

**TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 APPEAL**

BY

WATES DEVELOPMENTS LTD

LAND SOUTH OF GREEN LANE, CHESTERTON

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)”

**PINS REF.: APP/C3105/W/23/3331122
LPA REF.: 23/00173/OUT AND 23/00103/REF**

**PROOF OF EVIDENCE
OF
CHRISTOPHER ROBERTS**

JANUARY 2024

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1. INTRODUCTION

Qualifications

- 1.1 My name is Christopher Roberts. I hold an MSc Degree in Spatial Planning and Development from Cardiff University and am a chartered member of the Royal Town Planning Institute (RTPI). I am an Associate Director of the Wokingham Office of Boyer.
- 1.2 Boyer is a national town planning consultancy with six offices. It forms part of a larger multidisciplinary property business, the Leaders Romans Group. Boyer employs around 70 professional staff members in the disciplines of town planning, masterplanning, and architecture. Boyer's professional services include preparing housing land supply assessments.
- 1.3 I have ten years of professional experience, all of which have been spent working in private-sector planning consultancies. I have acted as an expert witness, participated in Local Plan Examinations, and have experience dealing with housing land supply matters, including preparing detailed housing land supply assessments for planning appeals, and advising clients.
- 1.4 Additionally, I have advised in relation to the appeal site since the preparation of the planning application in 2022 and, prior to this, concerning the site's promotion through preparing representations to Local Plan consultations. I am familiar with the Appeal Site and the planning policy context for Cherwell.

Statement of Truth

- 1.5 I am instructed by Wates Developments (the appellant) to provide a Proof of Evidence, which provides an assessment of housing requirement and housing supply matters in Cherwell.
- 1.6 The evidence I have prepared and provided for this appeal and in this Proof of Evidence is true. It is prepared and given according to my professional institution's guidance. I confirm that the opinions expressed are my true and professional opinions, irrespective of my instructing party. I am also professionally advised on all legal matters and legal interpretation.
- 1.7 In conjunction with this Proof of Evidence, I provide a set of appendices and a Summary Proof of Evidence. I also refer to several Core Documents and the Housing Land Supply Statement of Common Ground (SoCG)¹.

Scope of this Evidence

- 1.8 This proof of evidence addresses housing land supply matters in Cherwell District as relevant to this appeal. This includes a review of the planning policy context, which is followed by an examination of housing delivery and supply against the housing requirement in the adopted Development Plan. This considers the projected failure of both parts of the Local Plan to meet the minimum adopted housing requirements by the end of the Plan period.
- 1.9 Additionally, this evidence reviews the Council's recently claimed positions on five-year housing land supply (5YHLS). This finds that the application of the Standard Method has allowed the Council to claim an improved 5YHLS position. However, the pipeline of forecast dwellings has

¹ Which at the time of writing exists in draft, but has yet to be formally concluded.

markedly diminished, such that fewer homes are expected to be built.

- 1.10 The evidence also examines the future planning context, whereby the housing requirement expected to be adopted in the new Local Plan (based on the most up-to-date evidence of need) will be higher than the Local Housing Need figure currently being used to calculate 5YHLS.
- 1.11 My evidence further considers the applicable housing requirement for the purposes of calculating 5YHLS in accordance with the National Planning Policy Framework (NPPF). It is concluded that five years of supply must be demonstrated (rather than a four-year housing land supply). This is because the recent Cherwell Local Plan Review 2040 Regulation 18 consultation document does not contain a Policies Map for the purposes of NPPF paragraph 226.
- 1.12 Furthermore, the evidence demonstrates that a five-year housing supply must be assessed against a unified housing requirement. This is to say that there should be no separation of the Partial Review requirement from the general housing requirement for Cherwell and no separate HLS calculations for the purposes of NPPF paragraph 77.
- 1.13 Subsequently, the proof of evidence then turns to a review of the Council's claimed supply of deliverable sites, setting out an amended trajectory and demonstrating an overall failure to achieve a five-year housing land supply.
- 1.14 Overall, it is my evidence that a 5YHLS cannot be demonstrated. On this basis, the presumption in favour of sustainable development applies in accordance with the provisions of NPPF paragraph 11(d), footnote 8.
- 1.15 The consequences of not being able to demonstrate a sufficient supply in five years or the Plan period; the weight to be given to out-of-date policies as a result; and the weight to be given to the contribution of homes from the Appeal Site in the context of not being able to demonstrate a five-year supply, are considered in the evidence of Mr Ross.

2. PLANNING POLICY CONTEXT

The Development Plan

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004)² requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 2.2 The relevant Development Plan comprises the following;
- Cherwell Local Plan 2011-2031 Part 1 (adopted July 2015) (Policy 'Bicester 13' was re-adopted on 19 December 2016) (CD 3.1)
 - Cherwell Local Plan 2011-31 (Part 1) Partial Review – Oxford's Unmet Housing Need (adopted September 2020) (CD 3.5); and
 - Cherwell Local Plan 1996 'saved policies' (CD 3.2).

Cherwell Local Plan 2011-2031 Part I

- 2.3 The adopted housing requirement for Cherwell is set out in Policy BSC1: "District Wide Housing Distribution" (on page 61 of Local Plan Part 1). It identifies a housing requirement of 22,840 dwellings to be delivered between 01 April 2011 and 31 March 2031. This translates to an average annual requirement of 1,142 dpa.
- 2.4 The preceding supporting text to the policy, at B.94 (page 58 of the Local Plan), indicates that this annualised figure derives from, and is consistent with, the Oxfordshire Housing Market Assessment (SHMA) 2014.
- 2.5 On page 275, the Local Plan Part 1 sets out a housing trajectory. This illustrates how the Council expected the identified requirement (22,840 homes) to be delivered by 31 March 2031. As specified in Section 3 of this Proof of Evidence, the Council's own projections recognise that this adopted requirement will not be met by 2031.

Cherwell Local Plan 2011-31 Part 1 Partial Review – Oxford's Unmet Housing Need

- 2.6 When the Cherwell Part 1 Local Plan was prepared and examined, there was some uncertainty as to the extent of Oxford's unmet housing needs. Because of this, the Plan was modified to trigger a review should it become apparent that Oxford would need to rely on the adjoining districts (including Cherwell) to help address its housing needs.
- 2.7 The scale of Oxford's unmet need became clear in November 2015, when the Oxford Growth Board (OGB) agreed on a working unmet need figure of some 15,000 homes, based on a then-identified need for 28,000 homes, of which only around 13,000 could be provided for within Oxford's restricted administrative boundaries. A final figure of 14,850 dwellings was agreed upon between the Oxfordshire Authorities, with Cherwell District Council committing to take on 4,400 homes.
- 2.8 The Council duly commenced a review of Local Plan Part 1. This culminated in the examination and subsequent adoption (in September 2020) of the Cherwell Local Plan 2011-31 (Part 1) Partial Review – Oxford's Unmet Housing Need. It is notable that the Council's Planning Policy

² Available online at: <https://www.legislation.gov.uk/ukpga/2004/5/section/38>.

Manager, in a letter to the Local Plan Inspector dated 20 June 2019 (CD 5.30), emphasised the urgency of meeting Oxford's unmet need (through the proposed allocations), in justifying the progress of the Partial Review ahead of the adoption of the Oxford City Local Plan and the (now abandoned) Oxfordshire Plan 2050. The letter stated at paragraph 13 that;

“Completion of the Oxford City Local Plan would still necessitate subsequent countywide working to consider the implications for the rest of the Housing Market Area. This properly forms part of a future stage of planning for the districts across Oxfordshire. The pressing and immediate housing need, however, means that it is important that work on the Partial Review, as part of the current planning for area, needs to be completed so that the Partial Review can be adopted now.”

- 2.9 In his Final Report (CD3.18), the examining Inspector, Paul Griffiths, identified that the “*chief*” basis for concluding that there were exceptional circumstances which warranted the removal of sites from the Green Belt was the “*obvious and pressing obvious and pressing need to provide open-market and affordable homes for Oxford; a need that Oxford cannot meet itself.*” (paragraph 46 of the report, emphasis my own)
- 2.10 Policy PR1 of the Partial Review sets out that it will provide several allocations to deliver 4,400 homes to help address Oxford's unmet housing needs by 2031. Policy PR3 then allocated six sites for residential-led developments to provide these homes.
- 2.11 As I set out in Section 3 of this Proof of Evidence, the Partial Review established a defined requirement of 1,700 homes to be provided by 2026, reflecting the urgency of addressing this need. However, no completions have occurred to date, and only 80 completions are projected during the five-year period ending 31 March 2028. Indeed, the Council's own evidence now recognises that the majority of 4,400 homes allocated in the Partial Review will not be delivered by 2031.
- 2.12 The Partial Review states, at Policy PR12a, that separate monitoring of the housing land supply for the Partial Review Sites will be maintained;
- “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”*
- 2.13 With respect to this appeal, it should be noted that the way PR12a is interpreted is a matter of difference between the two sides, as is the matter of the proper interpretation of the relevant parts of the NPPF. My position is set out in detail within Section 5 of this Proof of Evidence.

Local Plan Reviews (2020 and 2023)

- 2.14 The Council undertook a Regulation 10A review of the adopted Local Plan Part 1 in 2020. It concluded that the housing requirement, set out in Policy BSC1, was (at that time) up to date. This was based on the conclusion that the adopted housing requirement (based on the Oxfordshire SHMA 2014) was up to date, despite being higher than the Local Housing Need figure arrived at through the Standard Method.
- 2.15 In February 2023, the Council undertook a further 'Regulation 10A Review of Local Plan Policies' (CD 3.13). This time, it was concluded (as set out on pages 8 to 9 of the Review) that

the SHMA was no longer up to date. The Council's reasoning was that a new Housing and Economic Needs Assessment (HENA), commissioned jointly with Oxford City Council, had been produced in December 2022, providing an assessment materially different from that in the SHMA 2014.

- 2.16 Consequently, the Local Plan Review concluded that Policy BSC1 'District Wide Housing Distribution' (and the associated adopted housing requirement) "requires updating". The Council's position is that until the housing requirement is updated through the Local Plan Review;

"This means that for monitoring and housing land supply purposes Cherwell's minimum housing requirement is 742 dwellings per year as calculated using the standard method and in accordance with paragraph 74 of the NPPF."

- 2.17 I agree that the 5YHLS for Local Plan Part 1 should be tested against the Standard Method's LHN. Nonetheless, it is notable that the Council's now preferred LHN figure, 710 dwellings per annum (dpa), is markedly lower than both the adopted housing requirement (1,142 dpa) and that proposed in its emerging Local Plan 2040 (1,293 dpa), as set out below.

Cherwell Local Plan 2040

- 2.18 The Council is preparing a new Local Plan, which (on adoption) will cover the period 2020 to 2040. A Regulation 18 consultation took place from September to November 2023.
- 2.19 Notably, this recently prepared Draft Local Plan Review 2040 (CD 3.3) identifies a proposed housing requirement based on the HENA (referred to above). At proposed Core Policy 34 'District Wide Housing Provision', the Consultation Document identifies a need for Cherwell of 1,009 dpa. The policy then goes on to indicate that Cherwell expects to accommodate 284 dwellings from Oxford to help address the city's unmet housing need.
- 2.20 The Draft Local Plan 2040, therefore, arrives at a combined (singular) housing requirement of 1,293 dpa, or 25,860 homes over the 2020 to 2040 Plan-period. This is set out in Table 3 of the Consultation Document (page 75).
- 2.21 The Draft Plan also identifies a suite of new allocations (including the appeal site itself) to derive a potential supply of some 4,615 additional dwellings.

National Planning Policy Context

Presumption in Favour of Sustainable Development

- 2.22 The National Planning Policy Framework (December 2023) ('NPPF' or 'the Framework') provides the overarching planning policy framework, against which all Local Plans and Neighbourhood Plans should be prepared and against which planning applications are assessed. The Framework does not change the statutory primacy of the Development Plan for decision-making, but it is a key material consideration for LPAs and decision-takers.
- 2.23 The over-arching national planning policy theme evident within the NPPF comprises a '*...presumption in favour of sustainable development*', which the Government has advised should be at the heart of the planning system.

2.24 NPPF paragraph 11 sets out how the presumption in favour of sustainable development will apply to plan-making and decision-taking. Paragraph 11(c) states that development that accords with an up-to-date development plan should be approved ‘...without delay’. 11(d) states that;

“...where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole” (emphasis added).

2.25 Footnote 8 of the NPPF clarifies that, for applications involving the provision of housing, the presumption in favour of sustainable development (as set out within paragraph 11d of the NPPF) is engaged where:

“(a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or

(b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.”

2.26 In addition, many parts of Section 5 of the NPPF are also of relevance to my Proof of Evidence. This includes NPPF paragraph 60, which sets out the Government’s objective of significantly boosting the supply of homes.

