables therein also provide reporting against indicators for Policies Villages 1 and Villages 2. This includes an assessment of housing completions and outstanding planning commitments within certain settlements and thus provides relevant information relating to housing delivery.

i) Local Evidence for Housing Delivery – First Years' Forecast Completions and Indicators of New Supply

- 8.15 The Council has a recent track record of making conservative forecasts for the first year of completions within the five year period.
- 8.16 There are no sites where I have sought to increase the Council's forecast of deliverable supply. It does not automatically follow, however, that there will not be sites where the Council's forecast is exceeded for example by reason of an earlier date for first completion or faster build-out. This has been the recent experience of the Council particularly in the first year of forecast completions.
- 8.17 This is shown in Table 11 by comparing forecasts from the respective Housing Delivery Monitors for first years' completions since 2020/21 against actual recorded completions for

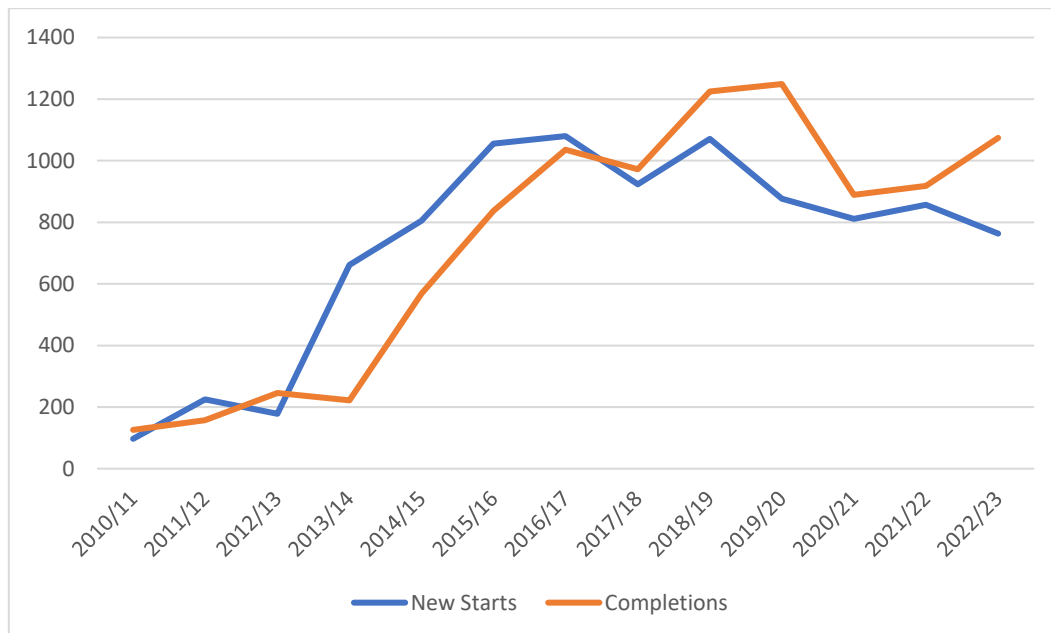
those years. The first years' forecast has been exceeded in each of the respective first year comparisons. The previous HLSS forecast 1,023 completions in the last monitoring years and this has been exceeded by 29% (1,318 dwellings). Relative to the figure for Local Housing Need at the base-date of the previous assessment (742dpa) actual completions exceeded the minimum annual five year requirement (inclusive of 5% buffer) by around 69%.

Table 11. Comparison Between First Years' Forecast and Actual Completions

	2020/21	2021/22	2022/23	2023/24	2024/25
200 AMR	933	1177	1432	1500	1536
2021 AMR		1118	1337	1338	1258
2022 HLSR			1023	919	804
Actual Completions	1192	1188	1318		
December 2023 AMR Forecast				853	761
Exceeded HDM Prediction (%)	28%	6%	29%		

8.18 I have reviewed the relevant national statistics for further indicators of new supply based on quarterly and annual Financial Year totals for new dwellings started and under construction. These indicate no pronounced reduction in activity for the most recent five quarters (covering the 2022/23 Financial Year and Q2 April-July 2023). The Financial Year totals are shown in Figure 1 and Table 3 below. New starts show a -11% reduction since 2021/22 but are broadly consistent with recent trends.

Figure 1. Indicators of New Supply – Starts and Completions by Financial Year



Source:

<https://app.powerbi.com/view?r=eyJrIjoiazjg4NWl1MjMtZTRkNC00MGM4LWFkZTltMjdlODc4YWEwOTdhliwidCI6ImJmMzQ2ODEwLTljN2QtNDNkZS1hODcyLTl0YTJlZjM5OTVhOCJ9>

Table 12. Indicators of New Supply - Starts and Completions

Financial Year	New Starts	Completions
2010/11	97	126
2011/12	225	157
2012/13	178	246
2013/14	662	222
2014/15	805	568
2015/16	1055	837
2016/17	1080	1036
2017/18	923	972
2018/19	1071	1225
2019/20	877	1249
2020/21	811	889
2021/22	857	918
2022/23	763	1074

