

**Town and Country Planning Act 1990 (as amended)**

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

**In the following appeal:**

*Outline application for up to 170 dwellings (Use Class C3) with associated open space and vehicular access off Warwick Road, Banbury; All matters reserved except for access*

**Land east of Warwick Road, Banbury, Oxfordshire**

**PINS Reference: APP/C3105/W/24/3338211**

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May 2024

**Inspectorate Ref: APP/C3105/W/24/3338211**

**Planning Application Ref: 23/00853/OUT**

**Appeal Site: Land east of Warwick Road, Banbury, Oxfordshire**

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

**Proof of Evidence on the Five-Year Supply of Housing  
in Respect of Cherwell District Council**

**Prepared on behalf of  
Cherwell District Council**

**Evidence of  
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**May 2024**

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## **1.0 EXPERIENCE AND SCOPE OF EVIDENCE**


### **a) Experience**

- 1.1 My name is Jonathan Goodall, and I am employed in the role of Director with DLP Planning Ltd (DLP), specifically the Strategic Planning Research Unit (SPRU) which specialises in undertaking bespoke planning research projects including Five Year Housing Land Supply Assessments. DLP Planning Ltd are a national planning consultancy, and I am based in the Bedford office.
- 1.2 I am a chartered town planner. I hold a MA (Cantab) degree in Geography from the University of Cambridge and a postgraduate Master of Science in Town and Country Planning from the University of Newcastle.
- 1.3 I have practised as a town planner since 2009. In this time, I have worked in the public and private sectors. My experience covers a wide spectrum of planning policy and development management cases. I have contributed to the preparation of several Local Plans that have either been adopted or are in the latter stages of Examination. These projects include the adopted West Northamptonshire Joint Core Strategy, the Luton Local Plan, the Rugby Local Plan, and the Part 1 Waverley Local Plan.
- 1.4 My contribution to these plans includes establishing the correct housing requirement to address objectively assessed housing need and providing for and managing land supply to meet those needs. As part of this work, I have extensive experience in matters related to housing supply, monitoring, and establishing forecasts for future housing delivery, including from strategic sites. I have previously acted as Expert Witness on these matters alongside general planning policy matters.
- 1.5 From 2009 to March 2014, I was employed by the West Northamptonshire Joint Planning Unit and participated at the Joint Core Strategy Examination on housing need and supply (as well as other planning policy matters). I also led preparation of the authorities' CIL Charging Schedules.
- 1.6 From April 2014 to September 2015, I worked at Optimis Consulting, undertaking work for national and local housebuilders and private individuals on matters including strategic site identification and promotion as well as the submission of planning applications and appeals.
- 1.7 I worked at Troy Planning and Design from September 2015 until March 2019 and acted for predominantly public sector clients to prepare and present evidence for plan-making and as part of instructions to act as expert land supply or policy witness. This work included the preparation of evidence that has directly informed the Panel Recommendations on the reduction to the London Plan housing target from 'small sites'.
- 1.8 I have been with DLP Planning since April 2019. During this time, I have advised private and public sector clients on a wide range of planning issues with particular focus upon the calculation of housing need and 5-year land supply, appearing at both Local Plan Examinations and planning appeals. Within 2020 and 2021 I acted on behalf of West Northamptonshire Council (for the (former) South Northamptonshire Area) across a series of Appeals where the housing requirement and assessment of deliverable supply was disputed

### **b) Scope of this Evidence**

- 1.9 I have been instructed by the Council to prepare a Proof of Evidence on its behalf which sets out the Council's five-year housing requirement and land supply in the context of evidence presented by the Appellant.
- 1.10 I confirm that this evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I also confirm that the opinions expressed are

my true and professional opinions.

<b>Signed</b>	
<b>Name</b>	Jon Goodall MA (Cantab) MSc MRTPI
<b>Position</b>	Director
<b>Date</b>	7 May 2024

## 2.0 INTRODUCTION

- 2.1 This Proof of Evidence sets out my evidence on behalf of Cherwell District Council (“the Council”) in respect of the appeal submitted by Vistry Homes Ltd (“the Appellant”) under Section 78(1) of the Town and Country Planning Act 1990 against the Council’s refusal of Planning Permission ref 23/00853/OUT pertaining to land known as Land east of Warwick Road, Banbury (“the Site”).
- 2.2 The planning application, received by the council on 20<sup>th</sup> September 2022 sought planning permission for redevelopment of the site, and was described by the council as follows:

*Outline application for up to 170 dwellings (Use Class C3) with associated open space and vehicular access off Warwick Road, Banbury; All matters reserved except for access”*

### a) My Instructions on Behalf of the Council

- 2.3 I was approached and have been instructed by Cherwell District Council to give evidence for the purposes of this Appeal. I have been instructed by the Council to present evidence on the Council’s five-year housing requirement and land supply for the purposes of this Inquiry.
- 2.4 I was appointed to act for the Council in this case upon submission of the Appeal and receipt of the Appellant’s Statement of Case. I have subsequently been provided with the Note of the Inspector’s Case Management Conference and commenced engagement with the Appellant regarding a draft Topic Statement of Common Ground. While this remains incomplete at the point of exchanging evidence a great deal of progress has assisted in clarifying the parties’ respective positions.

### i) Background

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

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

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



CDC Ref	PINS Ref	Type	Address	No. of Dwellings	Decision	Date
			The Laurels, Fringford			
22/03802/OUT	3324704	Hearing	Part Of OS Parcel 8752 East Of Combe Cottage And South Of St Johns Way, Hempton Road, Hempton	9 dwellings	Dismissed	8/12/23
22/02866/OUT	3327213	Inquiry	Land East Of Ploughley Road, Ambrosden	120 dwellings	Event March 2024  Decision Letter Awaited	
21/04289/OUT	3326761	Inquiry	OS Parcel 1570 Adjoining and West of Chilgrove Drive and Adjoining and North of Camp Road, Heyford Park	230 dwellings	Allowed*  *Subject to Legal Challenge from the LPA	5 March 2024
23/00065/OUT	3327581	Hearing	Parcel 0006 Adjoining North Side of Ells Lane, Bloxham	30 dwellings	Allowed	24 January 2024
<b>23/00173/OUT</b>	3331122	Inquiry	Land South of Green Lane, Chesterton	147 dwellings	Event Feb 2024  Decision Letter Awaited	
23/01265/OUT	3329533	Hearing	Land South of Tadmarton Road, Bloxham	60 Dwellings	Scheduled 22 May 2024	
22/02455/OUT	3335940	Hearing	Land West of Church Ley Field, Adjacent to Blackthorn Road, Ambrosden	55 Dwellings	Scheduled 26 June 2024	
23/02338/OUT	3339728	Hearing	Land West of Oxford Close and North of Corner Farm, Station Road, Kirtlington	15 Dwellings	Scheduled 18 June 2024	

CDC Ref	PINS Ref	Type	Address	No. of Dwellings	Decision	Date
22/03868/OUT	3339370	Hearing		60 Dwellings	Scheduled 11 June 2024	
<b>23/00853/OUT</b>	3338211	Inquiry	Land east of Warwick Road, Banbury, Oxfordshire	170 Dwellings	Inquiry Scheduled 4 June 2024	<b>This Appeal</b>

## ii) Relevance of Updates Since the Heyford Park Decision Letter (CD/10.1)

- 2.6 Section 2 of the Council's Statement of Case for this Appeal deals with updates since determination of the application, including:
1. Publication of the Revised December 2023 version of the NPPF ('NPPF(Dec)2023)
  2. Publication of the 2023 Authority Monitoring Report (December 2023)
  3. The Draft (Regulation 18) Cherwell Local Plan Review 2040 published for consultation on 22 September 2023
  4. The findings of the Heyford Park Decision Letter dated 5 March 2024 (CD/10.1)
- 2.7 Regarding **Point 1**, prior to my appointment on the first case at Charlotte Avenue I undertook my own review of the Council's most recently published assessment of supply<sup>1</sup>. I confirmed my view that on the anticipation that the Appellant would seek to contest the requirement against which supply should be assessed for the purposes of previous NPPF2023 paragraph 74 I would be able to provide my professional opinion in support of the position published by the Council. This remains my position following the publication of the new NPPF(Dec)2023 and provisions of paragraph 77. I expand upon this in my Proof of Evidence
- 2.8 Regarding **Point 2** my instructions include providing my professional opinion on the assessment of deliverability for any sites subsequently disputed sites by the Appellant and whether this produces a surplus or deficit in the five-year requirement against which supply is to be assessed. This remains the basis of my instructions following publication of the Council's December 2023 AMR (CD/6.9). I expand upon this in my Proof of Evidence.
- 2.9 For the purposes of this Inquiry, it is agreed in the Topic HLS SoCG (CD/8.6) that the Council's most recent assessment of housing land supply against the relevant requirement(s) is set out in the Housing Land Supply Statement (HLSS) contained within the December 2023 Authority Monitoring Report (CD/6.9) Via the Topic HLS SoCG (CD/8.6) the parties agree that this is the most recent published position and the base date of the latest assessment within the HLSS is 1st April 2023. It is therefore agreed that the relevant base date for calculating the 5YHLS is 1st April 2023 and the five-year period runs to 31st March 2028.
- 2.10 For the avoidance of doubt, I confirm that my instructions did not extend to contributing to or preparing the contents of the December 2023 AMR and I had no sight of the document prior to its publication.
- 2.11 My input to the Council's evidence amounted to provision of general advice as a 'critical reviewer'. This related to non-specific advice on how the Council might seek to collect clear