2.27 Paragraph 61 subsequently outlines that;

“To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area (see paragraph 67 below). There may be exceptional circumstances, including relating to the particular demographic characteristics of an area which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals. In addition to the local housing need figure, 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.

2.28 Paragraph 67 states that;

“Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment. 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. Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan examination, unless there has been a significant change in circumstances that affects the requirement.”

2.29 Paragraph 76 explains that;

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

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

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

2.30 Paragraph 77 then adds that;

“In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years’ worth of housing, or a minimum of four years’ worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period).”

2.31 NPPF paragraph 226 sets out a number of transitional arrangements relating to the operation of paragraph 77, namely;

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

2.32 Also of relevance is NPPF Annex 2: Glossary, in particular, the definition of “deliverable” on page 69;

“Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing

will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, 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).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

Planning Practice Guidance

2.33 The Planning Practice Guidance is an online-based resource, published initially in 2014 and which has been successively updated.

2.34 The relevant sections of the PPG include

- Housing and economic needs assessment;
- Housing and economic land availability assessments; and
- Housing supply and delivery.

2.35 References to the PPG are made as relevant throughout this Proof of Evidence.

Housing Delivery Test

2.36 The latest Housing Delivery Test (HDT) results indicate that between 2018/19 and 2020/21, 3,840 homes were delivered against a requirement of 2,505. This led to a measurement of 153%. Consequently, and consistent with NPPF paragraph 77, no buffer is applied to calculate 5YHLS.

Relevant Appeals within Cherwell District

2.37 Several appeal decisions, which provided some level of comment on housing land supply matters, were issued during 2023. It is relevant that none of these recent appeals considered the Council’s most recently claimed position, published in December 2023;

- Land to the Rear of No.12 and South of the Dismantled Railway, Heath Close, Milcombe (PINS ref: 3325113). Stoic Roofing and Construction and Abbeymill Homes. Decision 12 December 2023 (CD 4.19). This concerned a proposal for up to 35 dwellings. A Hearing was held on 18 October 2023. In paragraph 44 of their Decision, the Inspector concluded that, for the supply period 2022-2027, the Council could only demonstrate a supply of 4.82 years.
- Hempton Road, Deddington (PINS ref: 3324704). Rainier Developments. Decision 08 December 2023 (CD 4.18). A Hearing took place on 14 November 2023, and the proposal was for up to 9 dwellings. The Inspector concluded that the Council could demonstrate a 5YHLS, as set out at paragraph 51 of their Decision.

2.38 In both decisions, the Inspectors took the view that the Local Plan Partial Review sites could be

taken to form a separate housing requirement for the purposes of calculating a 5YHLS.

2.39 For the reasons set out in detail in Section 5 of my evidence, and to the extent that these appeal decisions are inconsistent with my analysis, I must respectfully contend that they are wrong.

2.40 I am consequently advised that there is no obligation to be consistently erroneous in the interpretation of policy (and thus consistently wrong in law). As such, and given that this issue concerns the interpretation of policy, which is a matter of law, the principle of consistency in decision-making is of no assistance to the present Inspector.

2.41 To this, I must add that both appeals concerned small-scale proposals, and neither was conducted through the Inquiry procedure with the benefit of cross-examination. Indeed, it appears that the Council was not represented by Counsel in either case, meaning that it was unable to make legal submissions as to the proper operation of the NPPF in this respect.

2.42 Other appeal decisions include:

- Land off Fulwell Road, Finmere (Pins Ref. 3311483) – Decision 23 May 2023 (CD 4.16). This was a Written Representations appeal concerning a proposal for five dwellings. It is not clear (from the Council's online register) whether the appellant for this small-scale scheme provided detailed evidence to refute the Council's position, and the Inspector did not comment extensively on 5YHLS matters. Rather, the Inspector simply stated that they were satisfied that NPPF paragraph 11d was not engaged (see paragraph 3 of the Decision).
- Land at North West Bicester (PINS ref. 3315849) – Decision 25 July 2023 (CD 4.20). Both sides prepared detailed 5YHLS evidence. However, as the appeal concerned an allocated site and the issue was not determinative, both sides concluded a topic-specific Statement of Common Ground (SoCG), agreeing (for the purposes of the appeal) that the Council could demonstrate a 5YHLS. In essence, this was a matter of convenience for both sides (see paragraph 128 of the Decision).
- Land north of Banbury Road, Finmere (PINS ref: 3309489) – Decision 31 October 2023 (CD 4.17). Hayfield Homes. A hearing occurred on 17 October 2023. It is understood that, at the Hearing, the appellant concluded that a 5.03-year housing supply could be demonstrated. However, the appellant did not contest the calculation of the housing requirement, specifically the separation of Oxford's unmet housing needs from the overall calculation. The Inspector did not give detailed consideration to the 5YHLS position in their Decision (see paragraph 12).
- Land adjacent to Wise Crescent, Fringford (PINS ref: 3324251) – Decision 01 December 2023 (CD 4.33). Abbeymill Homes. A Hearing was held on 25 and 26 October 2023. Whilst both parties presented 5YHLS evidence, the issue was not determinative, and the Inspector did not comment on the matter in detail (see paragraph 48 of the Decision).

2.43 At the time of writing, there are a number of undecided planning appeals within Cherwell District that address (to varying degrees) 5YHLS matters. These are;

- OS Parcel 1570, adjoining and west of Chilgrove Drive, and adjoining and north of Camp Road, Heyford Park (PINS ref: 3326761) Richborough Estates, Lone Star Land Ltd, et.al. An

Inquiry opened on 05 December 2023.

This is the first appeal where the appropriateness of undertaking separate 5YHLS calculations for the Local Plan Partial Review sites will be tested at Inquiry. It is also likely that this will be the first major appeal in Cherwell to be decided following the publication of the latest NPPF in December 2023;

- Land north of Ells Lane, Bloxham (PINS ref: 3327581). Deeley Homes. A Hearing is due to be held on 10 January 2023; and,
- Land east of Ploughley Road, Ambrosden (PINS ref: 3327213). Bellway Homes. An Inquiry is now scheduled to open on 12 March 2024.

2.44 Noting the above, my evidence may need to be updated with regard to future appeal decisions, should these be published during the course of the Inquiry/appeal. Accordingly, I reserve the right to submit further evidence regarding housing land supply matters and in the interests of all parties concerned with the appeal, noting that this is the primary subject of this Proof of Evidence.

3. HOUSING DELIVERY AND FUTURE SUPPLY IN CHERWELL – BACKGROUND AND OVERVIEW

3.1 This section sets out an overview of housing delivery and predicted supply in Cherwell. It also explores the Council’s projections of supply up to 31 March 2031, as extracted from the latest Annual Monitoring Report (AMR) 2023, published December 2023. The section provides context for the calculation of the 5-year housing land supply position, and no adjustments to the Council’s data are made.

Adopted Local Plan 2011-2031 Part 1

3.2 As indicated, the adopted Local Plan Part 1 requires 22,840 dwellings to be delivered between 01 April 2011 and 31 March 2031. This represents an annual requirement of 1,142 dpa. Table 3.1 below sets out achieved completions, up to 01 April 2023, against this adopted requirement.

3.3 This excludes the Partial Review requirement, which the Council treats separately.

Table 3.1 Housing Delivery Against the Adopted Local Plan Requirement (2011/12 to 2022/23)

	Annual Requirement	Completions	Surplus / Shortfall	Cumulative
2011/12	1,142	356	-786	-786
2012/13	1,142	340	-802	-1,588
2013/14	1,142	410	-732	-2,320
2014/15	1,142	946	-196	-2,516
2015/16	1,142	1,425	283	-2,233
2016/17	1,142	1,102	-40	-2,273
2017/18	1,142	1,387	245	-2,028
2018/19	1,142	1,489	347	-1,681
2019/20	1,142	1,159	17	-1,664
2020/21	1,142	1,192	50	-1,614
2021/22	1,142	1,188	46	-1,568
2022/23	1,142	1,318	176	-1,392
Total	13,704	12,312	-1,392	

3.4 The completion figures in Table 3.1 were extracted from the Council’s Draft Annual Monitoring Report (AMR) 2023 (CD 5.26), page 21 (Table 15). Table 3.1 indicates **a shortfall of -1,392 homes at 01 April 2023** (i.e., arising over the period 2011/12 to 2022/23).

3.5 Looking forward to 2031, the latest AMR (2023) on page 9 of the Draft Revised Land Supply Trajectory (CD 5.25) projects a supply of 7,112 dwellings from 01 April 2023 to 31 March 2031 (excluding the Partial Review allocations).

3.6 Noting this, it projects total completions from 01 April 2011 to 31 March 2031 to amount to 19,424 homes. Without making any adjustment to the claimed supply, this suggests a **shortfall of 3,416 homes** will arise by the end of the Plan-period in 2031.

3.7 This is based on the following calculation: $22,840 - 12,312 - 7112 = 3,416^3$. This is further broken down in Table 3.2 below.

Table 3.2 AMR 2023 Projected Supply Against the Adopted Local Plan Requirement to 2031 (including shortfall to 2022/23)

	Adopted Local Plan Part 1 Requirement	AMR 2023 Projection (including completions to date)	Surplus / Shortfall
2011/12 - 2022/23	(13,704)	(12,312)	(-1,392)
2023/24	1,142	853	-289
2024/25	1,142	761	-381
2025/26	1,142	703	-439
2026/27	1,142	890	-252
2027/28	1,142	914	-228
2028/29	1,142	969	-173
2029/30	1,142	989	-153
2030/31	1,142	1,033	-109
Total	22,840	19,424	-3,416

3.8 It is notable that the latest AMR predicts a deterioration when compared to the previous Housing Land Supply Statement (HLSS) 2023. Indeed, the HLSS anticipated total completions between 2011 and 2031 of 20,461 and a shortfall of 'just' -2,379 homes by the end of the Plan period. The Council's latest assessment shows that the expected shortfall has considerably worsened, rising to some -3,416 homes.

3.9 In other words, even before taking into account Oxford's unmet needs, the Council already expects, by the end of the Plan period, to fall short of its adopted Local Plan housing requirement by 15%.

AMR 2023 Predicted Housing Supply Measured Against the Adopted Local Plan 2011-2031 Part 1 Partial Review

3.10 With respect to the Local Plan Partial Review concerning Oxford's unmet needs, the fact is that some three and a half years after the Plan was adopted, and notwithstanding the pressing need recognised by the Council and Inspector Griffiths, **no completions have been achieved** as of 01 April 2023.

3.11 The situation is not about to get any better. The AMR 2023 (CD 3.14), on PDF page 83, sets out the Council's trajectory for the Partial Review sites. It indicates that the Council expects no homes to be delivered by 2026, with only 80 homes being delivered by 31 March 2028 and 1,405 homes by 31 March 2031. This is despite the fact that Policy PR12a of the Partial Review Local Plan committed that 1,700 homes would be delivered by 2026.

3.12 The Council's predictions suggest **a shortfall of 2,995 dwellings by the end of the Plan-period** against the requirement of 4,400 based on the following calculation; $4,400 - 0 - 1,405 =$

³ I.e., Local Plan Part 1 housing requirement, minus completions, minus projected supply

2,995⁴. This is broken down in Table 3.3 below.

Table 3.3 AMR 2023 Projected Supply Against the Adopted Local Plan Partial Review Requirement to 2031 (including the shortfall for 2021 - 2023).

	Adopted Local Plan Part 1 Partial Review Requirement	AMR 2023 Projection (including completions to date)	Surplus / Shortfall
2021 to 2023	680	(0)	(-680)
2023/24	340	0	-340
2024/25	340	0	-340
2025/26	340	0	-340
2026/27	540	0	-540
2027/28	540	80	-460
2028/29	540	305	-235
2029/30	540	440	-100
2030/31	540	580	40
Total	4,400	1,405	-2,995

- 3.13 Notably, the Council's latest predictions show a further deterioration compared to the March 2023 HLSS, which (for the Partial Review sites) effectively relied on the 2021 AMR. This suggested a shortfall of 'just' 2,440 homes, compared to the Council's new estimated shortfall of 2,995 dwellings. It is notable also that the Council's latest projection pushes the date of first completions back to 2027/28, a year further into the Plan period compared to the HLSS 2023.
- 3.14 Overall, the Council accepts that of the 4,440 homes committed in the Partial Review to be delivered by March 2031, only 1,405 dwellings are expected to be delivered. This is less than a third⁵ of that which is required. It is clear, therefore, that, on the Council's own evidence, the Local Plan Partial Review is failing, and will continue to fail, to deliver the amount of housing required.