Source:

<https://app.powerbi.com/view?r=eyJrIjoiazjg4NWl1MjMtZTRkNC00MGM4LWFkZTltMjdlODc4YWEwOTdhliwidCI6ImJmMzQ2ODEwLTljN2QtNDNkZS1hODcyLTl0YTJlZjM5OTVhOCJ9>

8.19 First quarter data for the 2023/24 financial year actually shows a substantial quarterly increase in activity relative to the same position in the 2022/23 year (+111%). 257 completions have already been recorded as part of Building Control statistics (equivalent to 30% of the Council's forecast 853 unit total; and corresponding to a modest -18% lower volume of recorded completions for this quarter in 2022/23. Official statistics support my view

that development activity in the market remains fairly consistent and the Council’s approach to forecasting first year completions remains relatively conservative.

- 8.20 In term of other indicators of housing supply it is worth noting that Cherwell is ranked 17th amongst all local authorities in England for net additional dwellings per 1,000 units of existing stock, based on completions in 2022/23 (c.19 additions per 1,000 units).

Table 13. Indicators of New Supply – Apr-Jun Quarter 2 Series

	New Starts	Completions
Q2 2019/20	215	377
Q2 2020/21	64	95
Q2 2021/22	303	213
Q2 2022/23	137	312
Q2 2023/24	289	257
Difference vs Last Q2	111%	-18%

Source:

<https://app.powerbi.com/view?r=eyJrIjoiZjg4NWU1MjMtZTRkNC00MG44LWFkZTItMjdlODc4YWUwOTdhliwidCI6ImZmMzQ2ODEwLTJiN2Q0NDNkZS1hODcyLTl0YTJlZjM5OTVhOCJ9>

ii) Local Evidence for Housing Delivery – Current Construction Activity

- 8.21 I have also interrogated the Council’s Updated Assessment to understand the details of sites contributing towards the forecast of completions in the first year of the current five-year period 2022/23. The schedule of forecast supply at Appendix 1 (‘Five Year Land Supply Position Statement’) to Appendix 1 of the AMR contains entries for ‘Scheme Status’ at the Base Date. The ‘Under Construction’ category is applied only to sites that have delivered completions in previous years. A separate ‘Granted’ status applies to sites with permission in place but this may correspond to types of consent falling under ‘part a’ or ‘part b’ of the NPPF definition.
- 8.22 For sites with this category where completions are forecast in 2023/24 it is relevant to review the summary of notes on evidence provided by the AMR. Finally, Appendix 1 summarises the position on ‘small sites’ for each of Banbury, Bicester and Other Areas as a single row for each location. The Council’s full schedule of small sites for sites with planning permission includes categories from the monitoring system for these data to show those records ‘started’ at 1 April 2023. Putting these data together, it is possible to identify those categories and sites that comprise the Council’s first year of forecast completions. This is shown in Table 14 below.

Table 14. Summary of Components of 2023/24 Forecast Delivery by Site Status

Component of Supply	2023/24
Small Sites - 'Started'	113
Under Construction	536
Granted ¹³	201
Total - U/C	649
Total - incl Granted	850
Granted - 0 forecast 2023/24	
AMR Notes indicate commencement ¹⁴	239
Total including sites with commencement	1089

- 8.23 In summary, 536 units of the forecast total are on sites 'Under Construction' (around 63% of the total). For these records the Council's assessment generally relates to all outstanding plots or is consistent with the build out in previous years. 113 forecast units on 'small sites' also have a status of 'Started' i.e., assumed for this purpose to be under construction at the base date. The Council only includes 201 forecast completions on large sites with 'Granted' status with no completions recorded previously. In each case the evidence within the AMR indicates commencement on site and/or marketing of homes for sale.
- 8.24 The categories summarised above equate to 850 forecast completions. The minor difference with the 853 unit total relates to forecasting on small sites as a single row, noting it is evidently the case some dwellings can be started and completed in under 12 months.
- 8.25 From this analysis I have also noted that there are several sites within the Appendix 1 schedule with 'Granted' status and with no completions forecast in 2023/24 but where the evidence summarised indicates some activity on site. Taking these sites only, notwithstanding that the actual completions on sites already forecast in 2023/24 may exceed or fall below the Council's forecast total, there are 239 plots with planning permission where some completions in 2023/24 is entirely possible.
- 8.26 Presenting these data in this way again indicates why the Council's approach to forecasting completions in the first year of the five-year period is likely to be conservative and robust.

iii) Local Evidence for Lead-In and Build-Out Rates

- 8.27 Evidence is available within the AMR that supports the Council's assumptions for lead-in timeframes and subsequent build-out of sites following the submission of planning

¹³ South of Salt Way – East; Former RAF Upper Heyford; Land at Merton Road, Ambrosden; Land North of Hempton Road and West of Wimborn Close, Deddington; Land South and Adj. to Cascade Road, Hook Norton; Land South of Home Farm House, Clifton Road, Deddington; "OS Parcel 9100 Adjoining And East Of Last House Adjoining And North Of Berry Hill Road, Adderbury"; The Ley Community, Sandy Lane, Yarnton