<sup>1</sup> Housing Land Supply Statement (CD/6.6) published in February 2023

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

- 2.12 I did not, therefore, personally provide the Council's conclusion on deliverability or forecast of supply from any individual site as contained within the AMR and Updated HLSS at Appendix 1.
- 2.13 I provide background to the Council's most recent assessment in the December 2023 Authority Monitoring Report in my Section 9. This includes providing my view on the Council's most recent AMR where it is relevant to clarifying the dispute between the parties regarding the assessment of deliverability and forecast of supply from specific sites. This is relevant to confirming where my professional opinion supports the Council's assessment.
- 2.14 At the time of preparation and submission of this Proof of Evidence there are no Decision Letters drawing specific findings on the Council's assessment of deliverable supply at 1<sup>st</sup> April 2023. I will be able to provide comments on any Decision Letters that subsequently provide conclusions based on the most recent HLSS should they be issued before the determination of this appeal, if the Inspector considers it helpful for me to do so.
- 2.15 In relation to the Council's emerging Local Plan (**Point 3**) I confirm that this has no bearing upon the requirement against which supply is to be assessed for the purposes of national policy. I expand upon this in my Proof of Evidence including the application of emerging policy in the context of Paragraph 226 of the NPPF(Dec)2023 and the extent of supply to be demonstrated – four or five years' worth of provision.
- 2.16 The Heyford Park Decision Letter (**Point 4**) is addressed within the Council's Statement of Case (CD/8.2). I do not repeat them in full, but my professional opinion accords with the Council's position and I expand upon this where relevant in my Proof of Evidence. As confirmed by the Council's Statement of Case the Decision Letter is a potential material consideration for this Inquiry. As further confirmed in Paragraph 2.7 the Council has proceeded in seeking to challenge the Decision Letter via an application for judicial review. My professional opinion accords with the Council's overarching summary of issues with the Decision Letter at paragraph 2.8. I was further involved in preparation of the Statement of Facts and Grounds relating to the ongoing legal challenge, including preparation of a witness statement relating to my written and oral contributions to the Heyford Park Inquiry.
- 2.17 The Heyford Park Decision Letter thus does not change my position for this Inquiry and I do not depart from the basis of my original instructions supporting the Council's case for the requirement against which supply is to be assessed. This remains the case for all ongoing Appeals in the district where the identification of deliverable supply and requirement against which this should be assessed are at issue. This includes the most recent Inquiry Events for the Appeals at Ambrosden (PINS Ref: 3327213) and Chesterton (PINS Ref: 3331122) where Decision Letters are awaited and the presentation of the Council's case that I provided was unchanged by the Heyford Park Decision Letter.

### **iii) Overview of Other Appeals and Decision Letters**

- 2.18 The assessment of deliverable supply and the requirement against which supply should be assessed have been substantive matters in dispute in all of the cases listed above with the exception of the Finmere Appeal (PINS Ref 3309489) (CD/10.31) where only the assessment of supply was contested.
- 2.19 In the appeal relating to Charlotte Avenue, North West Bicester (APP/C3105/W/23/3315849) (CD/10.22) the Appellant advised in opening that they were content to accept the position of a supply in excess of five years and the written material was thus not tested in detail. While the Inspector does not address housing land supply in detail in their decision letter dated 25

July 2023 it is nonetheless relevant to note the observations at Paragraph 128:

*“128. The main parties have agreed that for the purposes of this appeal, the Council can demonstrate a five year housing land supply. Given the evidence that underpins the identified supply, I have no reason to take an alternative view on this matter. I apply the appropriate planning balance on this basis.” (CD/10.22)*

- 2.20 In two of the other cases mentioned above the matters in dispute regarding the assessment of deliverable supply and requirement against which this should be assessed were not considered to be determinative: PINS Ref: 3324251 ('Fringford') (CD/10.32) and PINS Ref 3327581 ('Bloxham') (CD/10.35).
- 2.21 There were two Decision Letters that have been issued in 2023 for the Appeals at Hempton and Milcombe (PINS Refs 3324704 and 3325113) (CD/10.34 and CD/10.33) where conclusions have been reached on the requirement against which supply is to be assessed as a substantive matter in determination of the Appeal.
- 2.22 In both these Decision Letters the case for the requirement against which supply is to be assessed has been resolved in favour of the Council and reflects the position put forward in my Proof of Evidence for this Inquiry. With reference to the Decision Letter in Milcombe (CD/10.33), which is consistent with the Hempton Decision Letter released several days earlier, I draw attention to the following conclusions to be considered alongside my evidence for this Inquiry:
- The Inspector was provided a Topic SoCG on requirement and supply that followed the format proposed by the LPA for this Inquiry
  - Evidence was prepared and heard against the requirements of the NPPF (September 2023 version) as it was in force until 19<sup>th</sup> December 2023
  - The DL (para.25) deals with the adopted development plan, and (para.26) summarises the parties' respective positions on the requirement. DL (para.27) specifies the age of adopted strategic policies under the language of NPPF Sept. 2023 paragraph 74;
  - DL (para.27) confirms that local housing need applies for the purposes of the requirement to assess supply. DL (paras.28 and 29) have regard to national policy, the outcomes and adopted strategic policies of the Partial Review and the relevance of emerging policy in support of the Council's case that contributions towards meeting part of Oxford's unmet needs do not form part of the requirement to assess supply in respect to Milcombe;
  - DL (para.30) confirms use of the 'current year' for the calculation of LHN and DL (para.31) confirms that the HDT has exceeded delivery expectations over the past 3 years and the HDT is therefore passed.

## **b) Understanding of the Appellant's Case**

- 2.24 As is detailed in the Appellant's Statement of Case at paragraphs 4.15 to 4.19 it is proposed to respond to the Council's first reason for refusal with evidence relating to the overall record in housing delivery together with the calculation of deliverable supply against the relevant housing requirement.
- 2.25 Paragraph 4.16 deals with indicators of past delivery and Paragraph 4.17 acknowledges these as 'factual matters' identified by the Appellant as relevant to the weight to be accorded to the delivery of new homes.
- 2.26 Paragraphs 4.16 and 4.17 have no bearing upon my case for the Council in relation to correctly identifying the requirement against which supply is to be assessed having regard to Paragraph 77 of the NPPF(Dec)2023 and the Planning Practice Guidance in relation to the treatment of past undersupply. While factual matters relating to past performance may be a material consideration I consider that this is best addressed in the evidence of the planning witnesses and is not dealt with in my Proof of Evidence.
- 2.27 In relation to past performance against any figure I do not seek to amend the Council's published figure. In relation to future forecast performance my evidence expressly deals with the identification of deliverable supply for the next five years against the relevant figure for the requirement against which this should be assessed. I do not seek to amend the Council's published for future years beyond year five nor to provide a future forecast for any sites not currently identified within the supply.
- 2.28 I would, however, note that where they are not dealt with in the identification of five year deliverable supply relevant to this Appeal other current published or potential future sources of supply are by definition only relevant for consideration against the different test of 'developable' or otherwise considered undeliverable/undevelopable. At the present time other elements of forecast supply will be subject to different and typically lesser levels of information.
- 2.29 It is entirely reasonable to conclude that the Council's assessment of supply will be subject to numerous revisions before the end of the plan period and should other sites be identified or concluded as deliverable in future assessments these would be subject to a different level of scrutiny and alternative forecasts of supply than those published presently.
- 2.30 Drawing conclusions on total forecast supply using current published information is not an 'exact science' and will therefore be unreliable and subject to future revisions. Particularly in relation to sites and components of supply currently concluded as developable or undevelopable/undeliverable it is reasonable to conclude that future forecasts may anticipate a greater contribution to supply in the Plan Period.
- 2.31 Matters that are proposed to be disputed in relation to 'housing land supply' are therefore set out in paragraphs 4.18 and 4.19 only;

*"4.18 The Appellant will present evidence to show that it is relevant to consider Cherwell's part of Oxford's unmet needs as part of its overall District wide housing land supply calculation and, on that basis, the Council will also not be able to demonstrate a sufficient (district as a whole) housing land supply (even on its own claimed deliverable supply). The Appellant will submit that the unmet housing needs of Oxford City are an important material consideration in the determination of this appeal.*

*4.19 Against any of the potential approaches to the calculation of housing land supply, the Appellant will demonstrate that shortfalls in supply exists and that, consequently, sites that can deliverable more homes need to come forward and the delivery of*



*homes from the appeal site should be afforded significant weight.”*

- 2.32 It follows from the above there is a substantial level of disagreement between the parties in relation to the calculation of the requirement against which supply should be assessed. The Appellant’s Statement of Case nonetheless provides very limited details of how it intends to present a specific position on calculation of the requirement against which supply is to be assessed.
- 2.33 My understanding of this position is further informed by progress with preparation of the draft Topic SoCG on HLS matters (CD/8.6).
- 2.34 The parties agree that the ‘Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford’s Unmet Housing Need’ (CD/5.2) or “Partial Review” which was adopted on 7 September 2020 and is less than five years old. The parties disagree having regard to the housing requirement within the separate adopted strategic policies of the Partial Review. While the parties agree that these specify a provision of a contribution towards part of Oxford’s unmet needs, the parties disagree on the relevance of these policies to identifying the requirement against which supply is to be assessed in this appeal.
- 2.35 In essence, the Appellant denies the possibility that the housing requirement within the adopted strategic policies can be applied separately. The Appellant relies on the proposition that where local housing need applies for the purposes of NPPF(Dec)2023 paragraph 77 a contribution towards unmet needs must be included in a way that provides a single figure for the requirement against which supply must be assessed for the district. The Appellant applies this position irrespective of the nature and status of relevant strategic policies and practice guidance in relation to local housing need and the calculation of housing land supply.
- 2.36 At the time of preparing and submitting my Proof of Evidence the Appellant has not specifically indicated any Appeal Decisions it intends to rely upon to support its case but has indicate that it will draw upon the approach being taken in other Oxfordshire local authorities together with the operation of the Housing Delivery Test. I address these elements of the Appellant’s case within my evidence (in Sections 6(f) and 8 respectively). These sections address the relationship with the adopted development plan in Cherwell and provide an assessment of whether the propositions are internally consistent.
- 2.37 I note that the Appellant’s Statement of Case was prepared following publication of the revised December 2023 version of the NPPF but makes no reference to the NPPF in the abovementioned paragraphs in terms of whether or how it might be relied upon. I reserve the right to respond further to any changes to the Appellant’s case for the requirement against which supply is to be assessed or the extent of supply to be demonstrated that arise from the revised NPPF and are identified following the exchange of evidence.
- 2.38 At the time of preparing my evidence discussions remain ongoing regarding preparation of a draft Topic SoCG (CD/8.3) that summarises the disagreement between the parties regarding the requirement against which supply should be assessed. The draft Topic SoCG also details that there is a relatively more limited dispute between the parties in relation to the assessment of deliverable supply from specific sites. This equates to an estimated minimum of 1,293 dwellings from specific sites.
- 2.39 I address the current position regarding disputed supply separately within my Proof of Evidence.
- 2.40 I reserve the right to respond to any further evidence the Appellant provides in relation to specific sites or the abovementioned components of the supply at the point of exchanging evidence.