HLSS Predicted Housing Supply Measured Against the Combined Adopted Housing Requirement

- 3.15 It is noted that the Council considers that the two housing requirements should be treated separately for the purposes of calculating the 5YHLS position. This is a matter of disagreement between the parties and is addressed in Section 5 of this proof of evidence.
- 3.16 However, if the 'total' housing requirement of 27,240 dwellings (i.e., 22,840 + 4,400) is assessed against the overall completions and projected supply of 20,829 dwellings over the period 01 April 2011 to 31 March 2031, this will result in **an overall shortfall of 6,411 homes** (i.e., 3,416 + 2,995). Completions will, therefore, amount to only 76.5% of what should be delivered. This is set out in Table 3.4 overleaf.

⁴ I.e., Partial Review housing requirement, minus completions (zero), minus projected supply.

⁵ 31.64% specifically.

Table 3.4 AMR 2023 Compared to the Combined Adopted Requirement, 2011 to 2031

	Combined Requirement		Combined Completions / Combined Future Supply	Surplus / Shortfall
2011/12	1,142	Completions	356	-786
2012/13	1,142		340	-802
2013/14	1,142		410	-732
2014/15	1,142		946	-196
2015/16	1,142		1,425	283
2016/17	1,142		1,102	-40
2017/18	1,142		1,387	245
2018/19	1,142		1,489	347
2019/20	1,142		1,159	17
2020/21	1,142		1,192	50
2021/22	1,482		1,188	-294
2022/23	1,482		1,318	-164
2023/24	1,482		Supply	853
2024/25	1,482	761		-721
2025/26	1,482	703		-779
2026/27	1,682	890		-792
2027/28	1,682	994		-688
2028/29	1,682	1,274		-408
2029/30	1,682	1,429		-253
2030/31	1,682	1,613		-69
Total	27,240			20,829

- 3.17 In other words, on the Council’s own evidence, by the end of the Plan period, only three-quarters⁶ of the minimum number of homes required by the strategic policies of the Development Plan will be provided.
- 3.18 Furthermore, it is notable (as explained in relation to Tables 3.2 and 3.3) that the Council’s latest claimed position (in the AMR 2023) compares poorly to that presented in the previous HLSS 2023, where a combined shortfall of just 4,819 homes was anticipated (i.e. 2,379 + 2,440).

Review of Previously Claimed Supply

- 3.19 The Council has produced Annual Monitoring Reports (AMRs) and Housing Land Supply Updates and/or Statements following the adoption of Local Plan Part 1 in 2015.
- 3.20 What is notable from these reports is that the identified pipeline of deliverable sites has gradually diminished. Table 3.6 sets this out overleaf.

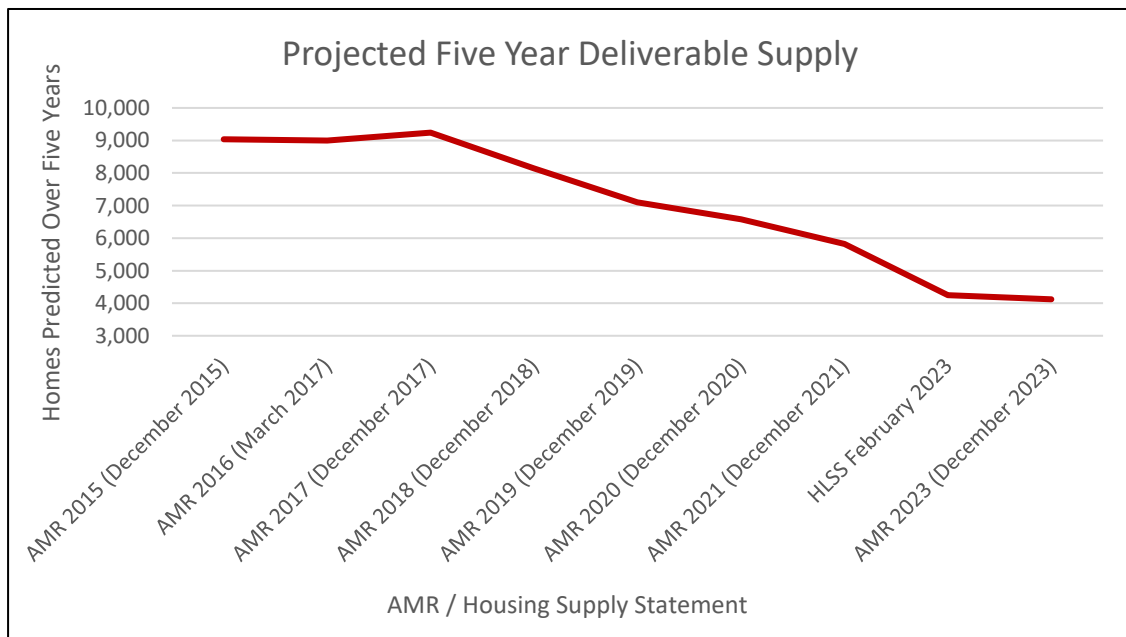
⁶ 76.5% specifically.

Table 3.6 Identified Supply in Successive AMRs

Document	Projected Five-Year Deliverable Supply
AMR 2015 (December 2015)	9,034
AMR 2016 (March 2017)	8,996
AMR 2017 (December 2017)	9,241
AMR 2018 (December 2018)	8,139
AMR 2019 (December 2019)	7,096
AMR 2020 (December 2020)	6,578
AMR 2021 (December 2021)	5,826
HLSS February 2023	4,244
AMR 2023 (December 2023)	4,121

3.21 This information is also presented in Figure 3.1 below, which illustrates the declining claimed deliverable supply over time.

Figure 3.1 Projected Deliverable Supply in Successive AMRs (Excluding Partial Review Sites)



3.22 What is apparent from the above, is that the volume of deliverable supply (as claimed by the Council) has been on a generally downward trend from 2017. In this respect, it is of note that Cherwell (alongside the other Oxfordshire Local Authorities) benefitted from a number of special ‘planning flexibilities’ under the Oxfordshire Housing and Growth Deal for much of this period of decline.

3.23 One such flexibility, applied between 12 September 2018 and March 25 2021, was that the presumption in favour of sustainable development would only apply where the 5YHLS position falls below three years. This was intended to deter speculative planning applications so as to allow the Oxfordshire Local Authorities to focus on the (now failed) Joint Spatial Strategy /

Oxfordshire Plan 2050.

- 3.24 In the Written Ministerial Statement (WMS) of James Brokenshaw (then Secretary of State for Housing, Communities and Local Government), dated 12 September (which put into effect the aforementioned flexibility), it was stated that;

“The Government recognises that in the short term this will result in fewer permissions being granted under paragraph 11 of the National Planning Policy Framework but the Government believes that it is important to support these ambitious plans that will deliver more housing in the longer term.”⁷

- 3.25 In the case of Cherwell, this is likely to have had some effect on the downward trend in deliverable supply, as fewer permissions were granted for speculative applications. It is noted that in the AMR 2019, AMR 2020 and AMR 2021, the Council conceded a 5YHLS of less than five years (respectively, 4.6, 4.8 and 3.8 years) against the adopted Local Plan Requirement.
- 3.26 Only since the publication of the HLSS in 2023 has the Council claimed to be able to demonstrate a 5YHLS (excluding the Partial Review sites). This is only as a result of being able to apply the Standard Method’s LHN, in place of the much higher adopted Local Plan requirement. The LHN is also lower than the housing requirement identified in the emerging Local Plan Review 2040 and the most recent evidence of need set out in the HENA (CD 3.15).

Summary

- 3.27 My contextual review of housing delivery and predicted supply in Cherwell indicates that both parts of the adopted Local Plan (the ‘Cherwell Local Plan 2011 – 31 Part 1’ and the ‘Cherwell Local Plan 2011 – 2031 (Part 1) Partial Review – Oxford’s Unmet Housing Need’) have failed to deliver as expected to date. Nor (based on the Council’s own figures) are they anticipated to successfully address the adopted housing requirement.
- 3.28 Completions, excluding the Partial Review sites, should have reached 13,704 by 2022/23, but they fall behind at 12,312. This represents a shortfall of -1,392. By the end of the Plan period, this shortfall is expected (by the Council) to increase to -3,416 homes or approximately 15% of the total.
- 3.29 The Partial Review sites have outright failed to come forward and have not been successful in addressing the “*pressing and immediate housing need*” that the Council identified in correspondence related to the Partial Review Examination (CD 5.30). Only 80 homes are anticipated to be delivered during the five-year period to 31 March 2028, and only 1,405 completions are expected by the end of the Plan-period. This is a shortfall of -2,995 homes when compared to the 4,400 allocated for development. In other words, only 32% of the anticipated homes will have been provided to help meet Oxford’s unmet needs.
- 3.30** The Council’s own figures suggest a total shortfall (across both parts of the adopted Local Plan) of **-6,411 homes by the conclusion of the Plan-period in 2031**. The Plan will, therefore, deliver only 76.5% of the homes that it should have provided.
- 3.31 In short, it is evidently the case that both the Local Plan and Partial Review are failing and will

⁷ <https://questions-statements.parliament.uk/written-statements/detail/2018-09-12/hcws955>

continue to fail to deliver the minimum amount of housing required in adopted planning policies. It is against that backdrop that the assessment of 5YHLS must be contextualised.

4. THE COUNCIL'S 5YHLS POSITION

- 4.1 It is important to understand how the Council's approach to the calculation of 5YHLS has evolved. As such, this brief section of my Proof of Evidence sets out how the previous and current approaches differ and the relevance of this for the concluded 5YHLS figure.

The Council's Position Prior to February 2023

- 4.2 Prior to the publication of the HLSS in February 2023, the Council accepted that it was unable to demonstrate a 5YHLS.
- 4.3 Specifically, the 2021 Annual Monitoring Report (AMR) (CD 3.26) identified a supply of 5,826 dwellings on 01 April 2021, against a requirement of 7,690 (including a 5% buffer and prior shortfall), equating to a supply of **3.8 years** for Cherwell (excluding the Partial Review sites). The applied housing requirement was that set out in the adopted Local Plan.
- 4.4 The AMR also presented a 5YHLS calculation starting 01 April 2022, which identified a supply of **3.5 years** against a requirement of 7,715 dwellings (including a 5% buffer and prior shortfall⁸). Again, this excluded the Partial Review Sites.
- 4.5 In relation to the Partial Review sites, it is notable that the 2021 AMR identified a supply of 1,180 dwellings on 01 April 2021, against a requirement of 1,785 homes, equating to a supply of 3.3 years.
- 4.6 What this indicates is that when the claimed five-year supply was wholly assessed against the adopted requirement, the 5YHLS calculation was not advantageous to the Council. As I detail below, this position changed when the Council started to assess the part of its claimed housing supply against the much lower LHN figure (excluding that element of the housing requirement established by the Partial Review).

The Council's Position After February 2023

- 4.7 As of February 2023, with the publication of the HLSS (and the publication of the AMR 2023), the Council has once again started to claim that it can demonstrate a 5YHLS. The AMR 2023 identifies a supply of 4,121 dwellings from 01 April 2023 to 31 March 2028 for Cherwell (i.e., excluding the Partial Review sites), calculated against a requirement of 3,728, including a 5% buffer.
- 4.8 The housing requirement is then much lower than that applied in the AMR 2021 because it is based on the Standard Method LHN figure of 710 dpa, rather than the housing requirement in the Local Plan of 1,142 dpa. The figure is also lower than the annualised requirement (1,293 dpa) proposed in the emerging Local Plan 2040. The reduced housing requirement allows the Council to report an improved position when calculating 5YHLS. However, this does not mask the diminishing pipeline of deliverable sites. As set out in Table 3.6 and Figure 3.1, fewer homes are expected to be delivered, not more.

⁸ The difference in the calculated requirement, when compared to the previous AMR, simply relates to the scale of the applicable shortfall.

The Council's Current Position

- 4.9 Following the publication of the latest NPPF (December 2023), the Council's 5YHLS position has been recalculated, as set out in the draft Topic Specific Housing Land Supply Statement of Common Ground (SoCG) provided by the Council in December 2023. For ease of reference, the Council's position is presented in Table 4.1 below.