¹⁴ OS Parcel 9507 South of 26 and adjoining Fewcott Road, Fritwell; OS Parcel 9507 South of 26 and adjoining Fewcott Road, Fritwell; Land West of Southam Road; Bolton Road; North West Bicester Eco- Town Exemplar Project (Mixed-Use Centre)

applications. Table 39 of the AMR contains an annual schedule of completions at Category A Villages. From this I have identified relevant Outline and Reserved Matters submission and determination dates and estimated the date of first completions based on the number of completions recorded in the first year of delivery (for example, 30 completions I have indicated first completions in summer of the monitoring period but under 10 completions I have indicated first completions towards the end of the period). This schedule is provided at Appendix 5 to my Proof of Evidence.

8.28 This analysis indicates the following lead-in timeframes as shown in Table 15. It is entirely typical for schemes to deliver completions within five years of submission of applications for Outline permission. Average build-out for all years with five or more completions is around 20 dwellings per annum but sensitive to site size and with some schemes recording much greater totals.

Table 15. Lead-in And Build Out Rates for Category A Village Sites (AMR Table 39)

Row Labels	Average of Submission to First Permission Years	Average of First Submission to First Permits Development Years	Average of First Permits Development to First Completions Years	Average of First Submission to First Completions Years	Average of Annual Average
Full	0.9	0.9	1.0	1.9	19.7
Outline	1.3	2.8	1.5	4.3	23.0
Grand Total	1.1	1.9	1.3	3.1	21.1

8.29 Finally, in respect of build-out rates I note that the AMR includes at Table 16 an annual schedule of progress and completions on strategic sites. This indicates that strategic sites in Cherwell have regularly delivered substantially in excess of 100 dwellings per annum and that average completions of over 50 dwellings per annum have been achieved by single developers. In 2022/23 over 250 completions were achieved at RAF Upper Heyford and Kingsmere Phase 2.

8.30 In Table 16 below I have illustrated a sample of strategic sites from the Council's Updated Assessment. Reflecting progress on other strategic sites this generally indicates a more conservative series of forecasts and in-part corresponds to those remaining strategic sites with a higher proportion of supply falling under 'part (b)' of the NPPF definition at the base-date. The Council's approach is nonetheless consistent with local evidence for the delivery of strategic sites as outlined in its AMR.

Table 16. Forecast Delivery from Strategic Sites in the Updated Assessment

		Projection 23/24	Projection 24/25	Projection 25/26	Projection 26/27	Projection 27/28	5 year supply
Total	Strategic Sites Sample	543	366	346	460	396	2111
Banbury Supply	BANBURY 3 - WEST OF BRETCH HILL	35	0	0	0	0	35
	BANBURY 5 - NORTH OF HANWELL FIELDS	12	0	0	0	0	12
	BANBURY 16 - LAND SOUTH OF SALT WAY AND WEST OF BLOXHAM ROAD	72	0	0	0	0	72
	BANBURY 17 - SOUTH OF SALT WAY	125	101	98	100	100	524
	BANBURY 18 - DRAYTON LODGE FARM	0	50	50	75	75	250
Bicester Supply	BICESTER 1 - NORTH WEST BICESTER	52	16	0	50	50	168
	BICESTER 3 - SOUTH WEST BICESTER PHASE 2	79	5	0	60	0	144
	KINGSMERE (SOUTH WEST BICESTER) - PHASE 1	25	0	0	0	0	25
Other Areas	VILLAGES 5 - FORMER RAF UPPER HEYFORD	143	194	198	175	171	881

iv) The Classification of Deliverable Supply in Accordance with the Definition in National Planning Policy and Relationship with Sites Disputed in this Appeal

- 8.31 This analysis is critical to informing my assessment of the robustness of the Council’s assessment of supply. Of 4,121 units forecast in the most recent assessment 1,967 units (48%) comprise sites under part (b) of the definition in national policy. This is relevant to the assessment of deliverability and sites requiring clear evidence of a realistic prospect of completions within five years. The proportion of sites falling under part (b) has increased from the previous assessment of supply at 1 April 2022 (comprising around 27% (1,092 units’) of the previous total).
- 8.32 It is relevant, however, to note that within this global total there is a more nuanced understanding of the requirements of clear evidence and the information available to support the Council’s assessment at the 1 April 2023 base-date. Based on the position of discussions regarding the HLS Topic SoCG at the point of exchanging evidence the Appellant is seeking to dispute the assessment of 696 units’ supply compared to the Council’s published position of which 595¹⁵ units are upon sites falling under part (b) of the definition. This corresponds to only around 30% of the total under ‘part (b)’ sites.
- 8.33 The total forecast supply falling under ‘part (b)’ can be summarised across three components:
- Sites falling under ‘part b’ at the base date and assessed as deliverable in previous iterations of the HLSS but without detailed permission
 - Sites falling under ‘part b’ at the base date and with detailed (Reserved Matters) permission granted since the base-date
 - Site falling under ‘part b’ at the base date and not assessed as deliverable in previous

¹⁵ 101 units are contested at Graven Hill under 20/02345/LDO comprising a Local Development Order and thus detailed permission for the purposes of part (a) of the definition of deliverable.

iterations of the HLSS.