### **3.0 SUMMARY OF RELEVANT ISSUES AND STRUCTURE OF MY EVIDENCE**

- 3.1 The structure of the following sections of my proof of evidence is as follows.
- 3.2 In **Section 4** I summarise the Council's published assessment of housing land supply and provide updates in respect of the parties' cases in respect of the calculation of local housing need in accordance with national policy and guidance
- 3.3 In **Section 5** I address the implications of the most recent changes to national policy in revised National Planning Policy Framework first published 19 December 2023 ('NPPF(Dec)2023').
- 3.4 In **Section 6** I address the Appellant's case in respect of the housing requirement against which supply should be assessed. I provide a response to the Appellant's case having regard to national policy and guidance, the housing requirement in adopted strategic policies and with reference to relevant Appeal Decisions. I also address the background to plan-making in the authority undertaken to identify sites contributing towards part of Oxford's unmet needs. I further outline that no weight should be given to the Council's emerging Plan for the purposes of the requirement against which supply should be assessed.
- 3.5 Within **Section 7** I address the Heyford Park Decision Letter and note that while it is a material consideration for this Appeal it is subject to ongoing legal proceedings from both the Council and Rule 6(6) Party seeking to challenge the Decision. The Heyford Park Decision Letter thus does not change my position for this Inquiry and I do not depart from the basis of my original instructions supporting the Council's case for the requirement against which supply is to be assessed. I outline my reasons for disagreeing with the interpretation of changes to national planning policy and illustrate why the Decision Letter incorrectly sets aside the approach of the adopted development plan.
- 3.6 In **Section 8** (and Appendix 1) I respond to the Appellant's reliance on the Housing Delivery Test and explain that this is a separate element of national policy.
- 3.7 In **Section 9** I provide a response to the Appellant's case for sites where the Council's assessment of deliverable supply is in dispute based details within the draft Topic SoCG. I do so having regard to relevant policy and guidance.
- 3.8 **Section 10** provides conclusions and should be taken as my Summary Proof of Evidence

#### **4.0 THE COUNCIL'S PUBLISHED ASSESSMENT OF HOUSING LAND SUPPLY**

##### **a) Overview of the Five Year Housing Land Supply Statement (Appendix 1 to the December 2023 Authority Monitoring Report)**

- 4.1 The Council's most recent assessment of the 5YHLS is set out in the Housing Land Supply Statement (HLSS) contained within the December 2023 Authority Monitoring Report (CD/6.9).
- 4.2 The base date of the 5YHLS assessment within the HLSS is 1st April 2023. It is therefore agreed that the relevant base date for calculating the 5YHLS is 1st April 2023 and the five-year period runs to 31st March 2028.
- 4.3 This is understood to be agreed as the Council's most recent evidence for use during the Inquiry. This section provides a summary of the HLSS and its relevance to this Inquiry.

##### **b) Matters Understood to Be Agreed**

- 4.4 While I reserve the right to provide further information the following elements of the HLSS are presently understood to be agreed based on the contents of the draft Topic SoCG under preparation.

###### **i) The Application of NPPF(Dec)2023 Paragraph 77 and Footnote 42**

- 4.5 Paragraphs 4 to 12 detail the Council's conclusion that the housing requirement in adopted strategic policies of the Part 1 Local Plan requires updating. The Appellant has indicated that this will be agreed via the draft Topic SoCG (CD/8.3). Local housing need for Cherwell District therefore applies for the purpose of calculating the five-year requirement against which supply should be assessed.

###### **ii) The Appropriate Buffer**

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

###### **iii) Small Sites with Planning Permission**

- 4.8 In relation to Small Sites With Planning Permission, I note that the published assessment does not contain a schedule of specific sites. Nevertheless, details of sites within this category fall under part (a) of the NPPF2023 definition of deliverable and should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). The definition of deliverable for this category of sites does not support application of a lapse rate without specific clear evidence to rebut the presumption of deliverability. The corresponding totals for detailed permissions in the most recent assessment are 62 units' supply in Banbury, 45 units in Bicester and 202 units elsewhere in Other Areas (309 units total) and it is my understanding at the point of exchanging evidence that the Appellant does not seek to contest this component of deliverable supply.

###### **iv) Windfall Allowance**

- 4.9 Paragraph 39 confirms that a windfall allowance of 125 dwellings per annum is applied from



year 4 of the forecast period only. At the time of preparing my Proof of Evidence the Appellant has not provided any specific figure for the contribution of supply from this component considered to be in dispute.

**v) Lapse Rate**

- 4.10 The published HLSS does not include a 'lapse rate' or allowance for non-implementation. This is not a requirement of national policy, which dictates that the assessment should be informed by the conclusions on deliverability of specific sites. It is my understanding that the Appellant does not seek to adduce evidence on the application of a lapse rate.

**c) Matters Understood to be Not Agreed**

4.11 While I reserve the right to provide further information it is my understanding that there are only three main elements in dispute between the parties with reference to the contents of the published HLSS.

**i) Calculation of the Standard Method**

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

4.13 The Council’s position for this Appeal provides for a calculation of local housing need of 703 dwellings per annum. This corresponds to the latest inputs to the calculation in accordance with national policy and guidance. The same position was agreed in evidence for the NW Bicester Inquiry (CD/10.22) and Finmere Hearing (CD/10.31). The Council’s case to rely on the latest inputs to the calculation was supported in the Decision Letters for the Milcombe and Hempton Hearings (PINS Refs 3324704 and 3325113) (CD/10.33 and CD/10.34).

4.14 The justification for the Council’s position is provided in sub-section (d) to this section of my evidence.

**ii) The Requirement Against Which Supply Contributing Towards Part of Oxford’s Unmet Needs is Assessed**

4.15 Paragraphs 13-16 of the HLSS and Paragraph 42 and the table that follows deal with the separate housing requirement in adopted strategic policies of the Local Plan Partial Review making provision towards part of Oxford’s unmet needs.

4.16 The HLSS confirms that a separate assessment of supply is provided against the requirements of the Partial Review. The Appellant does not accept this aspect of the requirement against which supply is assessed. I deal with this in my Section 5.

**iii) Assessment of Deliverability and Supply from Specific Sites**

4.17 The published forecast for deliverable sites is contained within a Housing Delivery Monitor appended to the HLSS with commentary provided to summarise a range of information used to confirm judgements on deliverability (see for example Paragraphs 28 and 42).

4.18 A separate Housing Delivery Monitor is provided for sites identified to contribute towards part of Oxford’s unmet needs. The HLSS includes the following units forecast supply for the separate requirement figures against which supply is assessed:

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

4.19 I address the Appellant’s position ahead of the exchange of Proofs of Evidence together with changes affecting the published assessment of deliverable supply in my Section 9.

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

- 4.20 The wording of the Planning Practice Guidance ('PPG') (ID: 2a-004) is clear that the most recent inputs to the calculation of local housing need using the standard method should be used. Use of the most recent inputs is the means of ensuring that the relevant chapter of the PPG relating to the assessment of housing needs can be applied consistently and objectively for the purposes of decision-taking and the relationship with plan-making (including where relevant strategic policies require updating). The calculation of local housing need is undertaken separately to the base-date for assessing supply.
- 4.21 This Council's approach for this and previous Appeals to rely upon the latest inputs to the calculation of local housing need is supported by relevant Appeal Decisions including the Inspector's reasoning in Paragraphs 53-55 of the Poplar Hill Decision Letter (CD/10.23) (PINS Ref: 3214324)<sup>2</sup>.
- 4.22 The use of inputs that post-date the base-date for a published assessment does not skew details of need and supply. It is only the ten-year trend in projections that requires updating to reflect the current inputs for the purposes of this Appeal.
- 4.23 In respect of step 1 and the ten-year trend in household projections these are provided by the 2014-based projections to provide stability in the standard method. These projections are not affected by annual completions. In respect of the affordability ratio the metadata<sup>3</sup> for this utilise earnings to the year ending April. In that respect the most recent 2023 ratio more closely reflects circumstances at the start of the monitoring period. House prices are based on a year-ending September with an April mid-point. In that respect the 2022 ratio omits six months of data (September 2022 to March 2023) that may have been relevant to circumstances at the base-date of the published assessment. This is not different to the most recent ratio including six months of data within the 2023/24 monitoring year.
- 4.24 The summary provided above supports my opinion that the most recent inputs to the calculation of local housing need should be applied. Full details of the calculation of a local housing need of 706 dwellings per annum will be provided within the Topic SoCG currently under preparation but are summarised in Table 2 for completeness.

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<sup>2</sup> See also the conclusions at Paragraph 46 for an Appeal at Sutton Road, Witchford (East Cambridgeshire) deal with the application of the current inputs to the calculation of local housing need to an earlier base-date (PINS Ref: 3245551 CD/10.30). An Appeal Decision at Loxley Works, Sheffield also held that where the latest inputs to the local housing need calculation provided the objective means of reflecting all elements of the standard method that applied (including introduction of the urban and cities uplift) irrespective of an earlier base-date (PINS Ref: 3262600 CD/10.26).