Table 4.1 – The Council's Current Position

The Council's Latest Position (SoCG December 2023) (No 5% buffer and 4YHLS)			
	Requirement	Cherwell LPP1	Partial Review Sites
A	Annual Requirement	710	420
B	Four-year requirement (A x 4)	2,840	1,680
C	Shortfall to be added	0	680
D	Total Four-Year Requirement + Shortfall (B+C)	2,840	2,360
E	Annual Requirement + Shortfall (D/4)	710	590
	Supply		
F	Claimed Supply	4,038	80
G	Supply in Years (G/ F)	5.69	0.14
H	Over / undersupply (G - E)	1,198	-2,280

- 4.10 Three changes are notable. Firstly, the Council has reduced its identified five-year supply of deliverable homes to 4,038. This represents a further reduction of 83 dwellings compared to that in the recently published Draft AMR 2023.
- 4.11 Secondly, the Council no longer includes a 5% buffer in its 5YHLS calculation. As the new NPPF no longer identifies a requirement to apply a 5% buffer, the Appellant does not dispute this change.
- 4.12 Thirdly, the Council considers that the transitional provisions outlined in NPPF paragraph 226 apply, such that it only needs to demonstrate a four-year housing land supply (4YHLS) instead of the conventional five years. The appellant disputes this position as detailed in Section 5 of this Proof of Evidence.

Summary

- 4.13 Notwithstanding those matters in dispute, it is apparent that whilst the identified pipeline of deliverable sites continues to fall on the supply side. Yet, changes to the applicable housing requirement/target (and the decision to separate that element of the housing requirement established in the Local Plan Review) provide the Council with an advantageous position when calculating 5YHLS. The facts on the ground (based on the Council's own figures) are simply that fewer homes are expected to be built.

5. THE HOUSING REQUIREMENT

Areas of Agreement

- 5.1 As detailed in Section 2 of this Proof of Evidence (Planning Policy Context), the Cherwell Local Plan 2011-2031, Part 1, was adopted in July 2015. It covers the period 2011-31 and sets out the housing requirement for the District.
- 5.2 Following the February 2023 Regulation 10A Review, it was concluded that the housing requirement on which the Local Plan Part 1 was based was found to need updating (for the purposes of NPPF footnote 42).
- 5.3 It is agreed that the applicable housing requirement (for the purposes of calculating a rolling 5YHLS) is the LHN arrived at through the Standard Method, in accordance with the NPPF.
- 5.4 It is agreed that the LHN-based annual requirement is 710 homes. Over four years, this equates to 2,840 homes. Over five years, the figure is 3,550 homes. The parties disagree on whether a 4YHLS or 5YHLS is applicable in respect of the provisions of NPPF paragraph 77.
- 5.5 Both parties agree that the Partial Review Local Plan provides for a 'stepped requirement' in relation to the Oxford unmet need allocations.
- 5.6 For the period 2021/22 to 2025/26 the Partial Review requirement is 340 dpa and for the period 2026/27 to 2030/31, the annual requirement is 540 dpa. As such, the base requirement for the 5YHLS period 2022/23 to 2027/28 is 2,100 (340 x 3) + (540 x 2), this averages at 420 dpa. To this figure must be added the accrued shortfall arising in 2021/22 and 2022/23. As indicated, the Partial Review requirement for these years is 340 dpa, which means the shortfall is 680 dwellings.
- 5.7 This equates to a requirement of 2,780 homes / 556 dpa over five years (the calculation is set out in AMR 2023 (CD 3.14).
- 5.8 However, for the avoidance of doubt, the appellant's position is that (other than for the purposes of monitoring) there should not be separate requirements and corresponding 5YHLS calculations for the Partial Review. Rather, the requirement for the Partial Review sites should simply be added to Cherwell's LHN.
- 5.9 Separately, it is agreed that the results of the HDT are such that no buffer should be applied to the supply of claimed deliverable sites.
- 5.10 Likewise, it is agreed that the currently applicable base date is 01 April 2023, with the 5YHLS period ending 31 March 2028.

Area of Disagreement – Whether a 4YHLS or 5YHLS must be Demonstrated.

- 5.11 As noted in Section 2 of this Proof of Evidence, the new December 2023 NPPF (paragraph 226) introduces transitional arrangements, which means that certain Local Planning Authorities must only demonstrate a 4YHLS rather than the conventional 5YHLS.
- 5.12 The principal significance of this is that affected Local Authorities, which might ordinarily be subject to the presumption in favour of sustainable development (as per NPPF paragraph 11d)

because of a failure to maintain a five-year supply of deliverable housing, would not be subject to this measure if they are able to demonstrate four-years' worth of supply.

- 5.13 The transitional arrangement (which is time-limited to two years from the date of the NPPF's publication) applies to;

"...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".

- 5.14 The emerging Local Plan in Cherwell has reached the Regulation 18 stage, with the Cherwell Local Plan Review 2040 being subject to consultation from September to November 2023. The appellant also agrees that the Regulation 18 document includes proposed allocations towards meeting housing needs.

- 5.15 However, the appellant does not agree that the consultation document contains a Policies Map, as outlined below.

Defining a Policies Map – NPPF and The Town and Country Planning (Local Planning) (England) Regulations 2012

- 5.16 The NPPF does not provide a specific definition of a Policies Map.

- 5.17 Noting the very recent publication of the new NPPF, I am advised by Counsel that there is no legal authority on the matter of what constitutes a Policies Map for the purposes of NPPF paragraph 226, as cross-referenced to NPPF paragraph 77.

- 5.18 Notwithstanding this, NPPF paragraph 226 references 'The Town and Country Planning (Local Planning) (England) Regulations 2012' (CD 3.24). I am advised by Counsel that this provides definitions concerning an 'Adopted Policies Map' and a 'Submission Policies Map'.

- 5.19 At Regulation 9, 'Form and Content of the Adopted Policies Map', it is indicated that;

"The adopted policies map must be comprised of, or contain, a map of the local planning authority's area which must—

(a) be reproduced from, or be based on, an Ordnance Survey map;

(b) include an explanation of any symbol or notation which it uses; and

(c) illustrate geographically the application of the policies in the adopted development plan.

(2) Where the adopted policies map consists of text and maps, the text prevails if the map and text conflict."

- 5.20 Regulation 22(1)(b) then explains that when a Regulation 19 Local Plan is submitted for examination, it must be accompanied by *"a submission policies map if the adoption of the local plan would result in changes to the adopted policies map"*.

- 5.21 Under Regulation 2 'Interpretation', a Submission Policies Map is defined as follows;

““submission policies map” means a map which accompanies a local plan submitted to the Secretary of State under section 20(1) of the Act and which shows how the adopted policies map would be amended by the accompanying local plan, if it were adopted.”

- 5.22 The Consultation Document goes so far as to define in Appendix 13 ‘Glossary’ (on page 331) what is meant by a ‘Policies Map’ (based on Regulation 9, as cited above). However, the stark fact is that at no point does the Document actually refer to any of the plans within it (or appended to it) as a Policies Map. This suggests the Council did not intend for these plans to be regarded as such.
- 5.23 Secondly, on a number of occasions, the Regulation 18 Plan draws a distinction between the plans it includes and the concept of the Policies Map. For example, Core Policy 56: Local Green Space (page 127) makes reference to a number of proposed Local Green Spaces, stating that these are *“as shown on the policies map and Appendix 7”*.
- 5.24 Appendix 7 of the Consultation Document does indeed depict the envisaged Local Green Spaces. However, the reference to a separate Policies Map, distinct from the maps in Appendix 7, indicates that these are not intended to be treated as Policies Maps. The same approach is adopted throughout the Regulation 18 Plan, with similar examples being found in relation to Core Policy 66: Green and Blue Infrastructure (page 148) and Core Policy 69: Banbury Area of Change (page 157).
- 5.25 Thirdly, the recent Regulation 18 consultation differs from the Regulation 19 Plans associated with the (then emerging) Cherwell Local Plan 2011-2031 Part I and the Partial Review. In this respect, and in contrast to the Regulation 18 document, both of the Regulation 19 Stage documents included specific Policies Maps (explicitly described as such) in their appendices.
- 5.26 This highlights that a Policies Map is a deliberate and intentionally created plan that Cherwell District Council usually prepares when its emerging Plans reach the Regulation 19 stage. In contrast, the Council’s case (as presented in the draft HLS SoCG) appears to be that a Policies Map is something that can be created by accident.
- 5.27 On the basis of the above, the appellant maintains that the provisions of NPPF 226 are not engaged. Therefore, the Council is required to demonstrate a 5YHLS rather than a 4YHLS.

Area of Disagreement - The Separation of Cherwell and Oxford’s Housing Requirements: The Appellant’s Position

- 5.28 There is disagreement concerning the separation of the Partial Review requirement from the general housing requirement for Cherwell, and the resulting separate HLS calculations for the purposes of NPPF paragraph 77. The Appellant’s position is as follows.

Consistency with the NPPF 2023

- 5.29 The Council’s approach, namely that of providing two separate requirements and two corresponding 5YHLS calculations, is not consistent with the NPPF (December 2023).
- 5.30 With respect to identifying housing need, the NPPF states at paragraph 61 that;

“To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning

guidance. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area (see paragraph 67 below). There may be exceptional circumstances, including relating to the particular demographic characteristics of an area which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals. In addition to the local housing need figure, 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.” (emphasis added).

5.31 At paragraph 67, it is then stated that;

“Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment. Within this overall requirement...” (emphasis added).

5.32 From the above, the clear emphasis on a single housing requirement for the whole area is apparent. It is also clear that the housing requirement is the LHN figure, plus any unmet need taken from the neighbouring authority (in this case, Oxford).

5.33 Also of note is the PPG, at Paragraph: 010 Reference ID: 2a-010-20201216. This states;

“... Therefore, there will be circumstances where it is appropriate to consider whether actual housing need is higher than the standard method indicates.

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)....”

5.34 The wording of the PPG (as cited) also emphasises a computation of housing need (including any unmet need which is taken on) that is then translated into a singular housing requirement.

5.35 For completeness, the PPG in paragraph 001 Reference ID: 68-001-20190722 also refers to “the housing requirement”. Similarly, paragraph 002 Reference ID: 68-002-20190722 speaks of “a housing requirement”, whilst paragraph 003 Reference ID: 68-003-20190722 also speaks of “the housing requirement”.

5.36 With respect to the operational calculation of 5YHLS, NPPF (2023), paragraph 77 is of principle importance. This again emphasises a single housing requirement calculated for the LPA. There is no reference to multiple assessments against different components of the Development Plan. The paragraph states (emphasis added);

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

- 5.37 Footnote 42 (as cross-related to paragraph 77) also uses similar terminology (emphasis added);

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

- 5.38 It is clear then that the current NPPF, as supported by the PPG, envisages a single housing requirement (established through the Standard Method), which (in this case) comprises the housing need for Cherwell and the unmet need from neighbouring Oxford. It is this combined figure against which 5YHLS should be measured.
- 5.39 Additionally, it is notable that both Local Plan Part 1 and the Partial Review were assessed (under transitional arrangements) against the NPPF 2012, alongside versions of the PPG that did not reflect the current NPPF 2023. As I have outlined, the current NPPF uses the language of a single housing requirement, which is based on the need of the relevant Local Authority and any unmet need taken from neighbours.
- 5.40 This was not the case in the 2012 NPPF, which was simply less categorical regarding the treatment of unmet need. The main paragraph of relevance, NPPF 2012 paragraph 47, simply required LPAs to *“use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework...”*
- 5.41 The current approach (under the NPPF 2023) is, therefore, materially different, and this is demonstrated also by the operation of the Housing Delivery Test, as noted below.

The Operation of the Housing Delivery Test

- 5.42 In addition to a lack of consistency with the NPPF, it is notable that the Council’s approach of setting out two housing requirements and providing ring-fenced 5YHLS calculations is inconsistent with the calculation of the HDT.
- 5.43 The HDT Measurement Rule Book (2018) (CD 5.21) explains how the calculations that comprise the Test operate. In paragraph 12, it is specified that in circumstances where the latest adopted housing requirement figure is less than five years old (or has been revised and does not need updating), the figure used will be the lower of;

“EITHER the latest adopted housing requirement, including any unmet need from neighbouring authorities which forms part of that adopted housing requirement. This requirement will be the stepped housing requirement (or the annual average requirement where there is no stepped requirement)...

*OR the minimum annual local housing need figure (**and** any need from neighbouring authorities which it has been agreed should be planned for, and which has been tested at examination) for that authority calculated with a base date of 1st April each year.” (Emphasis my own).*

- 5.44 At footnote 14, the Rulebook explains (in terms of the treatment of unmet need from another Local Authority) that this is included within the calculation *“where committed to within an*

adopted plan". This is indeed the case for Cherwell, where the Local Plan takes on and commits to delivering a share of Oxford's unmet need.