8.34 Table 17 below illustrates the total under each component, my understanding of the Appellant’s position on deliverable supply from each component and thus the extent of supply in dispute.

Table 17. Components of Supply Falling Under Part B of the NPPF2023 Definition

	AMR Dec 2023	Appellant	Difference
Part B Sites - No Detailed Permission included in previous assessments	330	240	-90
Part B Sites - Detailed Permission Granted Since 1 April 2023	1187	1067	-120
Part B Sites - No Detailed Permission and not included in previous assessments	450	65	-385
Total	1967	1372	-595

8.35 While I consider each disputed site separately it is apparent that the Appellant is principally seeking to dispute those sites requiring clear evidence and not included in previous iterations of the assessment. Conversely, a substantial degree of firm progress and availability of clear evidence is by definition accepted on sites falling under other components of the ‘part b’ definition.

8.36 All ‘new’ sites not included in previous iterations of the HLSS correspond to Outline (or pending Outline) applications for planning permission with the exception of one record pending full planning permission at Kidlington Grange. For those unallocated sites pending grant of planning permission my position recognises that the part (b) definition in national policy is not a ‘closed list’ albeit this may affect judgement when assessment clear evidence of a realistic prospect.

8.37 I note that the Council’s Updated Assessment does not provide a specific breakdown of sites by the NPPF definition of deliverable. However, there is recognition (for example at Paragraphs 34 and 38) that recent evidence indicates sites granted planning permission have a strong track record of building out within five years. This corresponds to the identification of ‘New Sites’ within the forecast supply falling under ‘Part B’ corresponding to those I have identified.

8.38 I note, for example, that where local evidence for lead-in timescales is applied to the ‘New Sites’ category the Council’s forecasts compare conservatively with when first completions would be expected reflecting local evidence. This provides relevant information alongside the Council’s assessment and justification for including sites within the forecast supply. This is shown in Table 18 below:

Table 18. Local Evidence for Lead-in Timeframes for ‘New’ Part B Sites

LPA ref:	Address	Submission Date	Forecast First Completions	Expected First Completions - Local Evidence
18/00293/OUT Caravan site, Station Road	Canalside	25/05/2022	2026/27	11/09/2026
19/01047/OUT	Bankside Phase 2	15/07/2021*	2027/28	01/11/2025
21/03426/OUT	Land Opposite Hanwell Fields Recreation, Adj To Dukes Meadow Drive, Banbury	06/10/2021	2026/27	23/01/2026
22/02101/OUT	Land Adjoining Withycombe Farmhouse Stratford Road A422 Drayton	14/07/2022	2027/28	31/10/2026
19/02350/OUT	Land at Deerfields Farm Canal Lane Bodicote	23/10/2019	2026/27	09/02/2024
22/01976/OUT	OS Parcel 3489 Adjoining And South West Of B4011, Ambrosden	01/07/2022	2026/27	18/10/2026
21/00500/OUT	Land North Of Railway House, Station Road, Hook Norton	16/02/2021	2026/27	05/06/2025
22/00017/F	Kidlington Garage, 1 Bicester Road, Kidlington	05/01/2022	2025/26	16/12/2023

**Local evidence applied based on Committee Date of Resolution to Grant PP, reflecting longer than usual lead-in timeframes since submission of the Outline application*

8.39 It should be stated that the Council has not included all such sites within its assessment of deliverable supply. The Council’s assessment is based on the information available and appears to represent a balanced judgement; see, for example, Paragraph 37 for examples of site at North West Bicester that remain classified as developable rather than deliverable.

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

8.40 In Table 19 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 dispute.

8.41 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.

8.42 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.

8.43 The Statement references the range of evidence that the Council references as relevant for consideration up to publication of the December 2023 AMR (CD/3.14). Paragraph 37 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.

8.44 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 19. 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
Banbury 1*	Banbury Canalside (Caravan Site)	63	63	0	-63	<p>The AMR states:</p> <p>“Outline permission for 63 dwellings expired in June 2022. A new outline application for 63 dwellings (22/01564/OUT) at Station Road was approved in July 2023 subject to signing of a section 106 agreement. Site is part of a wider allocation in the adopted Cherwell Local Plan and the wider site is proposed to be allocated for mixed use development in the draft Local Plan Review 2040. Projection allows sufficient time (circa 3 years) for reserve matters submission and determination.”</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> - Chased by agent on behalf of applicant to move drafting of S.106 forward. - A formal extension of time sought and agreed between parties to 5 February 2024. - Lack of resource within Legal Services slowed progress initially. However, the drafting work was outsourced to 3rd party legal firm and Terms of agreement and associated costs have been agreed and is to be based upon previously agreed (but never implemented) permission and associated S.106 agreement. - Confirmation of legal representatives acting for applicant have also been provided. <p>There are no major viability or infrastructure issues affecting the deliverability of this site. It is not reliant on other sites coming forward.</p>