<sup>3</sup> "Affordability ratios calculated by dividing house prices by gross annual earnings, based on the median and lower quartiles of both house prices and earnings. The earnings data are from the Annual Survey of Hours and Earnings which provides a snapshot of earnings at April in each year. Earnings relate to gross full-time individual earnings on a place of work basis. The house price statistics come from the House Price Statistics for Small Areas, which report the median and lower quartile price paid for residential property and refer to a 12 month period with April in the middle (year ending September). Statistics are available at country, region, county and local authority district level in England and Wales." Source: ONS.gov.uk ratio of house price to median workplace based earnings published March 2023

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

Requirement	
Households 2024 – 2034 (2014 based)	5,216
Average annual household growth (2024-2034)	521.6
Ratio of median house price to median gross annual workplace-based earnings (2023)	9.67
Adjustment factor	1.354375
<b>Annual Local Housing Need (2014 based) (rounded)</b>	<b>706</b>

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

- 4.25 Paragraph 41 of the HLSS and the table that follows detail the assessment of supply versus the requirement for Cherwell District excluding provision for need and supply addressed within the Partial Review.
- 4.26 I have replicated these details in my Table 3 below. For completeness I have illustrated the breakdown of forecast supply by location (Paragraphs 33-38 refer).
- 4.27 I have included a separate column reflecting the provisions of the revised NPPF(Dec)2023 where no buffer is to be applied to the requirement against which supply is to be assessed together with showing the current calculation of Local Housing Need of 706 dwellings per annum.

**Table 3. Supply versus Requirement (Cherwell District LHN)**

			<b>Five Year Period 2023/24-27/28 (current period)</b>	
	<b>Step</b>	<b>Description</b>	<b>LHN 2024 + NPPF(Dec)2023 Buffer Changes</b>	<b>Published HLSS (AMR 2023)</b>
<b>Five-Year Requirement</b>	<b>a</b>	Standard Method Requirement (2023/24-2027/28)	3515	3550
	<b>b</b>	Annual Requirement (a / 5)	706	710
	<b>c</b>	Requirement Over 5 Years (b x years)	3530	3550
	<b>d</b>	5 Year Requirement plus 5% buffer (c + 5%)	N/A	3728
	<b>e</b>	Revised Annual Requirement over next 5 years (d / 5)	706	746
<b>Components of Supply</b>	<b>(i)</b>	<i>Banbury Supply</i>	1483	1483
	<b>(ii)</b>	<i>Bicester Supply</i>	801	801
	<b>(iii)</b>	<i>Other Areas</i>	1587	1587
	<b>(iv)</b>	<i>Windfall</i>	250	250
	<b>f</b>	Deliverable Supply over next 5 Years	4121	4121
<b>Five Year Supply</b>	<b>g</b>	Total years supply over next 5 years (f/ e)	<b>5.86</b>	<b>5.53</b>
	<b>h</b>	'Shortfall' / Surplus(f – d)	+591	+393

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

4.28 While it is not relevant to the Council's case for the requirement against which supply should be assessed I set out below the contents of the published HLSS in relation to the separate monitoring of supply against strategic policy PR12a of the Partial Review.

**Table 4. Supply versus Requirement (Oxford's Unmet Needs following Partial Review)**

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

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

### a) Introduction

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

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

- 5.5 Whether sufficient supply can be demonstrated for the purposes of the requirement against which this is to be assessed for a given application to determine whether the consequences of footnote 8 are engaged can be summarised down to three relevant elements.
1. The **extent of deliverable supply which is to be demonstrated** in accordance with national policy
  2. The **requirement against which supply is to be assessed**
  3. The **period over which forecast delivery is to be considered** to inform the assessment of deliverable supply
- 5.6 With reference to the revised NPPF(Dec)2023 the relevance of the changes to national policy affecting each element can be summarised as follows:
- Differences in the extent of deliverable supply which is to be provided (a minimum supply of five years or four years dependent on the provisions in paragraph 226) is a **new element** arising from the changes to national planning policy. Sufficient provision for a minimum of five years' supply was previously applicable in all instances.
  - In terms of the requirement against which supply is to be assessed the NPPF(Dec)2023 represents **no change** to the provisions of the previous wording of the Framework with the exception of clarifying where no buffer is to be applied. The NPPF(Dec)2023 retains two limbs. The first limb requires the identification of the housing requirement in adopted strategic policies (plural). The second limb is engaged where relevant strategic policies are more than five years old and have not been reviewed and found not to require updating and thus local housing need applies. The wording of footnote 42 to the NPPF(Dec)2023 is identical to the previous footnote 39



in this respect.

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

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

- 5.7 Within the remainder of this section I set out my position on the implications of the changes to national policy with respect to the new element relating to the **extent of deliverable supply to be demonstrated**. In Section 6 I provide further details for why the changes to national policy have no effect on the requirement against which supply is to be assessed apart from removing the application of a buffer. I address the Heyford Park Decision Letter in Section 7 to explain why it does not alter my positive case on behalf of the Council.

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

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



- The relevant policy approach under NPPF(Dec)2023 to demonstrate a minimum four years' worth of housing supply as specified in paragraph 77 applies from the date of publication of the revised Framework to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need.
- The Cherwell Local Plan Review 2040 – Regulation 18 Consultation Draft (CD/5.6) was published for consultation between 22 September 2023 and 3 November 2023 and:
  - The Regulation 18 Consultation Draft identifies proposed allocations towards meeting housing need (specified as a draft requirement in emerging Core Policy 34) as summarised in Table 7 and addressed in relevant emerging potential policies in area strategies that follow<sup>4</sup>.
  - Indicative Site Maps for the sites identified in emerging Core Policies 25 and 34 are provided in Appendix 2. Appendix 1 (retained policies list) also indicates where the proposals in Appendix 2 will replace those illustrated within the current development plan and thus policies map.
  - While separate to the illustration of sites proposed towards meeting identified needs in Core Policy 34 under Appendix 2 appendices 4 to 11 of the Consultation Draft also indicate visually proposed policies relevant to managing land use.

5.14 These contents of the Consultation Draft constitute relevant material for the purposes of the requirement for the inclusion of a policies map and relevant material for the purposes of a Local Plan under preparation (prior to its submission) fall for consideration under regulation 5(a) of The Town and Country Planning (Local Planning) (England) Regulations 2012 and any accompanying maps as specified in regulation 5(b).

5.15 While the factual background I outline above represents relevant material considerations for this Appeal including paragraph 226 of the NPPF(Dec)2023 the legal framework for its application has been a matter of extensive legal submissions. These address the relationship of its drafting with the relevant legislation. I do not therefore rely on the definition of the Regulation 18 Plan currently under preparation (and the definition of maps it may contain) as a specific legal authority for the purposes of applying paragraph 226 of the NPPF(Dec)2023.

5.16 I specifically highlight firstly the Legal Opinion provided to the Council by Douglas Edwards KC dated 30 January (see CD/13.24 – see particularly paragraphs 4 to 6). I note that Mr Edwards KC's Opinion confirms consideration has been given to Sarah Reid KC and Constanze Bell's Advice dated 11 January 2024 (CD/13.23) comprising part of material for the Heyford Park Inquiry. I do not repeat that Advice in full but note that its principal position provides the Council with legal submissions identifying that the proviso for inclusion of a policies map does not attach prior to the Regulation 19 stage.

5.17 In summary, the Advice navigates the legal framework and confirms neither a definition nor requirement for consultation exists in relation to the provision of a *policies map* at the Regulation 18 Stage. Mr Edwards KC from paragraph 4 of his 30 January Advice addresses a secondary alternative proposition for what would be required to satisfy provision of a *policies map* at Regulation 18 stage were that to fall within the scope of paragraph 226.

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

- 5.18 Mr Edwards KC's Opinion is consistent with the flexibility that is required in interpreting the form of any "policies map" that may be included at Regulation 18 stage and separately, for the purposes of NPPF(Dec)2023 paragraph 226. My evidence to this Inquiry addresses Mr Edwards KC's second alternative proposition and reinforces why if the scope of paragraph 226 is to include the role of a *policies map* at Regulation 18 stage then its requirements are satisfied having regard to the emerging Plan in Cherwell.
- 5.19 I note that the Advice on behalf of the LPA has been subject to a response in further Advice from Sarah Reid KC (CD/13.25 and 13.26) that continues to dispute both the requirement to demonstrate a policies map at Regulation 18 stage (for the purposes of paragraph 226) and adopts a prescriptive approach in terms the requirement for its contents. Mr Edwards KC prepared a further response to the latest Advice Ms Reid KC's later Opinion and a copy of this is included at CD/13.27. Mr Edwards KC's most recent Opinion serves the primary objective of reinforcing the principal proposition of where the *proviso* for a Policies Map attaches but also goes further to explain why it would not be unlawful for local planning authorities to not produce separate standalone policies maps in the course of plan preparation. Mr Edwards KC identifies that this would introduce unwanted technicality to the relevant regulations and thus the scope of paragraph 226. This further reinforces my view that a second, alternative proposition on the scope of paragraph 226 at Regulation 18 stage in relation to a policies map (which Mr Edwards KC does not agree with as a matter of interpretation) would nevertheless be flexible in terms of its application.
- 5.20 In this respect it is necessary to reiterate that the provisions of paragraph 226 of the revised NPPF(Dec)2023 apply from the date of publication and therefore apply to plans under preparation prior to its publication date of 19 December 2023. Any local planning authority preparing a draft Plan for Regulation 18 purposes prior to December 2023 has by definition undertaken work that precedes the legislative definitions for either a *submission* policies map or *adopted* policies map that apply at later stages on plan-making.
- 5.21 It represents a contrived and arbitrary application of the language in paragraph 226 to suggest that the previous choices of authorities in terms of the terminology adopted and presentation of plan-making proposals should preclude the application of its provisions. The absence of a singular policies map at Regulation 18 stage, when there was no pre-19 December 2023 requirement for its preparation, should not be taken to suggest insufficient progress to indicate that the extent of deliverable supply should be measured at four years.
- 5.22 For the purposes of identifying proposed allocations towards housing need it is not a measure of plan-making progress to ensure these are set out within one composite map for the authority's area. Just as this is not a requirement under the relevant legislation it would not necessarily denote any particular prospect of faster progress with future stages of plan-making within the language of paragraph 226 of the NPPF(Dec)2023.
- 5.23 The material presented within the relevant draft Plan in Cherwell, setting out the proposed boundaries of individual allocations, provides sufficient clarity in relation to the Plan's proposals and suggested relationship with other relevant proposed and existing designations. In this respect the details shown for individual draft allocation boundaries at Regulation 18 stage need not necessarily be substantially different to the individual amendments to the illustration of proposals provided by the submission policies map that can permissively be consulted upon as part of Main Modifications at the Examination stage.
- 5.24 In other words, it is not necessary to consult on the policies map as a single document in all cases. In the case of a draft Plan at Regulation 18 stage individual plans can provide more accessible and relevant information.
- 5.25 The boundaries proposed are dependent on the specific nature of the draft allocations identified. Within the draft Plan for Cherwell these are distinct from, for example, 'broad

locations' for future development. The Council has also sought to show where the proposed boundaries would result in the changes to the policies map in the adopted development plan for existing allocations. Principally the draft allocations identified require proposed boundaries to be clearly indicated because they are distinct from simply amending the capacity of existing sites (which may thus not need to be illustrated as part of Regulation 18 draft proposals).