- 5.45 The HDT then takes the relevant LHN figure and adds the relevant quantum of unmet need (taken as an average). So, for example, the 2018-19 HDT housing requirement is 754 (LHN) plus 220 (Oxford's unmet need for one year)⁹. This is the approach the Government have applied in practice when undertaking and publishing the HDT measurements.
- 5.46 I do not dispute that the HDT Rulebook concerns the operation of the HDT in particular. However, in my opinion, it is incorrect to view the HDT as in some way isolated from the way 5YHLS is considered. A 5YHLS comprises a forward-looking projection of housing completions and a calculation against a specified housing requirement, whereas the HDT objectively assesses previous completions against the specified requirement.
- 5.47 Because future housing supply translates into delivery (albeit imperfectly), the HDT, as described in paragraph 12 of the Rulebook, clearly aims at equivalence with the NPPF when defining the applicable housing requirement. If supply is defined against a different requirement, then this conceptual parity is lost.
- 5.48 Moreover, it is the HDT that dictates whether a buffer is applied for the purposes of the 5YHLS calculation. The HDT results can also trigger the 'presumption in favour of sustainable development'. These are both factors that have an influence on the forward-looking 'supply side', which has a bearing on future delivery rates.
- 5.49 This again highlights the fundamental interconnectedness of the HDT and 5YHLS calculations. Indeed, were the HDT result to trigger sanctions in the form of either an Action Plan, 20% buffer or the presumption in favour of sustainable development, it seems implausible that the Council would attempt to argue that these consequences do not apply on a whole Local Authority basis.
- 5.50 Accordingly, the applicable housing requirement for 5YHLS calculations should be approached consistently with the HDT Rulebook. If this were not the case, the Government's primary tool for influencing future housing supply (in a manner linked to recent delivery rates) would, in Cherwell's case, be out of sync with how future supply is planned for and assessed, namely via the 5YHLS calculation.

Local Plan Partial Review Policy HOU12 (a and b)

- 5.51 It is my opinion that the Local Plan Inspector, when examining the Partial Review, did not intend for the separation of Cherwell and Oxford's needs to excuse away the failures in delivery and future supply that have arisen. In paragraph 148 of the Inspector's Final Report (CD 3.18), it is stated (in relation to Policy PR12a) that;

"... 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" (My Emphasis).

⁹ Note, I used 2018/19 as the example, simply because the 2019/20 and 2020/21 measurements were modified to account for the impact of the Covid-19 pandemic.

5.52 In other words, the separation of the two requirements was for the purposes of monitoring and to provide a precaution against a scenario where ‘over-delivery’ in Cherwell was used to justify not addressing Oxford’s unmet need. Conversely, it would also mean that Cherwell’s own requirements would not be obscured (or ‘disregarded’) by better than expected delivery from the Partial Review sites. Neither scenario has come to fruition. Indeed, delivery rates have, in fact, been lower than expected ‘in Cherwell’ and non-existent at the Partial Review sites, and the outlook is similarly problematic.

5.53 As explained in paragraph 5.160 of the Plan, separate monitoring is required in order that the Council can assess the extent to which the Partial Review sites are coming forward;

“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.”

5.54 Furthermore, this requirement for the monitoring of the deliverability of the Partial Review sites (as referred to in Policy PR12a) is clearly envisaged as a mechanism to trigger PR12b, which indicates that the Council may seek to bring forward alternative sites to address Oxford’s unmet needs if this *“is required to ensure the requisite housing supply”*. The link between policies PR12a and PR12b is also set out in paragraph 5.166 of the Local Plan;

“Nevertheless, the Council cannot control the rate at which houses are delivered. If a five year supply cannot be raised for reasons outside the Council’s control, planning applications for unplanned development might be submitted. We need to ensure that our objectives and vision are achieved and to avoid harm to the strategy for Cherwell. Consequently, policy PR12b necessitates a formal Council decision that additional land beyond that allocated in the Partial Review is needed to ensure the requisite housing supply and that the proposed developments comply with policy PR1 (‘Achieving Sustainable Development for Oxford’s needs’).”

5.55 As such, the separate monitoring of the deliverability of the Partial Review sites serves the purpose of acting as a trigger for Policy PR12b.

5.56 It is entirely understandable that a Local Plan may wish to establish its own independent mechanism for monitoring delivery, which operates in addition to and in parallel with national policy. However, the provisions of policies PR12a and PR12b do not, and could not, amend deliberate and important aspects of national planning policy, which, as set out above, require that the deliverable supply is to be assessed against the housing requirement for the Council’s area (with that requirement including any unmet from neighbouring areas).

5.57 This is consistent with the approach of Inspector Paul Clark in a recent appeal decision relating to land at Queensbury Lodge Cottage and Stables, Newmarket (11 August 2023) (CD4.36) following a two-day hearing at which (unlike in the two Cherwell appeal decisions at Milford and Deddington), both parties were represented by experienced Counsel. The LPA, in that case, was West Suffolk Council, which had recently emerged from the unification of two LPAs with different Development Plans. In paragraph 121 the Inspector found that (emphasis added):

“The appellant accepts (and I agree) that it is appropriate that the Council has amalgamated the housing requirement of its Single Issue Review of Core Strategy Policy CS7 Overall Housing Provision and Distribution adopted September 2019 for Forest Heath with the local

housing need defined by the government's standard method for St Edmundsbury to define a single housing requirement for West Suffolk. That accords with the advice contained in paragraph 66 of the NPPF that strategic policy-making authorities should establish a housing requirement figure for their whole area. It is also legitimate to go on to set housing requirements for more localised areas within the overall local authority area (as the example, East Suffolk, given by the appellant has done) but it is equally legitimate not to do so, as West Suffolk has chosen to do."

5.58 I return to this decision below.

5.59 Separately, I add also that the Partial Review in paragraph 1.3 provides a very particular clarification, stating that the Plan is;

"effectively a supplement or addendum to the adopted Cherwell Local Plan 2011-2031 which becomes part of the statutory Development Plan for the district."

5.60 The Partial Review is then a constituent part of the Cherwell Local 2011 – 2031, rather than an independent Plan for housing land supply purposes. In a similar vein, Policy PR12a states that;

"Should planning permission be granted for housing that will be delivered beyond 2031 and which results in the requisite 4,400 homes for Oxford being exceeded, this will be taken into account in meeting Cherwell's housing need in the next Local Plan review."

5.61 Put more simply, in a hypothetical situation where more than 4,400 homes are completed at the Partial Review sites by 2031, the surplus will contribute to Cherwell's need for the purposes of the next Local Plan Review. Again, this highlights the interconnectedness of both parts of the Local Plan, which stands in opposition to the artificial separation of the Council's 5YHLS calculations.

The Approach Proposed in the Cherwell Local Plan Review 2040

5.62 The Council proposes, in the emerging Local Plan 2040, to discard the approach of having two housing requirements and two separate 5YHLS calculations.

5.63 The Draft Local Plan Review 2040 was subject to consultation between September and November 2023. It identifies a proposed housing requirement that is derived from the Standard Method. However, it is modified to address the evidence presented in the form of the Oxford-Cherwell Housing Economic Needs Assessment (HENA) 2022 (CD 3.15), which indicates that the extent of housing need is not fully reported by the conventional LHN figure.

5.64 At proposed Core Policy 34 'District Wide Housing Provision', the Consultation Document identified a need for Cherwell of 1,009 dpa. It then goes on to indicate that Cherwell expects to accommodate a share of Oxford's unmet need equating to 284 dpa. A total (singular) housing requirement is then arrived at (1,293 dpa, or 25,860 homes over the 2020 to 2040 Plan-period). This is presented in Table 3 of the Consultation Document.

5.65 It is notable that, in explaining the process for identifying housing need, the Local Plan Review document (in paragraphs 3.159 to 3.160) paraphrases the wording of NPPF paragraph 61¹⁰.

¹⁰ In this respect the December 2023 NPPF is comparable to the 2021 iteration.

Namely;

“The new Local Plan needs to be informed by a local housing need assessment, conducted using a ‘standard method’ in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals.

In addition to the local housing need figures 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”

- 5.66 The Interim Sustainability Appraisal 2023 (CD 3.6) is even clearer about the approach to be taken, specifying in paragraphs 5.2.15 and 5.2.16 that;

“As such, there is a clear basis for setting the housing requirement at 1,009 dpa + 284 dpa = 1,293 dpa.”

- 5.67 It is apparent then that the Council envisages a single housing requirement for the emerging Local Plan based on its understanding of the current NPPF 2023 (paragraph 61 in particular) and current PPG. The approach it proposes is consistent with the South Oxfordshire Local Plan, which was examined against the same wording (as presented in the 2018 NPPF), and which was found sound.

- 5.68 Yet, when interpreting the current Framework and guidance through this appeal, it appears to argue (somewhat contrarily) that a different approach should apply now for the purposes of calculating 5YHLS. This runs contrary to the Grove appeal decision (detailed below), in which the Inspector was clear about the approach to be taken.

- 5.69 Separately, the Local Plan Review 2040 does not propose a new suite of separate allocations aimed at addressing Oxford’s needs specifically, and the current Partial Review allocations are all proposed to be saved. As such, when the new Local Plan is adopted, all allocated sites will simply contribute to meeting the overall unified requirement.

- 5.70 The emerging Local Plan evidence base also acknowledges that other locations within Cherwell have the potential to address Oxford’s needs sustainably, including at Bicester. In this respect, the Interim SA states (in paragraph 9.8.1) that;

“The next matter to consider is whether the proposed housing supply is suitably weighted towards locations that are well-suited to providing for Oxford City’s unmet needs. The proposed strategy is supported, particularly given the level of growth at Bicester, which is well connected to Oxford via short and frequent rail journeys. It is important to recall that the majority of the unmet need is already planned for at sites around Kidlington, which are ‘saved’ by the emerging plan.” (Emphasis my own).

- 5.71 Likewise, a Report to Cherwell’s Executive (meeting 19 January 2023) (CD 5.27), which considered an earlier version of the emerging Local Plan Review 2040, stated at paragraph 3.21 (referring to the HENA), that;

“The new evidence necessarily considers the housing and economic need for Oxfordshire as a whole because Oxfordshire functions as a single Housing Market Area (HMA) and the needs

for Oxford City and Cherwell cannot be considered in isolation.”

- 5.72 It is evident then that the Council accepts that Oxford's unmet needs cannot be disentangled from Cherwell's housing needs, which is consistent with their forming part of a single housing market area (as is indicated in the HENA). The approach proposed in the emerging Local Plan recognises that there should be a single housing requirement to reflect this. The emerging Plan also acknowledges that locations outside of the Partial Review sites are suitable locations to address housing needs within this cross-boundary context.

The Approach Elsewhere in Oxfordshire

South Oxfordshire

- 5.73 Notable are the approaches taken by the other Oxfordshire Local Authorities. In this respect, the South Oxfordshire Local Plan, adopted in December 2020, was examined against the wording of the NPPF 2018. This is significant because the language and approach in paragraphs 60, 65 and 73 of the 2018 NPPF are similar to paragraphs 61, 67 and 77 of the current (December 2023) NPPF.
- 5.74 South Oxfordshire's Local Plan incorporated 4,950 dwellings of Oxford's unmet need from 2021. Whilst the requirement is stepped to allow for this, a combined requirement is nonetheless presented. In paragraph 55 of the Inspector's Report on the Plan (CD 5.11), it was remarked;
- “...The period for delivering homes to meet Oxford's unmet housing need is extended from 2031 to 2035 but this is not a significant issue, partly for the obvious reason that homes are not assigned to either Oxford or South Oxfordshire and are capable of meeting the needs of either, and partly because Oxford City's plan, including its quantification of unmet housing need, extends to 2036 in any case....” (My emphasis).*
- 5.75 The Inspector's conclusions were a recognition that South Oxfordshire and Oxford City form part of the same overall (county-wide) Housing Market Area, as set out in the Oxfordshire SHMA 2014 (on which the current South Oxfordshire Local Plan is based). The same situation is true for Cherwell.
- 5.76 A single requirement is also presented in South Oxfordshire's latest published 5YHLS Report (September 2023) (i.e., Oxford's unmet need is not ringfenced), and the supply of identified deliverable sites is assessed against this. This indicates a 4.2-year supply, with the presumption in favour of sustainable development being activated as a result.

West Oxfordshire

- 5.77 The West Oxfordshire Local Plan was adopted in September 2018, but (like both parts of Cherwell's Development Plan), it was examined against the 2012 NPPF under transitional arrangements. The Plan accommodates 2,750 homes for Oxford (2021 to 2031). The Plan states at paragraph 5.45 that;
- “As Policy H2 makes clear, housing supply and delivery will be assessed against the combined totals which will be derived from annual completions across the District. Thus, whilst it is anticipated that Oxford's unmet needs will be largely accommodated through delivery of the*

Oxfordshire Cotswolds Garden Village, the housing requirement is not disaggregated so that under or over supply at this location will not be treated separately when calculating the five year housing land supply.”

5.78 Notwithstanding the above, it is notable that, in its latest Housing Land Supply Position Statement (October 2023), West Oxfordshire now identifies its housing requirement using the Standard Method LHN. This follows a Regulation 10A review where it was concluded that its adopted housing requirement was rendered out of date.