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>Local evidence for lead-in timeframes (see Table 18) anticipates first completions September 2026.</p>
Banbury 4/12*	Land North East of Oxford Road, West of Oxford Canal)	350	50	0	-50	<p>The AMR states:</p> <p>“Planning application for 700 dwellings (17/01408/OUT) was received in June 2017. A new application (19/01047/OUT) for a residential development of up to 825 dwellings was approved subject to legal agreement in July 2021. It is assumed that 2 housebuilders will be on site at a peak of 50 homes per year per developer. The expected delivery rates allow sufficient lead-in time for Outline and Reserved Matters approvals and construction time. Five years from the base date is considered sufficient time for the first dwellings to come forward.”</p> <p>Named Housebuilder(s) Hallam / Henry Boot</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> • Meeting with LPA and applicant and legal representatives (CD/7.1). August 2023. • Following on from this an updated S.106 agreement has been drafted and is broadly agreed between LPA, OCC and Hallam which includes provision for the relocation of BUFC (CD/7.2 refers). • Correspondence on the matter last provided Nov 2023 whereby a further EoT has been requested to bring matters to a close (informally agreed at meeting in Nov 23 – awaiting written confirmation. • Conditions agreed between parties.

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>Promoter engagement? Hallam Land Management</p> <p>Relevant evidence of firm progress with infrastructure delivery to enable development and relationship with surrounding sites :</p> <ul style="list-style-type: none"> • All within same New College Oxford ownership. • Within S.106/S.278 - Provision of new link road between Oxford Road and Bankside/Longford Park by end of 2025. <p>Developer submission (Framptons) received on 30 October 2023 (CD/7.3). It states that the Council's trajectory is unduly pessimistic and should be updated.</p> <p>Their representation to the Local Plan regulation 18 consultation supports the continued allocation of this site which shows their ongoing commitment to the delivery of this site.</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions November 2025.</p>
Banbury 17 **	South of Salt Way, East	700	400	280	-120	<p>The AMR states:</p> <p>"Outline permission for the 1000 homes is secured. This covers the remaining area of the site which is the majority of the strategic allocation. Reserved matters for two of the development parcels (Parcels 1 & 3) (22/02068/REM) were permitted in April 2023 for 237 dwellings. Reserved matters has also been granted for a spine road (20/03702/REM) and link road (20/03724/REM) serving the school and a foul water pumping station (21/03950/REM). Construction of the first 70</p>

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>plots in Parcel 1 has commenced , conditions discharged, S106 obligations varied to allow early road construction to facilitate speedier development (21/00653/M106), ground works in place. Infrastructure will be delivered based on the number of occupations meaning that there will be no significant delays in delivering the homes permitted. Persimmon homes are developing the 237 homes in Phases 1 & 3. Discussions are underway on reserve applications for further phases. Charles Church is currently preparing an application (anticipated Jan.'24) for the Phase 2 land (south of Phases 1 & 3 – zoned for 110-122 dwellings). Projection is consistent with build rates on this site and in Banbury generally in recent years. There are two house builders on site. A significant proportion of the site is forecast to be completed within the 5 year period. Developer has indicated that development is likely to be delivered in line with the projection.”</p> <p>Pre-App guidance for a development of 91 homes (23/01301/PREAPP) issued 20 June 2023</p> <p>Developer Submission (Persimmon homes) received on 10 November 2023. This assumes a delivery of 250 within the next 5 years. However, looking at historic delivery in Banbury this appears to be unduly pessimistic projection. (see AMR Table 16)</p> <p>Email correspondence between the LPA and Persimmon (Dated 23 October 2023 to 10 November 2023) provided during preparation of the AMR (CD/7.4 refers).</p> <p>In applying the evidence provided by engagement with the promoter the LPA has also taken into account the latest position of delivery of the site, with 70 plots identified at slab level (or above) as of November 2023 with sales office operating on-site.</p> <p>The Council also notes Persimmon are delivering Phase 1&3 as a single element of the scheme, therefore reference to</p>

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>further 'second and possibly third phases' are in addition to, rather than component parts, of the first Phase 1&3 element.</p> <p>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 – CD/7.14). This corresponds to the Reserved Matters granted for site infrastructure elements including the spine road (20/03702/REM).</p> <p>Finally, the LPA has moderated the forecast build-out of the trajectory in years 4 and 5 compared to the 2022 HLSS but notes that a minimum 273 units forecast completions for the previous period 2022-2027 were accepted as deliverable in the Milcombe Appeal Decision.</p>
Land Opposite Hanwell Fields Recreation (adjacent to Dukes Meadow Drive, Banbury)*	Land Opposite Hanwell Fields Recreation (adjacent to Dukes Meadow Drive, Banbury)'	78	78	0	-78	<p>The AMR states:</p> <p>"Outline planning application (21/03426/OUT) for up to 78 dwellings and associated open space was approved subject to legal agreement in April 2022. The application was submitted on behalf of a housebuilder, Manor Oak Homes, who will be developing the site. Signing of section 106 agreement is imminent. Projection is consistent with build rates in Banbury generally in recent years"</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> S.106 has been drafted by CDC and has been passed to applicant and their legal representative for comment/assessment. This was due to be undertaken