- 5.26 I would also add that neither the language within draft policy proposals nor the generic definition of a Policies Map provided within the glossary of the Regulation 18 consultation draft (CD/5.27) indicate a deficiency or omission from the process with respect to paragraph 226. The draft Plan contains appendices which it clearly appears form part of the intent to accompany the submission and ultimately adopted Plan. This would provide, for example, more detail on elements of the Plan such as Green and Blue Infrastructure and Local Green Spaces.
- 5.27 Where draft policy text (and glossary) refers to the 'Adopted Policies Map' this cannot by definition be judged as part of the contents of a Regulation 18 draft Plan. Equally, it cannot be the case that the relevance of 'appendices' referred to in the policy text will automatically fall away following adoption if they form part of the adopted Plan. The definition within the glossary, albeit generic, refers to 'Maps' in the plural to indicate that reference to more than one source of material may be beneficial. The consultation draft Plan provides a clear indication of this through how its material is presented. This would not preclude the information being readily incorporated into the requisite submission and adopted policies map at future plan-making stages.
- 5.28 For the purposes of this Appeal the requirements of NPPF(Dec)2023 paragraph 226 are thus satisfied and that the extent of deliverable supply should be assessed against a minimum provision **of four years**.
- 5.29 Under the language of NPPF(Dec)2023 footnote 80 this means that where the extent of deliverable supply is assessed against a minimum 4 years' worth of housing the standard method must be used where relevant strategic policies are more than five years old (consistent with the wording of NPPF(Dec)2023 footnote 42 and with no reference to any provision for unmet needs from neighbouring authorities).

## 6.0 THE HOUSING REQUIREMENT AGAINST WHICH SUPPLY IS ASSESSED

### a) Introduction and Summary of the Council's Case

- 6.1 Within this main section of my Proof of Evidence I address the principal issue between the parties on the matter of housing land supply. This concerns the requirement against which supply should be assessed. On the Council's case – that the requirement is provided by local housing need calculated for Cherwell District and the extent of deliverable supply should ensure a minimum provision equivalent to four years.
- 6.2 I present the Council's case within the context that it is agreed that the housing requirement in adopted strategic policies relating to the needs of Cherwell District has been reviewed and it is agreed that this requires updating. The first sentence of footnote 42 to paragraph 77 of the NPPF(Dec)2023 is not engaged. I have therefore not addressed in detail the contents of the Council Regulation 10A Review of Policies (CD/6.11) within my Proof of Evidence. I reserve the right to do so should the Appellant's evidence contradict the agreed position that this results in local housing need forming the basis of the requirement to assess supply.
- 6.3 The Council's case is simple. It is consistent with national policy and accords with the adopted development plan and supported by relevant Appeal Decisions<sup>5 67</sup>.
- 6.4 NPPF(Dec)2023 Paragraph 77 is clear regarding the use of local housing need to assess housing land supply in the circumstances of Cherwell District. The calculation of LHN operates purely on the basis of the need within the local authority's administrative boundary.
- 6.5 The central premise of the Appellant's case is that the application of local housing need alters how supply should be accounted for. This fundamentally conflates need and supply. It is not correct, and it is not supported by either the wording of NPPF2023 paragraph 77, the Planning Practice Guidance or the approach to the standard method calculation.
- 6.6 In the circumstances of Cherwell District, the errors in the Appellant's position are compounded by the fact that the clear approach to accounting for supply related to Oxford's unmet needs remains as set out in adopted strategic policies of the development plan that are less than five years old and fully consistent with national policy. These provide for a specific approach to managing supply for the housing requirement related to these needs. The approach to managing supply is consistent with the spatial strategy to provide for sustainable development.
- 6.7 The Appellant has not offered any evidence that directly supports its approach to alter the management of supply or to disapply the approach to Oxford's unmet needs identified by the housing requirement in adopted strategic policies of the Cherwell Local Plan Partial Review. I nonetheless use this section of my Proof of Evidence to support the Council's position and respond to those elements I understand that the Appellant relies upon for its case. I therefore structure the remainder of this section as follows:
- b. I provide clarification of the housing requirement in adopted strategic policies and their status and operation in Cherwell District
  - c. I clarify the operation of NPPF2023 paragraph 77 with particular emphasis that it cannot change the status of the adopted development plan, and that it contains a clear reference to *policies* (plural)

<sup>5</sup> Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (CD/10.24)

<sup>6</sup> Part Parcel 0025, Hill End Road, Twynning, Gloucestershire, GL20 6JD, 389971, 237249 PINS Ref: 3284820 (CD/10.27)

<sup>7</sup> Appeal Ref: APP/G1630/W/23/3314936 Land at Trumans Farm, Manor Lane, Gotherington, Cheltenham (CD/10.25)

- d. I summarise national policy in relation to plan-making and provision for unmet needs.
- e. I summarise what, if any, are the implications of revisions to national policy following publication of the December 2023 version of the NPPF and illustrate why these changes reinforce rather than alter the Council's case for the requirement against which supply is to be assessed.
- f. I provide a comparison with the circumstances for Plan-Making in Neighbouring Oxfordshire Authorities and illustrate why these are distinct from those in Cherwell
- g. I address the background for and approach to the assessment of supply related to part of Oxford's unmet needs within the separate strategy policies of the Cherwell Local Plan (Part 1) Partial Review – Oxford's Unmet Needs (CD/5.2)
- h. I address the emerging Cherwell Local Plan Review 2040 and its evidence base and explain how this does not engage NPPF2023 paragraph 74 with respect to the requirement against which supply is to be assessed
- i. I summarise my response to the Appellant's case

**b) The Housing Requirement in Adopted Strategic Policies**

6.8 The development plan for Cherwell contains three strategic policies relevant for consideration under paragraph 74 of the NPPF2023:

- **Policy BSC1** from the Cherwell Local Plan (Part 1) (adopted July 2015) (CD/5.1) which has been found to require updating for the purposes of providing the housing requirement in adopted strategic policies in the NPPF(Dec)2023 paragraph 77 and footnote 42.

The policy of the NPPF(Dec)2023 at paragraph 77 and footnote 42, to apply local housing need where the strategic policies are more than five years old and to use the standard method for Cherwell District, is therefore applicable.

- **Policies PR1 and PR12a** of the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review - Oxford's Unmet Housing Need' or "Partial Review" (CD/5.2) respectively specify the contribution towards unmet needs (4,400 dwellings) and arrangements for maintaining housing land supply to meet these needs. These policies are less than five years old.

The policy of the NPPF(Dec)2023 at paragraph 77 and footnote 42 (i.e. to apply local housing need where the strategic policies are more than five years old and to use the standard method) is therefore not applicable to the housing requirement in the adopted strategic policies of the Partial Review.

6.9 The Maintaining Housing Supply chapter of the Partial Review sets out how the plan is intended to be monitored and is supported by Policies PR12a and PR12b. It states (at paragraphs 5.159 – 5.160) (CD/5.2):

*"The Partial Review of the Local Plan is a focused Plan to help meet the identified unmet needs of Oxford. We have developed a specific strategy to meet Oxford's needs; to fulfil our objectives and achieve a defined vision that does not undermine the delivery of the separate strategy for meeting Cherwell's needs.*

*Consequently, it is appropriate and necessary that the monitoring of housing supply for Oxford's needs is undertaken separately from that for Cherwell and only housing supply that meets the vision and objectives for Oxford is approved."*



6.10 The intention to disaggregate the land supply is set out in Policy 12a, which states:

***“The Council will manage the supply of housing land for the purpose of constructing 4,400 homes to meet Oxford’s needs. A separate five-year housing land supply will be maintained for meeting Oxford’s needs.”*** (CD/5.2 my emphasis)

6.11 I also note that the Partial Review examination Inspector, in paragraph 148 of his report, endorsed this approach where it ensures specific regard to the performance of the proposed strategy in response to addressing Oxford’s unmet needs:

***“Policy PR12a is concerned with delivery and the maintenance of housing supply. I can see the sense of the Council wanting to separate out their commitment to meeting Oxford’s unmet needs from their own commitments in the Local Plan 2015, as set out in the first paragraph of the policy. That would avoid the situation where meeting Oxford’s unmet needs could be disregarded because of better than expected performance on the Local Plan 2015 Cherwell commitments, or vice versa.”*** (CD/6.20 my emphasis)

6.12 The Main Modifications supported by the Inspector and required to ensure the Plan was considered sound support these conclusions within the Inspector’s Report. At Paragraph 151 of the Inspector’s Report the conclusion that “it is maintaining a five-year supply overall that matters” specifically relates to proposed Main Modification 136 that provides a references to the Housing Trajectory within the Partial Review (at Appendix 3 of the Plan (CD/5.2)). This calculates land supply specifically against the requirement within the adopted strategic policies of the Partial Review. The Partial Review was not subject to any legal challenge alleging that this approach was wrong in law and the time for bringing any such challenge has long passed. In any event, the housing requirement for Cherwell District identified in Policy BSC1 is now over five years’ old and that requirement is clearly relevant in this case. Therefore, NPPF(Dec)2023 paragraph 77 requires the use of the standard method based on an assessment of local housing need and makes no provision for taking account of any unmet needs in neighbouring areas.