5.79 In a report to West Oxfordshire District Council’s Executive (11 October 2023) it is stated at paragraph 4.6 that;

“This means that whilst making provision for Oxford City’s unmet housing needs will remain a material planning consideration, because those unmet needs do not form part of West Oxfordshire’s local housing need calculated under the standard methodology, they will not be taken into account for the purposes of calculating the District Council’s housing land supply position in accordance with the requirements of national policy.”

5.80 The failure to add Oxford’s unmet need to the LHN figure is a matter likely to be disputed at several current appeals (progressing via the Inquiry procedure) in West Oxfordshire¹¹. Notable in this respect will be the recent appeal decision at Grove, in the Vale of White Horse District, which is discussed below.

Vale of White Horse

5.81 The Vale of White Horse (VoWH) Local Plan Part 2 was adopted in October 2019) and again was examined against the policies of the NPPF 2012 (under transitional arrangements). The Plan expressly states (in paragraph 2.15) that VoWH District Council did not seek to ringfence allocations made for the purposes of meeting Oxford’s needs, even though it allocated (in LPP2) sites for 2,200 dwellings.

5.82 It was recently reconfirmed, during an appeal at **Grove**¹² (CD 4.22), that even though VoWH LPP2 (which allocates sites to address Oxford’s unmet need) is less than five years old, the strategic policies of LPP1 had (through a Regulation 10A Review) been found to require updating. Therefore, VoWH calculates its 5YHLS requirement (844), comprising 661 dpa to address its LHN and 183 dpa for Oxford’s unmet housing need.

5.83 The Inspector (Mr Jonathan Bore) sets out in his deliberations at paragraphs 10 to 13 of the Decision;

“10 Core Policy 4 of Local Plan Part 1, adopted in 2016, states that the housing requirement for the district is 20,560 dwellings for the period 2011/12 to 2030/31. This strategic policy remains extant. Core Policy Part 4a of the adopted Vale of White Horse Local Plan 2031 Part 2, “Detailed Policies and Additional Sites”, adopted in 2019 (Local Plan Part 2), adds 2,200 dwellings to the Core Policy 4 figure as an allowance towards the unmet needs of the City of Oxford, giving 22,760 dwellings as the total housing requirement for the district over the same period as Local Plan Part 1. Apart from the element that addresses Oxford’s unmet needs, the

¹¹ Land West of London Lane Ascott under Wychwood, (PINS Ref. 3332089); Land South of Burford Road Minster Lovell, (PINS Ref. 3331279) and Land West of Hailey Road, Witney, (PINS Ref. 3328652).

¹² Land East of Grove, Grove, PINS Ref: 3310788.

housing requirement in Core Policy 4a is derived directly from Core Policy 4.

11 The Council has undertaken a review of Local Plan Part 1 under Regulation 10a of the Town and Country (Local Planning) (England) Regulations 2012. The review, which was not challenged, has concluded that Core Policy 4 is more than 5 years old, is out of date, and needs revision, its housing requirement being based on the 2014 strategic housing market assessment (SHMA) which used the 2011 interim household projections to 2021. National policy as set out in paragraph 74 of the National Planning Policy Framework, and Planning Practice Guidance “Housing Supply and Delivery”, state that, where strategic policies are more than 5 years old, the 5 year housing land supply will be measured against the area’s local housing need (LHN), calculated using the standard method. This is directly applicable to Core Policy 4 of Local Plan Part 1.

12 Core Policy 4a of Local Plan Part 2 is only 3 years old and has not been reviewed. However, the housing requirement in that policy, apart from the City of Oxford allowance, is the same as that set out in Core Policy 4 of Local Plan Part 1. The provenance of Core Policy 4a and its derivation from the same figure and the same ageing statistical inputs and projections as Core Policy 4 are a clear indication that its housing requirement (apart from the Oxford allowance) is also out of date for the purposes of assessing the 5 year housing land supply. The purpose of the 5 year housing land supply calculation is to ensure that there is at least 5 years’ supply of deliverable housing land based on an up to date calculation of housing need. The more up-to-date figure from LHN should therefore be used.

13 LHN is 636 dwellings per annum, significantly lower than the 1,028 dwellings per annum requirement in Local Plan Part 1. The Council state that a further 183 dwellings per annum should be added to the LHN figure to allow for Oxford’s unmet needs from Core Policy 4a. This addition is appropriate in this particular instance because it is an agreed figure which addresses the level of unmet housing need in Oxford, which was reassessed and confirmed in the up to-date Oxford Local Plan 2036, adopted in June 2020. Taking the two components together, the total housing requirement for the district, for the purposes of the 5 year housing land supply calculation, is 819 dwellings per annum.” (My emphasis).

- 5.84 In paragraphs 16 and 17, the Grove Inspector further confirms that (for the purposes of calculating 5YHLS) a singular LHN figure is to be applied across the district in place of the ring-fenced ‘Science Vale’ figure set out in the Core Strategy.
- 5.85 There are then obvious comparisons between the Vale of White Horse and Cherwell. Like the Vale, the assessment of housing need in Cherwell’s adopted (Local Plan Part 1) is out of date, but the apportionment of Oxford’s unmet need is not. The annualised unmet need apportionment should therefore be added, to the LHN, to express a single requirement.

Approaches Elsewhere in the Country

Wiltshire

- 5.86 Also relevant is the approach taken in other Local Authority Areas. Particularly salient are those recently (or relatively recently) formed unitary Authorities, as these illustrate how the question of single or multiple housing requirements / HLS calculations has been approached.

- 5.87 In the case of Wiltshire, the Core Strategy was adopted in 2015. This set-out housing requirements for the former district areas, and the Council subsequently undertook separate 5YHLS calculations for each when preparing its annual statements on the matter.
- 5.88 However, as of January 2020, the Core Strategy became five years old, and Wiltshire Council acknowledged that the LHN should now be used in the calculation of 5YHLS, in the absence of any review of strategic policies. The Council's HLS Position Statements, therefore, report an overall figure for Wiltshire, which is used for the purposes of NPPF paragraphs 11d and 77 (formerly paragraph 74). Indeed, it is this overall figure that was determinative at a recent appeal in Melksham (in paragraphs 12 to 14 of the Decision) (CD 4.37).
- 5.89 For context and monitoring purposes, the Council also presents sub-area HLS calculations for the former district areas (calculated against LHN), which the Council regards as distinct HMAs. However, whilst the supply position within each sub-area may be regarded as a material consideration, it is not the applicable figure for the purposes of NPPF paragraph 77.

West Suffolk

- 5.90 West Suffolk Council was formed in April 2019 from Forest Heath District Council and St Edmundsbury Borough Council. West Suffolk is a particularly pertinent example because (in its HLS calculations) LHN is used to identify housing need for the former St Edmundsbury Borough, whilst an adopted Local Plan requirement is used in relation to the former Forest Heath area. These two figures are then combined into a single calculation for the purposes of NPPF paragraph 77.
- 5.91 As noted above, the correctness of this approach was considered recently at a combined appeal in Newmarket (CD 4.36)¹³. At paragraph 121 of the Decision (August 2023), the Inspector states (note the reference to the NPPF is to the equivalent provision in the 2021 version);

"121 The appellant accepts (and I agree) that it is appropriate that the Council has amalgamated the housing requirement of its Single Issue Review of Core Strategy Policy CS7 Overall Housing Provision and Distribution adopted September 2019 for Forest Heath with the local housing need defined by the government's standard method for St Edmundsbury to define a single housing requirement for West Suffolk. That accords with the advice contained in paragraph 66 of the NPPF that strategic policy-making authorities should establish a housing requirement figure for their whole area. It is also legitimate to go on to set housing requirements for more localised areas within the overall local authority area (as the example, East Suffolk, given by the appellant has done) but it is equally legitimate not to do so, as West Suffolk has chosen to do."

- 5.92 The approach applied in West Suffolk is applicable to Cherwell, where the Council maintains that the housing requirement for the Partial Review Local Plan is up-to-date, whereas the Local Plan Part 1 Requirement is not. Consistent with the two requirements should be combined for the purpose of arriving at an overall 5YHLS calculation.
- 5.93 As noted by the Inspector, East Suffolk Council (which was also formed as a new unitary authority in April 2019) maintains two separate calculations. However, in this case, neither of

¹³ PINS Ref. 3303353 and Ref. 3303347

the Local Plans inherited from the former districts are (at the time of writing) over five years old. This is consistent with the PPG relevant to newly formed Local Authorities (Paragraph: 025 Reference ID: 68-025-20190722), which expressly indicates that adopted housing requirement policies can continue to be used in such circumstances.

The Implications of the Council's Current Approach

- 5.94 The Government's stated objective in the NPPF is to significantly boost the supply of housing. Constructions such as 5YHLS and the HDT, and their related potential to trigger the presumption in favour of sustainable development, are mechanisms deliberately created to ensure that housing supply and delivery are maintained, including when a Plan-led approach is failing or has failed.
- 5.95 To date, no dwellings within the Partial Review sites have been successfully delivered, and the Council identifies a 5YHLS of 0.1 years. This is an extraordinarily poor position that would (in normal circumstances) trigger the presumption in favour of sustainable development and provide redress by allowing alternative sustainable sites to come forward to meet housing needs.
- 5.96 Yet, the Local Plan Partial Review does not identify a geographically defined or ring-fenced area within which the Council's separate 5YHLS should apply. Rather, the Council's 5YHLS calculation simply applies to the six allocated Partial Review sites directly. Even if it did, the prevalence of retained Green Belt near Oxford would effectively prohibit alternative sites from coming forward in this specific area (via the presumption in favour of sustainable development).
- 5.97 The longer-term effect of this failure (and the lack of resolution under the Council's proposed approach) is acknowledged in the Council's own trajectory (as set out in Table 3.3 of this Proof of Evidence). This suggests that (by 2031) a shortfall of 2,995 dwellings will have arisen against the 4,400 dwellings apportioned from Oxford's unmet need. Likewise, if a single housing 5YHLS calculation is undertaken for the whole of Cherwell (i.e., against the 'combined requirement'), then a supply of 3.25 years could be demonstrated, even if no adjustment is made to the Council's claimed trajectory.
- 5.98 Effectively, the Council's approach argues that there should be no consequences for these failures. This runs completely counter to the purposes of NPPF paragraph 11(d), NPPF footnote 8, and NPPF paragraph 77, and the very deliberate mechanisms they put in place to address shortfalls such as that which is occurring in Cherwell.

Deddington and Milcombe Appeal Decisions

- 5.99 These two recent appeal decisions (CD 4.18 and CD 4.19) comment on the question of whether it is appropriate for the Council to provide separate 5YHLS calculations for the purposes of (what is now) NPPF paragraph 77.

Deddington Appeal

- 5.100 The appeal Inspector for Deddington did not comment on the matter extensively but notes at paragraph 50 that;

"The Council has set out in its Partial Review the arrangements for maintaining housing land

supply to meet Oxford's unmet housing need. There is nothing before me to indicate that this arrangement is contrary to guidance in the Framework or PPG. Moreover, even if I agreed that the Council's housing land supply figures should take account of Oxford's unmet need, the appeal site is some 19 miles from Oxford and for reasons of distance from Oxford, would not be a suitable site."

5.101 Whilst the Inspector favoured the Council's position on the matter, it is apparent that the site's proximity (or lack thereof) to Oxford was a consideration. Had the site been more accessible to Oxford then the Inspector may have drawn different conclusions. As noted previously, the Council have acknowledged in a report to the Executive (CD 5.27) that Bicester is accessible to Oxford.

5.102 It must also be remarked that the appeal concerned a small-scale application for up to 9 dwellings and was undertaken via a hybrid Hearing / Written Representations procedure (a 1-day Hearing took place on 14 November 2023). Hence, the scope for the matter to be interrogated in detail was inevitably limited.

Milcombe Appeal

5.103 The Milcombe appeal Inspector addresses the matter of singular vs separate 5YHLS calculations in paragraphs 27 to 29 of their decision, finding in favour of the Council's position.

5.104 In paragraph 29, the Inspector states that "*there has been no change in circumstances*" following the examination of the Local Plan Partial Review and the Local Plan Inspector's deliberations. I must respectfully dispute this interpretation.

5.105 As I have noted previously, the Local Plan Partial Review was assessed against the NPPF 2012 and the suite of PPG that was applicable to that version of the Framework. The 2012 Framework pre-dates the concept of the Standard Method and Local Housing Need, and did not contain provisions that emphasised the concept of a singular housing requirement that incorporates unmet need from neighbouring Local Authorities.

5.106 These concepts were introduced through the NPPF 2018 and were carried forward in subsequent iterations of the Framework. The latest NPPF (December 2023) reiterates a similar approach in paragraphs 61 and 67, from which it is clear that there is to be a single housing requirement comprised of LHN and any unmet housing need taken on.