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>towards end of Nov 23. Awaiting further comments from the applicant (CD/7.6 refers).</p> <p>Regarding relevant evidence for development timeframes</p> <ul style="list-style-type: none"> • Site advertised with sales particulars confirming Manor Oak Homes as promoter of the site (CD/7.5) confirming expectation of submission timeframes for Reserved Matters. • Developer Submission (AR Planning for Manor Oak) received on 23 October 2023 which supports the trajectory proposed (CD/7.6 and CD/7.7). <p>No known infrastructure or viability constraints</p> <p>The developer has also responded to the regulation 18 consultation on the Cherwell Local Plan Review and affirmed that in addition to the 78 dwellings currently granted subject to legal agreement a further submission of 117 dwellings would shortly be submitted. The developer can therefore be demonstrated to be committed to bringing this scheme forward.</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions January 2026.</p>
Land Adjoining Withycombe Farmhouse Stratford Road A422, Drayton *	Land Adjoining Withycombe Farmhouse Stratford Road A422, Drayton	250	50	0	-50	<p>The AMR states:</p> <p>“Outline planning application for a residential development comprising up to 250 dwellings was permitted in February 2023 (22/02102/OUT) subject to the signing of a section 106 agreement which is expected imminently. Developer (Bloor homes) anticipates delivery of homes within the next 5 years and reserve matters application to be submitted imminently. Site is identified in the draft Local Plan Review 2040. Projection is consistent with build rates in Banbury generally in recent years.”</p>

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>Named Housebuilder Bloor Homes</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> • S106 now agreed and previously circulated for signing prior to sealing. • PPA sought by developer for REM application submission intended for Jan. '24. • S106 signed and sealed 21 December 2023 and permission to be issued 8 January 2024. <p>Regarding relevant evidence for development timeframes</p> <ul style="list-style-type: none"> • Bloor's currently building phase 2 to north from which this site will gain access (see CD/7.9). Intend construction start as early as Q2/Q3 '24, upon completion of 2nd phase. • REM application due imminently. <p>Developer submission (Bloor Homes) received on 13 October 2023 (See CD/7.8) confirming delivery within the five years.</p> <p>In their response to the regulation 18 Cherwell Local Plan Review consultation, the developer suggests that the development of the site will commence in the first quarter of 2024 and yield the following completions:</p> <p>2024 – 48 dwellings 2025 – 63 dwellings 2026 – 63 dwellings</p>

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>2027 – 63 dwellings 2028 – 13 dwellings</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions October 2026.</p> <p>Table 16 of the Council's AMR confirms the local evidence for build-out rates on the Wretch Hill / Banbury Rise allocated site adjacent to the north.</p>
20/02345/LDO Local Development Order (Bicester 2)	Graven Hill	276	108	40	-68	<p>The AMR states: "A revised Local Development Order for 276 plots was adopted in November 2020 which, along with 17/02107/LDO (now expired), helped facilitate the delivery of initial self-build dwellings on the site. This is a self-build development with primarily 1 housebuilder. Several of these plots are now under construction. The current LDO will remain in force until December 2023. Existing permissions expected to be delivered over the next 5 year period based on past site delivery rates and some short term uncertainty on delivery mechanisms."</p> <p>Before the base date, 135 dwellings had been completed on sites which had been granted a certificate of compliance with the LDO. This is set out in the AMR and confirmed in the completions data (core document I11). This leaves 141 dwellings .</p> <p>Of the 141 dwellings, the Council's data (core document I11) confirms that 15 dwellings had permission at the base date of 1st April 2023 for certificates of compliance to the LDO. This leaves 126 dwellings.</p> <p>The AMR explains that application 22/02312/REM is also included within the 276 dwellings. This is a reserved matters application for 93 dwellings, which was pending at the base date but was approved in September 2023. The inclusion of this application means that there are 33 dwellings left.</p>