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

6.14 To include the policies and allocations specifically identified to meet part of Oxford’s unmet needs within the assessment of supply against requirements within a single figure for the District would therefore not be consistent with NPPF paragraph 77.

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

6.16 That would materially undermine the spatial strategy of the Council as such an approach would potentially lead to a response to increase supply across the District due to under-delivery against policies and allocations specifically intended to provide for unmet need in Oxford in the most accessible and well-related locations in the District as identified for this purpose. This would ignore the objectives for the Partial Review and provision to contribute towards part of Oxford’s unmet needs.

6.17 It would ignore the correct application of the provisions of NPPF(Dec)2023 for proposals upon sites not identified in the Partial Review. Specifically, an assessment of supply to meet local housing need in the district excluding any contribution from those sites specifically identified to meet part of Oxford’s unmet needs and covered by separate adopted strategic policies

that are less than five years old.

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

- 6.18 Paragraph 77 of the NPPF(Dec)2023 retains two limbs. The first limb requires identification of the housing requirement set out in adopted strategic policies for the purposes of paragraph 74.
- 6.19 Paragraph 77 of the NPPF, not being the adopted development plan, cannot and does not seek to change the housing requirement set out in the adopted development plan. By referring to “*adopted strategic policies*” in the plural, the NPPF contemplates that regard may need to be had to more than one strategic policy.
- 6.20 Paragraph 77 of the NPPF(Dec)2023 does not prejudice the flexibility with which relevant strategic policies might be applied for the purposes of applying and assessing deliverable supply against the housing requirement. This is necessarily the case in order that the national policy requirement for the assessment of housing land supply does not hinder support elsewhere in national policy for either:
- a. joint plan-making arrangements; or
  - b. where authorities are required to consider contributions towards needs that cannot be met in neighbouring areas and provide for these needs in a sustainable way.
- 6.21 The relevant components of the housing requirement in adopted strategic policies may be adopted at different times, across different development plans and subject to different conclusions in terms of how supply should be assessed. Paragraph 77 of the NPPF(Dec)2023 does not state that the housing requirement in adopted strategic policies must be identified based on the sum of all relevant components nor must it utilise a singular figure. Neither does paragraph 77 state that one set of figures within (or across) given policies should take precedence. As noted above, the Inspector who examined the Partial Review clearly took the view that the previous version of the NPPF(2012) did not require this and there was no legal challenge brought to this.
- 6.22 Furthermore, any such reading of paragraph 77 would be inconsistent with the relevant legislative framework. Regulation 34 (3) in Part 8 of The Town and Country Planning (Local Planning) (England) Regulations 2012 requires that:
- “(3) Where a policy specified in a local plan specifies an annual number, or a number relating to any other period of net additional dwellings or net additional affordable dwellings in any part of the local planning authority’s area, the local planning authority’s monitoring report must specify the relevant number for the part of the local planning authority’s area concerned —*
- (a) in the period in respect of which the report is made, and*
  - (b) since the policy was first published, adopted or approved.”*

**d) Provision for Unmet Housing Needs Through Plan-Making and Adopted Strategic Policies in Cherwell**

- 6.23 Contributions towards unmet needs are an outcome from the preparation of strategic policies and a component of the development plan. These contributions only result from testing as part of the development plan process. This results in their inclusion as part of the housing requirement(s) of adopted strategic policies for the purposes of the first limb of NPPF(Dec)2023 paragraph 77.
- 6.24 The inclusion of contributions towards unmet needs is not assumed or expressly dealt within in national policy in NPPF(Dec)2023 paragraph 77.
- 6.25 Firstly, where the first limb of Paragraph 77 is engaged and the housing requirement in adopted strategic policies is used to assess supply this does not stipulate that any contribution towards unmet needs is to be assessed as part of an overall total for the authority.
- 6.26 Secondly, Paragraph 77 provides no qualification for considering unmet needs where local housing need calculated using the standard method provides the requirement against which supply is assessed (i.e., where the second limb is engaged).
- 6.27 National policy supports the plan-making process to achieve potential contributions to unmet needs where the outcome is to be reflected in adopted strategic policies that may take various forms and approaches (see NPPF(Dec)2023 paragraph 17) and ultimately applicable to the housing requirement against which supply is assessed for the purposes of NPPF2023 paragraph 77.
- 6.28 Paragraph 11(b) (subject to criteria (i) and (ii)) provides for the presumption for sustainable development in plan-making to prepare strategic policies that provide for any needs that cannot be met within neighbouring areas.
- 6.29 Paragraph 35 provides for the Examination of Plans and stipulates that unmet need should be accommodated as part of a positively prepared strategy consistent with the aims of sustainable development.
- 6.30 Paragraph 61 stipulates that any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for as part of the preparation of strategic policies (see also PPG ID: 2a-010-20201216). Paragraph 67 explains that the role of establishing a housing requirement for the whole of a strategic policy-making authority's area is to show the extent to which needs (including unmet needs from neighbouring areas) can be met over the plan period.
- 6.31 Support for this process is part of a plan-led approach to ensuring opportunities to increase the provision of land towards overall housing needs and significantly boost supply. Within Cherwell District the evidence base for this plan-making process includes the detailed testing of reasonable alternatives contributing towards the identification of exceptional circumstances for Green Belt release in locations best-suited to contribute towards Oxford's unmet needs (see CD/6.16 and CD/6.17 in respect of the Plan's Sustainability Appraisal).
- 6.32 Relevant separate adopted strategic policies providing for the housing requirement in respect of those outcomes are therefore applicable under the first limb of NPPF(Dec)2023 paragraph 77. Disregarding these where they are less than five years old is a departure from the development plan, contrary to the objectives of national policy, and would run contrary of the objectives of the Partial Review. This would further conflate the approach of those policies in relation to addressing need and supply.



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

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

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

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

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

- 6.51 In this sub-section I illustrate why the outcomes of plan-making in Cherwell district result in the specific approach to the housing requirement in adopted strategic policies. Provisions within the adopted development plans in neighbouring authorities are a unifying factor when looking at comparisons.
- 6.52 I would emphasise at the outset that there is no authority arising from these comparisons that can be applied directly to the circumstances for the requirement against which supply should be assessed in Cherwell. The only Appeal Decision I am aware of that is relevant in this regard pertains to the outcome of the inclusion of unmet needs as part of the requirement against which supply should be assessed in relation to the Grove Appeal Decision (APP/V3120/W/22/3310788) (CD/10.21) (in Vale of White Horse District).
- 6.53 In this case the approach to the requirement against which supply is to be assessed reflected the local planning authority's case with respect to contributions towards unmet needs. The appointed Inspector further indicated that the treatment of contributions towards Oxford's unmet needs was a function of the application of the strategic policies. Further discussion is contained in my Appendix 2 to confirm that this did not resolve any specific matters in dispute in relation to the application of national policy on the precise manner of the inclusion of unmet needs as part of the requirement against which supply was assessed under the facts of that case.
- 6.54 I also consider comparisons that may be drawn by the Appellant to the circumstances in neighbouring Oxfordshire authorities.
- 6.55 I further illustrate why these comparisons do not support the contention that the housing requirement against which supply should be assessed must be provided by a single figure.
- 6.56 Any such approach in Cherwell would fail to correctly apply the wording of NPPF2023 Paragraph 77; fail to properly reflect the distinction between plan-making and decision-taking; and have no regard to the circumstances for plan-making within each authority.
- 6.57 In Appendix 2 to my Proof of Evidence I consider Joint Working In Oxfordshire and Plan-Making Implications and Outcomes for Addressing Unmet Needs in **Vale of White Horse District, West Oxfordshire and South Oxfordshire**.
- 6.58 Regarding the application of national policy and comparisons with neighbouring authorities there are further overarching points that illustrate why any reliance upon these by the Appellant as part of its case for the requirement against which supply should be assessed would be incorrect:
- The principles of any comparison based on the requirement in adopted strategic policies in West Oxfordshire no longer apply and following the conclusions of a Regulation 10A Review (CD/6.14) the authority applies local housing need calculated using the standard method to assess supply (see CD/13.16).
  - The principles of any comparison in South Oxfordshire do not engage the second limb of NPPF(Dec)2023 for any aspect of decision-taking. Relevant strategic policies are less than five years old; it is necessary to have regard to only one adopted policy and

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

- 6.59 The Cherwell Local Plan Part 1 Partial Review was progressed and adopted with its focus on the specific purpose to contribute towards Oxford's unmet needs.
- 6.60 This is a material difference in the planned approach to meeting Oxford's unmet needs between the circumstances in neighbouring authorities, including the Vale of White Horse (VOWH) and Cherwell District. It is relevant to identify why the circumstances for how the contribution towards Oxford's unmet needs in Cherwell District is distinct from these examples.
- 6.61 The difference between the approaches and ultimately their relevance to the housing requirement in adopted strategic policies and NPPF(Dec)2023 paragraph 77 are bound up in plan-making.
- 6.62 Adopted Plans have passed the relevant tests for soundness and legal compliance and thus accord with the requirements of national policy when applied to the relevant plan-making context.
- 6.63 Having regard to the adopted development plan, and ensuring this is read as a whole, is a starting point for all decision-taking. It cannot be an exercise where, as suggested by the Appellant, the decision to disengage the adopted Plan for the purposes of applying national policy in paragraph 77 (as a material consideration) is determined by differences and disagreements regarding quality of the past approach to plan-making. Determining the application of the first limb of the NPPF(Dec)2023 in circumstances where separate relevant adopted strategic policies apply is not an evaluative exercise.
- 6.64 In terms of the approach to national policy understanding the differences between the approaches requires reference to the adopted Part 1 Local Plans in each authority. The very clear test in national policy to demonstrate exceptional circumstances for the amendment of Green Belt boundaries to provide for residential development was not satisfied in Cherwell.
- 6.65 For the Part 1 Cherwell Local Plan paragraph B.256, inserted via Main Modification following the Plan's Examination, sets out that the Local Plan's housing requirements and development strategy can be achieved without the need for a strategic review of the Green Belt in the district (CD/5.1). Within this context the approach to accommodating Oxford's unmet needs were to be specifically reconsidered under the Partial Review. Paragraph 242 of the Cherwell Local Plan Part 1 Inspector's Report (CD/6.19) outlines the reasons for this conclusion:

*"There are also likely to be particular complications and potential confusion that would arise for all concerned with such a review alongside the limited local OGB boundary review to meet employment needs. Additionally, there is the obvious difficulty of accurately assessing the needs that relate to Kidlington alone, rather than the wider Oxford area, especially if more than affordable housing is considered. Therefore, the Council's proposed modification to introduce such a commitment into the policy is not necessary and would be unsound, as exceptional circumstances do not exist at present to justify an OGB boundary review to help meet the local housing needs of the village [of Kidlington]."*

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



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

6.67 I consider the context and outcomes of strategic plan-making in Cherwell in this sub-section. I explain why the identification of sites to specifically contribute towards part of Oxford’s unmet needs reflects the approach in national policy and guidance.