5.107 Again, it is also relevant that the appeal concerned a small-scale development, progressed via the Hearing procedure, with a 1-day Hearing taking place on 18 October 2023, and neither side appeared to be represented by Counsel.

Summary

5.108 The Council's approach of separating the housing requirement and undertaking separate 5YHLS calculations is artificial and flawed.

5.109 National planning policy, as per the current NPPF, PPG and HDT, all point towards a unified rather than disaggregated approach. National policy is clear that LHN is to be added to the unmet need being taken on (in this case) from Oxford to form a single figure for the purposes of an overall 5YHLS calculation.

- 5.110 Policy PR12 justifies the separate monitoring of the Partial Review sites for the operational purposes of 'part a' of that policy, which acts as a trigger for 'part b'. However, this does not mean that the policy provides a prima facie justification for overriding key provisions of the NPPF, including in the face of the severe shortfalls that have arisen and which are expected to continue.
- 5.111 The comments of the Local Plan Partial Review Inspector support this interpretation. As they indicated in their Final Report (at paragraph 148), the purpose of maintaining separate monitoring, and undertaking parallel calculations, for the Partial Review allocations is to *"...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"*. This suggests that the Inspector envisaged a limited scope for the Policy.
- 5.112 The approach that is proposed to be taken in the emerging Local Plan 2040 (CD 3.3) is also telling. The Council proposes to discard the approach of having two housing requirements and two separate 5YHLS calculations. This is clearly set out in proposed Core Policy 34, 'District Wide Housing Provision', with the approach being further reinforced within the Interim Sustainability Appraisal (CD 3.6).
- 5.113 The emerging Local Plan does not propose a suite of separate allocations aimed at addressing Oxford's needs specifically, and the existing Partial Review allocations are all proposed to be saved. When the new Local Plan is adopted, all the existing and newly allocated sites will simply contribute to meeting the overall requirement. The Council proposes this approach because it is consistent with national planning policies, and yet it contends that a different approach should apply now for the purposes of calculating 5YHLS.
- 5.114 In none of the other Oxfordshire Local Authorities is it contended that allocations and apportionments to address Oxford's unmet needs should be ringfenced. The matter was recently considered at the Grove Appeal in South Oxfordshire (CD 4.22), which confirmed that the correct approach (for 5YHLS purposes) is to use LHN plus the agreed apportionment of Oxford's unmet need to arrive at a unified requirement against which supply can be assessed.
- 5.115 Elsewhere, in Wiltshire, it has been accepted that a Local Authority-wide calculation is to be undertaken on the basis of LHN, with this providing the overarching figure for the purposes of NPPF paragraph 77. Sub-area calculations are still made (pursuant to the approach set out in the adopted Local Plan), and these are material considerations. However, they are not determinative for NPPF paragraph 77. The approach was confirmed in a recent appeal decision at Melksham (CD 4.37).
- 5.116 Likewise, in West Suffolk, the question of whether there is to be a single or separate 5YHLS calculation was a key matter at a recent appeal in Newmarket (CD 4.36). In this case, the new unitary Authority inherited one housing requirement that was up-to-date and another which was not, such that the LHN formed the basis of the housing requirement for the latter. The Inspector concluded that the Council's approach of combining the two requirements to arrive at a single 5YHLS calculation was appropriate and consistent with national policy. The situation in Cherwell is clearly comparable.
- 5.117 The outcome of the Council's approach, which is to argue that there are two separate requirements and HLS calculations for the purposes of NPPF paragraph 77, is to obfuscate the

usual operation of the presumption in favour of sustainable development, which would otherwise have released alternative sustainable sites for development to address housing needs.

5.118 It is my view that the consequence of the failure to address identified needs must fall somewhere, particularly so given the stated urgency of meeting these needs. There is no realistic scope for this to occur except at sites within the wider Cherwell District. Indeed, the Council already acknowledges that locations outside of the Partial Review sites may be capable of sustainably meeting the unmet needs of Oxford (as further considered in the evidence of Mr Ross and Mr Bevis). Likewise, Cherwell and Oxford form part of a shared HMA, as is set out in the Oxford-Cherwell Housing Economic Needs Assessment (HENA) 2022 (CD 3.15).

6. THE SUPPLY OF DELIVERABLE SITES

The NPPF Position

- 6.1 The NPPF defines and distinguishes between sites which are 'deliverable', and those which may be regarded as 'developable'. As previously indicated in Section 2 of this Proof of Evidence, NPPF Appendix 2 (Glossary) clarifies that;

'To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within 5 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).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5 years'. [Emphasis my own]

- 6.2 So-called 'Category A' sites are therefore assumed to be deliverable in the absence of clear evidence to the contrary. In contrast, 'Category B' sites may only be considered deliverable where clear evidence suggests that completions will take place within five years.

Planning Practice Guidance

- 6.3 The PPG (Paragraph: 007 Reference ID: 68-007-20190722) provides further guidance (referencing back to the NPPF definition), noting that;

"As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:

- have outline planning permission for major development;*
- are allocated in a development plan;*
- have a grant of permission in principle; or*
- are identified on a brownfield register."*

Such evidence, to demonstrate deliverability, may include:

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;*
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and build-out rates;*

- *firm progress with site assessment work; or*
- *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.”*

6.4 Also relevant is the PPG’s guidance related to Housing Land Availability Assessments (Paragraph: 022 Ref ID 3-022-20190722), particularly in so far as it advises on considering lead-in times and delivery rates.

“Information on suitability, availability, achievability and constraints can be used to assess the timescale within which each site is capable of development. This may include indicative lead-in times and build-out rates for the development of different scales of sites. On the largest sites allowance should be made for several developers to be involved. The advice of developers and local agents will be important in assessing lead-in times and build-out rates by year.”

Relevant (Non-Cherwell) Appeal Decisions

6.5 It is relevant to note that iterations of the NPPF, from the 2018 version onward, have placed the onus on the Council with regards to providing clear evidence of a realistic prospect of delivery, where sites only benefit from an allocation or Outline planning permission.

6.6 This was set out in the ‘**Woolpit**’ appeal decision¹⁴ (CD 4.35), where the Inspector at paragraph 65 remarked;

“Sites with outline permission, or those sites that have been allocated, should only be considered deliverable where there is clear evidence that housing completions will begin on sites within five years. The onus is on the LPA to provide that clear evidence for outline planning permissions and allocated sites.

6.7 Similarly relevant is the ‘**Sonning Common**’ appeal decision¹⁵ (CD 4.34). In this regard, the Inspector considered the matter of what should constitute ‘clear evidence’ as relevant to the deliverable supply of homes. At paragraphs 20 and 21, the Inspector stated;

“This advice [referring to the PPG] indicates to me the expectation that ‘clear evidence’ must be something cogent, as opposed to simply mere assertions. There must be strong evidence that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.

Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are there planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute ‘clear evidence’. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward.”

¹⁴ Land on East Side of Green Road, Woolpit, Suffolk (PINS Ref. APP/W3520/W/18/3194926).

¹⁵ Little Sparrows, Sonning Common, Oxfordshire (PINS Ref. APP/Q3115/W/20/3265861).

Other Information

- 6.8 In addition to the PPG and appeal decisions, further research has been undertaken into lead-in times and delivery rates. Publications by the consultancy Lichfields are frequently referred to in the context of planning appeals.
- 6.9 Of particular note is their most recent relevant publication, 'Feeding the Pipeline' (November 2021) (CD 5.29), which provides an indication of the number of dwellings that tend to be provided per outlet. The report states on page 7 that;

“Over the last five years trading there has been an average among the ‘top 10’ housebuilders of 45 completions per outlet per year”

7. ASSESSMENT OF THE DELIVERABLE SUPPLY

- 7.1 This section of my Proof of Evidence provides an assessment of the constituent components of the Council's identified housing supply.
- 7.2 As indicated, the Council published its latest 5YHLS position in December 2023 in the Draft AMR 2023 (CD 5.26) and the accompanying Revised Trajectory (CD 5.25) (which corrects a number of errors). The AMR has a base date of 01 April 2023 and thus looks at the 5-year period to 31 March 2028. It sets out the components of the supply, which comprise:
- Sites with outline planning permission
 - Sites with detailed planning permission
 - Sites not subject to any planning permission
- 7.3 Reference should be made to the topic-specific Housing Land Supply SoCG, which is expected to be concluded and which summarises areas of agreement and differences between both sides. It is expected that the HLS SoCG will also indicate that the Council have introduced two further changes to its identified five-year supply. Namely;
- 'Bicester 10, Bicester Gateway', is no longer identified as a deliverable site and has been removed entirely from the identified 5YHLS.
 - The Council has deducted 33 dwellings from 'Bicester 2: Graven Hill (LDO Self-Build Site)'
- 7.4 On the basis of these alterations, I no longer seek to contest these sites. However, if the Council's position changes in relation to these sites, then I reserve the right to revisit this.
- 7.5 The Council's claimed five-year supply (as set out in Table 4.1 of this Proof of Evidence) is, therefore, 4,038 dwellings.

Windfall Supply

- 7.6 At present, I do not dispute the Council's approach to windfall supply.
- 7.7 However, it is notable that the identified supply has risen by 25 dpa when compared to the HLSS 2023. This uplift was subject to challenge at the recent Heyford Park Inquiry (PINS ref: 3326761), with the appellant noting concerns regarding the inclusion of self-build completions at Gravel Hill as windfall / small site completions (in 2021/22 and 2022/23), effectively, raising concerns about double counting.
- 7.8 Despite requests being made, and at the time of writing, the Council has failed to supply me with detailed information relating to the small site category. As such, I have been unable to fully investigate this matter. Noting this, I reserve the right to challenge the Council's identified windfall supply if new information comes to light.

Specific Contested Sites

- 7.9 In Appendix 1 of this Proof of Evidence, I detail several specific sites where I contest the Council's assessment of the deliverable housing land supply.
- 7.10 As indicated, the NPPF distinguishes between Category A sites (i.e., sites benefitting from

detailed permission), and Category B sites (i.e., sites allocated for development, that benefit from Outline planning permission or which are identified in a Brownfield Register).

- 7.11 In summary, I challenge the Council's position in relation to the following sites listed in Table 7.1 below. My assessment is made against the Council's Draft AMR Revised Land Supply 2023 (CD 5.25). Additionally, and as noted, the Council has subsequently reduced its identified supply of deliverable homes to 4,038. Compared to this updated figure, **I have deducted 545 dwellings from the claimed supply.**

Table 7.1 – Contested Sites

No.	Site Name	Council Category	Category A / B	Deduction
Site 1	Banbury 1: 'Banbury Canalside (Caravan Site)'	Banbury Sites (Allocated)	B	63
Site 2	Banbury 4: 'Bankside Phase 2 (Land North East of Oxford Road, West of Oxford Canal)'	Banbury Sites (Allocated)	B	50
Site 3	Banbury 17: 'South of Salt Way, East'	Banbury Sites (Allocated)	A	120
Site 4	'Land Opposite Hanwell Fields Recreation (adjacent to Dukes Meadow Drive, Banbury)'	Banbury Sites (Unallocated)	B	78
Site 5	Land Adjoining Withycombe Farmhouse Stratford Road A422 Drayton'	Banbury Sites (Unallocated)	B	50
Site 6	Villages 5: 'Former RAF Upper Heyford (15/01357/FUL)'	Other Areas (Allocated)	A	40
Site 7	Land at Deerfields Farm, Canal Lane, Bodicote	Other Areas (Unallocated, 10 or More Dwellings)	B	26
Site 8	OS Parcel 3489 Adjoining and South West of B4011, Ambrosden	Other Areas (Unallocated, 10 or More Dwellings)	B	60
Site 9	Land North of Railway House, Station Road, Hook Norton	Other Areas (Allocated)	B	43
Site 10	Site 12 - Kidlington Garage, 1 Bicester Road, Kidlington	Other Areas (Allocated)	B	15
Total				545

Partial Review Sites

- 7.12 It should be noted that I have not specifically sought to challenge the trajectories presented for the Partial Review sites, as set out in the main AMR 2023 document (CD 3.14).
- 7.13 This is simply because, should the Inspector agree that there is a single housing requirement (i.e., the Appellant's case), a supply of 3.16 years would result based on the Council's own figures (and assessed against a four-year requirement, as the Council proposes). The provisions of NPPF paragraph 11d would, therefore, be expected to be engaged.
- 7.14 Conversely, should the Inspector conclude that there are two separate requirements and two resulting calculations (i.e., the Council's case), then it follows logically that the 5YHLS / 4YHLS position 'for Cherwell' is most pertinent to this appeal. The area of challenge then becomes the disputed 'Cherwell sites' listed in Table 7.1.
- 7.15 As such, the question of whether 80 units at the Partial Review sites will or will not be delivered by 31 March 2028 is not fundamental to my evidence.