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
Villages 5 - Former RAF Upper Heyford (15/01357/FUL) ***	Former RAF Upper Heyford	89	89	49	-40	<p>Planning Permission Issued September 2023</p> <p>Application (22/03063/F) now submitted by David Wilson homes resulting in additional dwellings and expected to be determined shortly. Anticipated legal agreement in line with existing agreement.</p>
Land at Deerfields Farm, Canal Lane, Bodicote *	Land at Deerfields Farm, Canal Lane, Bodicote	26	26	0	-26	<p>The AMR states:</p> <p>“Outline permission was granted in November 2022 for up to 26 dwellings. The expected delivery rates allow sufficient lead-in time for Outline and Reserved Matters approvals and construction time.”</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions February 2024.</p> <p>No known viability or infrastructure constraints</p> <p>No email response received as part of engagement for preparation of HLSS Update (CD/7.10)</p>
OS Parcel 3489 Adjoining and South West of B4011, Ambrosden *	OS Parcel 3489 Adjoining and South West of B4011, Ambrosden	75	60	0	-60	<p>The AMR states:</p> <p>“Outline application for 75 homes permitted in February 2023 subject to section 106. With permission granted over 9 months ago, the section 106 is expected to be signed shortly.”</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> Decision Notice issued 19 December 2023 granting Outline Planning Permission including provision for Biodiversity Net Gain to be controlled via condition (Condition 23) <p>Site has been sold to housebuilder who have contacted the LPA with a view to commencing pre-application discussion on the Reserved Matters.</p>

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
						Local evidence for lead-in timeframes (see Table 18) anticipates first completions October 2026.
Land North of Railway House, Station Road, Hook Norton *	Land North of Railway House, Station Road, Hook Norton	43	43	0	-43	<p>The AMR states:</p> <p><i>“Outline application approved following appeal for 43 homes in August 2022. Section 106 is agreed.”</i></p> <p>Regarding relevant evidence for development timeframes</p> <ul style="list-style-type: none"> • Named Housebuilder: Deanfield Homes • Pre-app enquiry submitted by Deanfield Homes in Oct 23 for up to 43 homes. Meeting subsequently undertaken in 8 Nov 23 (Email attached). Pre-App Ref 23/02990/PREAPP (CD/7.11 and CD/7.12 refers) • Revised layout discussed subsequent to that pre-app response and comments provided; the applicant is preparing an RM submission. <p>No known constraints to development.</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions June 2025.</p>
Kidlington Garage, 1 Bicester Road, Kidlington *	Kidlington Garage, 1 Bicester Road, Kidlington	15	15	0	-15	<p>The AMR states:</p> <p><i>“Application for 15 flats was granted planning permission in March 2023 subject to the signing of a section 106 agreement. Sweetcroft Homes are the developer. This is a full application and expected to be built out well within the five year period.”</i></p>

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>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> • Email update provided July 2023 from LPA to Applicant (CD/7.13 refers) • The Council received an engrossed version of the s106 agreement on the 3.1.2024 and it is anticipated that planning permission will be granted prior to the end of January 2024 <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions December 2023 (i.e., delivery somewhat beyond typical timescale).</p>

(* = new part B sites not covered in previous iterations of the HLSS; ** = Part B Site Detailed Permission Granted Since 1 April 2023; *** = Part B Site with no Detailed Permission but included in previous assessments)

- 8.45 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.
- 8.46 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 1st April 2023, 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).
- 8.47 In Table 19 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.

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

- 8.48 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/6.5) to agree the following amendments to forecast supply within the published HLSS:
- 50 dwellings should be removed from the Bicester Gateway Site (LPA ref: 20/00293/OUT). This site is not regarded as deliverable subsequent to correspondence from the promoter regarding progressing commercial elements of the mixed-use proposals
 - 33 dwellings should be removed from the entry covered by 20/02345/LDO Local Development Order (Bicester 2) to address units identified in the forecast supply that are not covered by Certificates of Compliance with the LDO (15 units) or separate Reserved Matters permission (22/02312/REM – 93 units) with the LDO itself no longer remaining in force beyond December 2023.
- 8.49 I confirm both the entries relate to capacity at Bicester.
- 8.50 These five entries together result in the removal of 83 dwellings from the published position (4121 – 83 = 4,038 units)

9.0 SUMMARY AND CONCLUSIONS

- 9.1 These conclusions should also be taken as providing a summary of my Proof of Evidence.
- 9.2 My overall conclusion is that the Council can demonstrate **5.74 years' deliverable supply** against the relevant housing requirement following my assessment in the preceding sections. This is set out in Table 20 below, corresponding to Council's case to be presented in draft HLS Topic SoCG at the point of exchanging evidence (CD/6.5).

Table 20. Components of Five-Year Housing Land Supply

	Step	Description	LHN 2024 + NPPF(Dec)2023 Buffer Changes
Five-Year Requirement	a	Standard Method Requirement (2023/24-2027/28)	3515
	b	Annual Requirement (a / 5)	703
	c	Requirement Over 4 Years (b x years)	2812
	d	4 Year Requirement plus 5% buffer (c + 5%)	N/A
	e	Revised Annual Requirement over next 5 years (d / 5)	703
Components of Supply	(i)	Banbury Supply	1483
	(ii)	Bicester Supply	718
	(iii)	Other Areas	1587
	(iv)	Windfall	250
	f	Deliverable Supply over next 5 Years	4038
Years' Supply	g	Total years supply over next 5 years (f/ e)	5.74
	h	'Shortfall' / Surplus(f – c)	+1226

- 9.3 The calculation reflects a surplus in excess of the relevant 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 on the basis of footnote 8.
- 9.4 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.
- 9.5 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 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 4.82 years' supply.
- 9.6 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/3.13) the housing requirement within its adopted strategic policies requires updating for the purposes of NPPF2023 paragraph 74 and footnote 39.