6.68 Unlike VoWH, Cherwell District Council planned to meet needs on specific, allocated sites. The rationale for the approach is clearly set out within the Partial Review and is the reason why Cherwell (and the Partial Review examiner) did **not** add the unmet needs to the overall requirement.

*“1.4 The Partial Review provides a vision, objectives and specific policies for delivering additional development to help meet Oxford’s housing needs. It seeks to do this in a way that will best serve Oxford’s needs and provide benefits for existing communities in Cherwell and adjoining areas. The Partial Review is a positively prepared Plan. It avoids undermining the existing Local Plan’s development strategy for meeting Cherwell’s needs and detracting from the delivery of growth at Bicester, Banbury and former RAF Upper Heyford. The Plan aims to achieve sustainable development which will be deliverable by 2031.” (CD/5.2 my emphasis)*

6.69 This ensures provision for sustainable patterns of development in accordance with the objectives of the strategy. The reasons that progress regarding delivery of sites allocated within the Partial Review relates to the wider context for the sites and their functional relationship with addressing part of Oxford’s unmet needs is enshrined in the development plan (CD/5.2). Figure 10 (comprising the Key Diagram) illustrates the spatial relationship between the sites and Oxford City. Figure 10 also summarises the relationship of the sites with existing and proposed enhancement to sustainable transport (including expanded Park & Ride facilities) and delivery of the A44/A40 link road proposed by the County Council.

6.70 I have outlined that exceptional circumstances for amendment of Green Belt boundaries were not identified through preparation of the Local Plan Part 1 (CD/5.1). Exceptional circumstances were expressly identified for the purposes of the Partial Review to provide for sustainable patterns of development associated with Oxford’s unmet need.

6.71 This is a point specifically endorsed by the Part 2 Local Plan Inspector’s Report at Paragraph 46 and presented separately from the approach to plan-making within the Part 1 Local Plan:

*“Chief amongst these is the obvious and pressing need to provide open-market and affordable homes for Oxford; a need that Oxford cannot meet itself. On top of that, in seeking to accommodate their part of Oxford’s unmet need, the Council has undertaken a particularly rigorous approach to exploring various options. That process has produced a vision and a spatial strategy that is very clearly far superior to other options. There is a simple and inescapable logic behind meeting Oxford’s open market and affordable needs in locations as close as possible to the city, on the existing A44/A4260 transport corridor, with resulting travel patterns that would minimise the length of journeys into the city, and not be reliant on the private car. On top of that, existing relationships with the city would be nurtured. Finally, this approach is least likely to interfere with Cherwell’s own significant housing commitments set out in the Local Plan 2015.” (CD/6.20 my emphasis)*

6.72 The evidence base and site selection process to inform this clear strategy is evidently different to that informing the Part 1 Local Plan and aligned to the objectives of the Partial Review. An example is the Transport Topic Paper which outlines how the Transport Assessment initially informed a high-level assessment of 9 options against metrics including commuting flows and access to public transport (paragraphs 2.5-2.6) (CD/6.15).

- 6.73 This was further aligned with Sustainability Appraisal findings to support the selection of areas A (Kidlington and Surrounding Area) and B (North and East of Kidlington) represent the locations where Cherwell District could most sustainably accommodate Oxford's unmet housing need. However, site assessment and site selection was then informed through an assessment of impacts, identifying packages of options to support growth and aligning this with the objectives of the Local Transport Plan and national infrastructure projects to inform future requirements for development. This illustrates why the Partial Review set out to meet a series of separate objectives (see paragraph 3.12) (CD/6.16)
- 6.74 The suite of policies within the Partial Review therefore establish requirements for additional consultation and cooperation with key stakeholders jointly involved in delivery, including Oxford City Council, on matters such as design and affordable housing. Policy PR11 (Infrastructure Delivery) reflects this cooperative approach (see paragraph 5.146, for example). Moreover, the approach is embedded within the Strategic Objectives of the Plan, specifically those that are additional respect to the Partial Review (SO16 – SO19) with infrastructure matters being summarised in Strategic Objective 19:
- “To provide Cherwell's contribution to meeting Oxford's unmet housing needs in such a way that it complements the County Council's Local Transport Plan, including where applicable, its Oxford Transport Strategy and so that it facilitates demonstrable and deliverable improvements to the availability of sustainable transport for access to Oxford.”* (CD/5.2)
- 6.75 As part of the preparation and Examination of the Partial Review the Cherwell Delivery Position Paper (2019) summarises the relationship between planned investment relied upon to achieve this objective such as the Oxfordshire Growth Deal (CD/6.13). Projects identified within the Position Paper, or arising subsequently from strategies informing the Partial Review, are relevant to assessing deliverability of the sites identified to address part of Oxford's unmet needs.
- 6.76 Strategic transport and connectivity projects form early priorities within these related strategies, summarised between Paragraphs 3.18 to 3.24 of the Position Paper. Those relevant to the assessment of deliverability at the 1 April 2022 base-date include A44 public transport improvements, which are under construction (including provision of bus lanes). Pear tree roundabout interchange improvements including bus lanes are also under construction. These will help deliver and are necessary for the Partial Review proposals. Funds from the Growth Deal are being used for this.
- 6.77 Monitoring of infrastructure funding and delivery is actively undertaken by the Future Oxford Partnership and indicates delivery of both projects in 2023<sup>8</sup> (Copy at Appendix 3). Given the location and purpose of the projects to enhance connectivity with Oxford these projects are grouped with those related to the city itself. Oxfordshire County Council also undertakes monitoring of its role in the planning, funding and delivery of transport infrastructure projects at Kidlington and their relationship to sites within the Partial Review. This records, for example, that detailed design work has been undertaken for southbound bus lanes and cycle facilities at Kidlington Roundabout (related to sites PR6 and PR7a/b).
- 6.78 Engagement with the Department for Transport to secure funding and provide delivery timescales for other projects has also continued since the adoption of the Partial Review. The proposed closure of level crossings at Yarnton and Sandy Lane facilitates pedestrian and cycle access between site PR8 and Kidlington and funding forms part of a £68m package as part of the Oxford Corridor Phase 2 project. Receipt of the Secretary of State's Screening

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

Decision<sup>9</sup> (Copy at Appendix 4) is consistent with proposed timescales for a planning application and commencement of construction in 2024 and represents firm progress with infrastructure delivery.

- 6.79 In relation to affordable housing Policy PR2 of the Cherwell Local Plan Partial Review makes broader policy provisions to inform allocations to be made in accordance with an approach to be agreed between Cherwell District and Oxford City Councils. These provisions have regard to specific components of housing need including the proportion of affordable housing for rent and key-worker housing and applicable to sites specifically identified to contribute towards part of Oxford's unmet needs. This is different to circumstances in the Vale of White Horse where paragraph 2.25 of the Part 2 Local Plan for that authority states the allocation of affordable housing was to be agreed and there were no specific rights or allocations (CD/5.12).
- 6.80 The assessment of deliverable supply from sites identified in the Partial Review is therefore not relevant to the Council's case for the requirement against which supply should be assessed for the reasons outlined in my evidence.
- 6.81 The correct approach to assessing deliverability for these sites is nonetheless not an exercise undertaken in isolation from the adopted development plan and is by necessity one that may look beyond the status of individual sites. This is an intrinsic element of the approach to managing and supporting the delivery of sites specifically identified to address Oxford's unmet needs.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1154309/proposed-closures-of-yarnton-lane-sandy-lane-and-tackley-level-crossings-as-part-of-the-oxford-phase-2a-enhancement-works-transport-and-works-act-order.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1154309/proposed-closures-of-yarnton-lane-sandy-lane-and-tackley-level-crossings-as-part-of-the-oxford-phase-2a-enhancement-works-transport-and-works-act-order.pdf)

#### h) Cherwell Local Plan Review 2040

- 6.82 The Council consulted, under Regulation 18, on a Local Plan Review 2040 (CD/5.6). The consultation opened on Friday 22<sup>nd</sup> September and closed on Friday 3<sup>rd</sup> of November. The emerging Plan is at an early stage of preparation. Mr Wyke's evidence on planning policy and the planning balance identifies that very limited weight can be given to the policies of the emerging plan given its stage of preparation.
- 6.83 For the purposes of my evidence I further highlight that under the provisions of NPPF(Dec)2023 paragraph 77 it does not and cannot provide for the requirement against which supply should be assessed. Footnote 80 to paragraph 226 of the NPPF(Dec)2023 further confirms that where a relevant Plan under preparation at Regulation 18 stage does apply for the purposes of determining the extent of deliverable supply to be demonstrated the options for the requirement against which supply is to be assessed are either adopted strategic policies or local housing need where more than five years old. No regard is to be had to the emerging requirement.
- 6.84 I consider the current consultation version Plan below to explain distinctions with the adopted development plan and any relationship with addressing part of Oxford's unmet need in existing separate adopted strategic policies. .
- 6.85 The Regulation 18 version of the Plan is supported by a number of technical documents, including an Oxfordshire Housing and Economic Needs Assessment (HENA, 2022) (CD/6.8) which was jointly commissioned by the Council and Oxford City. The below table sets out the distribution of growth identified in respect of housing across Oxfordshire;