Overall Appellant Supply

- 7.16 On the basis of my deductions presented in **CR Appendix 1**, I therefore identify a supply of 3,573 dwellings from 01 April 2023 to 31 March 2028 for Cherwell as a whole (i.e., 3,493 + 80).

8. OVERALL CALCULATION

- 8.1 As indicated, it is my conclusion that a single 5YHLS calculation should be made against the LHN for Cherwell, plus the adopted requirement for Oxford's unmet needs. This equates to 1,130 dpa or 5,650 over five years. I identify a supply of 3,573 dwellings from 01 April 2023 to 31 March 2028 for Cherwell as a whole.
- 8.2 My overall calculations are presented in Table 8.1 below. My revised supply figure also results in a shortfall against alternative scenarios. These are presented in Appendix 2.
- 8.3 For reference, Table 8.2 provides the Council's calculations.

Table 8.1 – Appellant Position Overall 5YHLS Calculations

Appellant Revised Assessment		
	Requirement	
A	Annual Requirement	1,130
B	Five-year requirement (A x 5)	5,650
C	Shortfall to be added	680
D	Total Requirement + Shortfall (B+C)	6,330
E	Annual Requirement + Shortfall (D/5)	1,266
Supply		
F	Five Year Supply	3,573
G	Supply in Years (F/E)	2.82
H	Over / undersupply (F-D)	-2,757

Table 8.2 – Council's Position 4YHLS Calculations

Draft SoCG Council Assessment (4YHLS)		
	Requirement	
A	Annual Requirement	710
B	Four year requirement (A x 4)	2,840
C	Shortfall to be added	0
D	Total Four Year Requirement + Shortfall (B+C)	2,840
E	Annual Requirement + Shortfall (D/4)	710
Supply		
F	Claimed Supply	4,038
G	Supply in Years (F/E)	5.69
H	Over / undersupply (F - D)	1,198

9. CONCLUSIONS

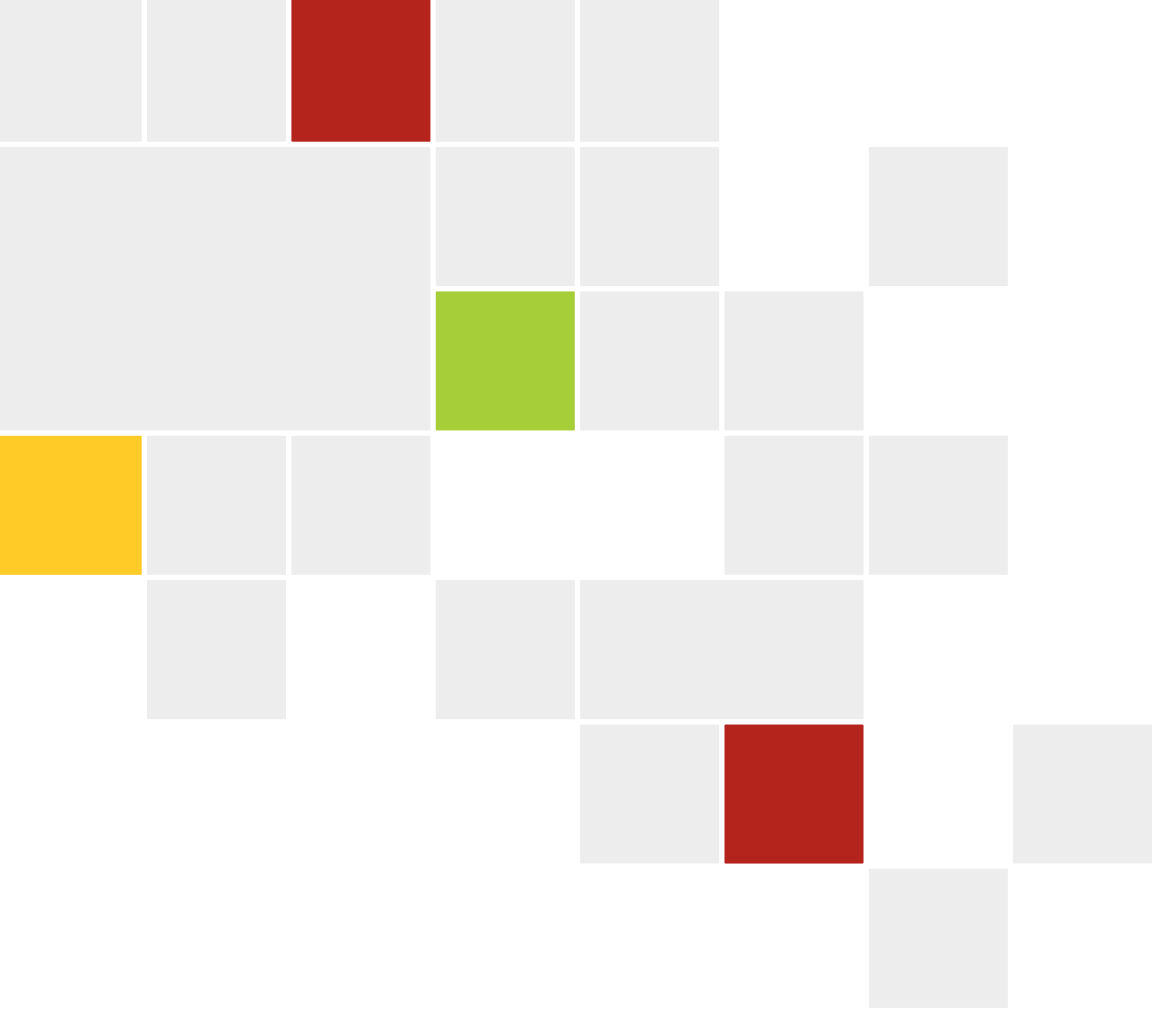
- 9.1 This Appeal Proof of Evidence has been prepared by Christopher Roberts, of Boyer Planning, on behalf of Wates Developments (the Appellant). I am instructed by the Appellant to provide an assessment of the housing requirement and housing land supply matters in Cherwell.
- 9.2 In Section 2, my evidence outlines the national and local planning policy context as relevant to the identification of the housing requirement, the assessment of housing supply and the evaluation of housing delivery. I also note several decided and undecided appeals within Cherwell, that consider (or which are expected to consider) pertinent matters.
- 9.3 Section 3 of my evidence then provides a summary of housing delivery and supply in Cherwell against the policies of the adopted Local Plan. It is clear from this review that the Council's own projections anticipate that both parts of the adopted Local Plan will fail to address adopted housing requirements by the end of the Plan-period in 2031. The Council expects an overall shortfall of 6,411 homes in this regard, which means that the Plan will deliver only 76.5% of the homes that it should have.
- 9.4 In Section 4, my evidence finds that it is the happenstance of a reducing housing requirement (and particularly the application of the Standard Method's Local Housing Need) that has provided the Council with a favourable accounting position when calculating 5YHLS. Despite this, the pipeline of deliverable sites has continued to diminish as successive five-year trajectories have been published.
- 9.5 Subsequently, at Section 5, my evidence considers the applicable housing requirement for 5YHLS purposes. This represents a key area of dispute.
- 9.6 Firstly, I agree that the Cherwell Local Plan Review 2040 was subject to a recent Regulation 18 consultation. I also agree that the consultation document contains proposed allocations to help meet housing needs, including the appeal site. However, it is not agreed that the consultation document contains a Policies Map for the purposes of NPPF paragraph 226 and the related transitional arrangements.
- 9.7 In the draft HLS SoCG, the Council has identified a number of entries and drawings within the Consultation Document that it argues should be taken to represent a Policies Map. However, none of these are purported as a Policies Map within the document itself.
- 9.8 The Consultation Document also contrasts with previous Regulation 19-stage documents, prepared prior to the adoption of the current Local Plan Part 1 and the Local Plan Partial Review respectively. These contained specific Policies Maps within their appendices, that were clearly identified as such. It is my evidence that a Policies Map is a deliberate and specific production rather than something that can be arrived at accidentally.
- 9.9 The consequence of this is that the Council is required to demonstrate five years' worth of housing supply. This is instead of the four years of supply that might otherwise be relevant under the temporary transitional arrangements.
- 9.10 Secondly, a fundamental matter of dispute concerns whether, when calculating the five-year housing land supply (for the purposes of NPPF paragraph 77), it is correct for the Council to maintain separate housing requirements and calculations for Local Plan Part 1 and the Partial

Review.

- 9.11 My evidence sets out why the Council's approach is incorrect. National planning policy, as per the current NPPF, Planning Practice Guidance and Housing Delivery Test, all point towards the correct approach being unified rather than separate. LHN is to be added to the unmet need being taken on from Oxford to form a single figure for the purposes of an overall 5YHLS calculation.
- 9.12 Furthermore, my evidence sets out that Policy PR12 (parts a and b) of the Local Plan Partial Review has a specific function which justifies the separate monitoring of supply in relation to the Partial Review sites. However, this does not mean that key provisions of the NPPF (including the calculation of 5YHLS to address NPPF paragraph 77) can simply be disregarded in the face of the severe shortfalls that have arisen and which are expected to continue.
- 9.13 I have also reviewed the emerging Local Plan 2040 and key associated and supporting documents. It is notable that the Council intends to discard the approach of having two housing requirements and two separate 5YHLS calculations. Likewise, all of the allocations proposed in the emerging Local Plan will contribute to a single housing requirement, which incorporates an apportionment to meet a share of Oxford's unmet needs. This plainly stands at odds with the Council's current approach to the 5YHLS calculation.
- 9.14 My evidence also reviews the approach taken by a range of other Local Authorities in Oxfordshire and beyond. Nowhere else in Oxfordshire is it contended that agreed apportionments of Oxford's unmet need justify a separate 5YHLS calculation to address NPPF paragraph 77. The matter was indeed recently considered at the Grove Appeal (CD 4.22).
- 9.15 In Wiltshire and West Suffolk, these new unitary Authorities have had to consider similar matters regarding the treatment of housing requirements and supply. Wiltshire maintains that it is correct to undertake a whole Local Authority-wide calculation (to arrive at a determinative 5YHLS figure) whilst still undertaking sub-area calculations based on the separate HMA's reflected in its adopted Core Strategy.
- 9.16 In West Suffolk, the Council inherited one housing requirement that was up-to-date and another which was not, such that the LHN formed the basis of the housing requirement for the latter but not the former. In a recent Appeal Decision at Newmarket (CD4.36), the Inspector concluded that the Council's approach of combining the two requirements to arrive at a single 5YHLS calculation was consistent with national policy.
- 9.17 Cherwell's approach is, therefore, inconsistent with that being taken elsewhere. However, my evidence also indicates that the Council's position is such that the Government's intended mechanics, notably the presumption in favour of sustainable development (as linked to NPPF paragraph 77), cannot function as intended.
- 9.18 Alternative sites cannot come forward, even whilst the Council's own case indicates that the five-year supply of homes associated with the Partial Review is extremely poor. Yet, at the same time, the Council has also acknowledged that areas outside of those allocated in the Local Plan Partial Review could sustainably meet Oxford's unmet needs.
- 9.19 Overall, my evidence sets out that the failure to address identified housing needs should have consequences, and these must fall somewhere within what is, in any case, a shared housing

market area.

- 9.20 Turning to the supply side, at Section 6, my evidence considers what constitutes a deliverable site, as per the NPPF definition, taking account of the Planning Practice Guidance, widely cited appeal decisions and other sources.
- 9.21 Subsequently, at Section 7 (as supported by Appendix 1), my evidence undertakes a critical assessment of the Council's claimed five-year trajectory. I identify a number of sites that fall into categories A and B, where the Council's projection is contested.
- 9.22 In several cases, I conclude that there is no clear evidence that housing will be delivered on-site within five years. In other instances, I conclude that the claimed year of first completion is overly optimistic or that delivery rates have been overstated. On this basis, I reduce the Council's trajectory by 545 dwellings.
- 9.23 Overall, my evidence identifies a supply of 3,573 homes against a unified requirement of 6,330 dwellings. On this basis, **it is my case that a supply of 2.82 years can be demonstrated.**
- 9.24 It is my conclusion that a 5YHLS cannot be demonstrated. On this basis, the presumption in favour of sustainable development applies in accordance with the provisions of NPPF paragraph 11(d), footnote 8.
- 9.25 The consequences of not being able to demonstrate a sufficient supply in five years or the Plan period; the weight to be given to out-of-date policies as a result; and the weight to be given to the contribution of homes from the Appeal Site in the context of not being able to demonstrate a five-year supply, are considered in the evidence of Mr Ross.



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