- 9.7 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.
- 9.8 The parties agree that the ‘Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford’s Unmet Housing Need’ (CD/3.5) or “Partial Review” was adopted on 7 September 2020 and that relevant strategic policies **PR1 and PR12a** are less than five years old.
- 9.9 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.
- 9.10 In **Section 4** I consider the most recent assessment of supply for Cherwell District Council comprising the Housing Land Supply Statement (CD/3.14) published in December 2023. The published position provides the starting point to the Council’s case for this Appeal.
- 9.11 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.
- 9.12 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. 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.
- 9.13 In **Section 5** I address the implications of the most recent changes to national policy in revised National Planning Policy Framework first published 19 December 2023 (‘NPPF(Dec)2023’). I confirm that this results in no changes to the annual requirement against which supply should be assessed, save no buffer being applied and forecast deliverable supply should continue to be considered for the five year period. I confirm that the policy in paragraph 226 to the NPPF(Dec)2023 applies and under the provisions of paragraph 77 the extent of deliverable supply identified must provide for a minimum 4 years’ supply.
- 9.14 The contents of the Cherwell Local Plan Review 2040 – Regulation 18 Consultation Draft published for consultation between 22 September 2023 and 3 November 2023 identify sites for housing and satisfy the requirement for the inclusion of a policies map for the purposes of a Local Plan under preparation (prior to its submission) under regulation 5(a) of The Town and Country Planning (Local Planning) (England) Regulations 2012 and any accompanying maps as specified in regulation 5(b).
- 9.15 In **Section 6** 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.
- 9.16 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^{16 17}.

- 9.17 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.
- 9.18 The Council's case is entirely in accord with NPPF(Dec)2023 Paragraph 77. It does not conflate the assessment of need and approach to managing supply, which underlies why the Appellant's position should not be followed.
- 9.19 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.
- 9.20 I explain that Paragraph 77 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.
- 9.21 Paragraph 77 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.
- 9.22 NPPF(Dec)2023 Paragraph 77 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.
- 9.23 My evidence illustrates that while NPPF(Dec)2023 Paragraph 77 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.
- 9.24 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.
- 9.25 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 and other neighbouring Oxfordshire authorities. I have highlighted differences in the approach to plan-making between the authorities, including site selection, the distribution of growth and where exceptional circumstances have been identified to support the amendment of Green Belt boundaries and provide further details in my Appendix 2. This provides a distinction with the *Grove Appeal Decision* (CD/4.22).
- 9.26 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

¹⁶ Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (CD/4.24)

¹⁷ Part Parcel 0025, Hill End Road, Twyning, Gloucestershire, GL20 6JD, 389971, 237249 PINS Ref: 3284820 (CD/4.27)

making have no effect upon the operation of NPPF(Dec)2023 paragraph 77 and the separate adopted strategic policies to address part of Oxford's unmet needs within the Partial Review.

- 9.27 In **Section 7** (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.
- 9.28 In **Section 8** I provide observations on the Council's assessment of supply (CD/3.14) and 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/6.5).
- 9.29 I do not consider that the Appellant's details of disputed supply amount to a deficit against the relevant 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.
- 9.30 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 2023, 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).
- 9.31 Within this section I identify the removal of 83 units' supply from the published position, reducing slightly the extent of disagreement between the parties.
- 9.32 The conclusions of this section of my Proof of Evidence and evidence for the deliverability of disputed sites result in 4,038 units' deliverable supply. This amounts to a **5.74 years' supply against the relevant housing requirement** as shown in Table 20 above.
- 9.33 The Council's case is that the policy in paragraph 226 to the NPPF(Dec)2023 applies and under the provisions of paragraph 77 the extent of deliverable supply identified must provide for a minimum 4 years' supply. The Council's case is therefore that it can demonstrate a surplus of 1,226 dwellings. At the point of exchanging evidence the Appellant's position on disputed supply also results in a surplus of 613 dwellings against the relevant requirement.

APPENDICES (PAGINATED SEPARATELY)

- APPENDIX 1** THE HOUSING DELIVERY TEST IN CHERWELL DISTRICT - TECHNICAL APPENDIX REGARDING CALCULATION OF THE NUMBER OF HOMES REQUIRED
- APPENDIX 2** JOINT WORKING IN OXFORDSHIRE PLAN-MAKING IMPLICATIONS AND OUTCOMES FOR ADDRESSING UNMET NEEDS
- APPENDIX 3** OXFORDSHIRE GROWTH DEAL: INFRASTRUCTURE SCHEME LIST VIA: WWW.FUTUREOXFORDSHIREPARTNERSHIP.ORG
- APPENDIX 4** 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 5** ANALYSIS OF LOCAL LEAD-IN TIMEFRAMES BASED ON TABLE 39 OF THE DECEMBER 2023 AMR

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