**Table 5. Distribution of Housing Need by Distribution of Employment in 2040**

Area	Projected % of Need	Scenario 1: Standard Method	Scenario 2: Census Adjusted	Scenario 3: Cambridge Econometrics Economic Baseline	Scenario 4: Economic Development Led
Oxon	100%	3,388	4,721	4,406	5,830
Cherwell	22.3%	776	1,081	1,009	1,335
Oxford	30%	1,016	1,416	1,322	1,749
South Oxon	18%	610	850	793	1,049
Vale of White Horse	16.2%	549	765	714	944
West Oxon	12.8%	434	604	564	746

- 6.86 The Council are progressing on the basis that Cherwell has a need for some 1,009 homes per year to meet project needs. The Council have also assumed that Oxford has a need for some 1,322 homes per annum. Overall housing requirement included proposed contributions towards Oxford's unmet needs could therefore be as follows:



**Table 6. Projected Housing Need**

Projected Housing Need	
Cherwell's Housing Need	1,009 pa
Oxford's Housing Need	1,322 pa
Oxford's Current Housing Capacity	457 pa
Oxford's Current Unmet Need	865 pa
Indicative % of Unmet Need to Cherwell	32.8%
Unmet Need Potentially Distributed to Cherwell	284 pa
Housing Need to be met in Cherwell	1,293 pa
2020-2040	25,860

- 6.87 Additionally, as confirmed at paragraph 3.187 of the Regulation 18 version of the Local Plan (CD/5.6), the Council, whilst acknowledging that additional work is required have suggested the following development options may be appropriate to provide for a net residual requirement of around 4,615 dwellings after accounting for committed supply and windfall:

**Table 7. Potential Development Sites/Supply**

Potential New Development Sites/Supply	
Banbury	
North of Wykham Lane	600
Withycombe Farm (conditionally approved)	230
Bicester	
South East of Wretchwick Green	800
South of Chesterton/North West of A41	500
Kidlington	
North of the Moors	300
South-East of Woodstock	450
Heyford Park	
South of Heyford Park	1,235
Rural Areas	
Indicative Allocation	500
Total	4,615

- 6.88 Draft Core Policy 34: District Wide Housing Distribution states that from 2020-2040 Cherwell will provide 25,860 homes in line with the below breakdown by location/element of supply:

**Table 8. District Wide Housing Distribution**

Banbury	5,950	Bicester	9,100
Kidlington	900	Heyford Park	3,120
Rural Areas	1,390	Partial Review Sites	4,400
Windfall	1,000		

- 6.89 A further 4,000 homes will be provided at North-West Bicester beyond 2040.
- 6.90 Aligned with the above, the Council, as part of the Regulation 18 consultation, directly in relation to draft Policy 34, provide a breakdown of current supply relative to this proposed spatial strategy (set out in Table 9 below).

**Table 9. Current Summary of Housing Supply**

	Completions	Existing Supply to 2040	New Supply	Total
Banbury	954	4,144	830	5,928
Bicester	817	6,979	1,300	9,096
Kidlington	109	32	750	891
Heyford Park	136	1,746	1,235	3,117
Rural Areas	351	538	500	1,389
Partial Review Sites	0	4,400	0	4,400
Windfall Projection	0	1,000	0	1,000
Totals	2,367	18,839	4,615	25,821

- 6.91 Paragraph 3.192 goes on to state the Council will review these emerging proposals and proposed distribution in light of further evidence on land availability and site suitability.
- 6.92 Notwithstanding my starting point that no weight can be attributed to the above strategy for decision-taking or NPPF(Dec)2023 paragraph 77 purposes I note the Appellant's case that the Local Plan Review proposes a single figure for the requirement against which to assess supply on adoption.
- 6.93 The Appellant considers that this materially supports their position that the contribution towards part of Oxford's unmet needs identified in the separate adopted strategic policies of the Partial Review should be added to the calculation of local housing need against which the supply in the district is to be assessed at the current time. I disagree and note the following points:
- The starting point for the proposed housing requirement is informed by an alternative to the Government's standard method. In accordance with the PPG any alternative must satisfy PPG ID: 2a-015 and where factors may indicate a result higher than provided by the standard method this will need to be assessed prior to, and separate from, considering how much of the overall need can be accommodated (and then

translated into a housing requirement figure for the strategic policies in the plan) (PPG ID: 2a-010). The distribution of the requirement may then be considered. Whilst this is permissible as part of plan-making, it is not permissible in a decision-making context. Nor would it even be possible to do so in practice.<sup>10</sup>

- b. I note the Local Plan Review consultation document contains no proposed housing trajectory nor any details of future phasing within the plan period. The consultation document contains no indication of the calculation of supply versus the proposed requirement at the intended adoption date. It would therefore be premature to make assumptions for how the requirement might be managed in future.
- c. The Council's proposed approach to illustrating the overall spatial strategy is different – for example separating growth at Heyford Park from Other Rural Areas.
- d. The circumstances within the Vale of White Horse (as reflected in the Grove Appeal Decision (CD/10.21) reflecting the relationship between Part 1 and Part 2 Local Plans when the confirmed level of unmet needs were the same (and to be considered as part of the total requirement) are fundamentally different to the Council here considering a change to its approach to managing the housing requirement as part of preparing a new Plan. In-particular:
  - i. The absolute level of unmet needs and the period over which they are to be addressed are expressly different to those dealt with under the Partial Review process.
  - ii. Under the proposed alternative approach the proposed contribution towards unmet needs would be a much smaller component of the total requirement proposed 2020-2040 relative to the extent of the requirement for Oxford's unmet needs in the separate strategic policies of the Partial Review when compared with residual totals for the 2011-2031 plan period from the Part 1 Local Plan.
  - iii. The Local Plan Review does not require regard to past shortfall against delivery of the Partial Review (or any component of housing need) prior to 2020, which is not the case if the separate adopted strategic policies of the Partial Review were added to the requirement used to assess supply at the present time.
  - iv. The annualised contribution of sites identified in the Partial Review over the revised proposed Plan Period 2020-2040 would be much smaller than the annualised supply envisaged by the Partial Review upon adoption. Without prejudice to the soundness of the overall approach proposed, when considered alongside the other components of the proposed distribution this may lessen the extent to which delivery of sites in the Partial Review could undermine the overall strategy if calculated together
  - v. To illustrate around 77% of the total proposed contribution to unmet needs would continue to be made by the Partial Review sites but unmet needs only 22% of the proposed requirement. This is materially different to adding the

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

housing requirement in the separate adopted strategic policies of the Partial Review to the calculation of local housing need which it is agreed provides the starting point to assess supply for the purposes of NPPF(Dec)2023 paragraph 77.

- 6.94 In line with paragraph 48 of the NPPF(Dec)2023, the weight to be afforded to relevant policies in an emerging plan should be considered against the stage of preparation that a plan is at, with plans at a more advance stage being afforded more weight. Additionally, consideration of weigh should accord with the extent to which there is unresolved objections to the proposed policies.
- 6.95 The emerging Local Plan is at the very earliest stage of preparation and is currently undergoing consultation. Given that the Plan is still subject to extensive additional testing, consultation and review, I consider that no weight can be attributed to the proposed requirement or the Council's alternative assessment of housing need for the purposes of assessing housing land supply in this Appeal.

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

- 6.96 The Appellant's case relies on a departure from the adopted development plan for the purposes of identifying the housing requirement against which supply should be assessed. This is not consistent with the operation of paragraph 77 of the NPPF(Dec)2023 particularly in terms of the treatment of unmet housing need.
- 6.97 Changes to the approach in the adopted development plan in terms of the location, scale and approach regarding managing supply (in this case specifically towards Oxford's unmet needs) are not appropriate for consideration as part of a S78 Appeal. This is a point summarised with the Leigh Sinton Appeal Decision in Malvern District<sup>11</sup> (CD/10.24). This relates to the circumstances of the South Worcestershire Joint Plan but makes relevant observations on national policy including:
- a. The specific wording of NPPF(Dec)2023 paragraph 77 does not stipulate a requirement for 'each individual authority' to identify a single housing requirement against which supply should be assessed. The context for the NPPF(Dec)2023 does not support the view that references to the specific wording used of 'local planning authorities', 'authority' and 'their' indicate that individual authorities are required to monitor their housing land supply (or do so against a single figure) (DL Paragraph 42)
  - b. The HDT is a separate measure from the identification of the requirement against which supply should be assessed. Within the above Appeal Decision this relates to the options to measure the HDT jointly or on a single authority basis, but the same point is true for the application of the net unmet needs adjustment which differs between the two processes. The two processes, although linked to a certain degree, are still separate processes with one being backwards looking and the other forward looking (DL Paragraph 43).
  - c. The PPG does not cover every possible situation in respect of identifying how the housing requirement against which supply should be assessed is identified. In the circumstances of this Appeal, it is pertinent that there are relatively few examples of Plans that make a contributions towards part of neighbours' unmet needs. This may contribute towards why PPG does not expressly refer to how these are to be dealt with as part of the requirement against which supply is to be assessed (DL Paragraph 44 and supporting High Court case reference *Tewkesbury Borough Council v SSHCLG* [2021] EWHC 2782 (Admin) (CD/11.4)).
  - d. An alternative approach, which in this case would ignore the approach towards contributions for part of unmet needs within adopted strategic policies and accounting for these on an individual authority basis, should not be followed where it has not been tested at examination (DL Paragraph 44).
- 6.98 In addition to consideration of this point in the Leigh Sinton appeal, it is also relevant to note the more recent decision issued in respect of an appeal by Lioncourt Strategic Land against Tewkesbury Borough Council in respect of a proposed development comprising 45no. dwellings at Truman's Farm, Gotherington (APP/G1630/W/23/3314936) (CD/10.25). As with this appeal, the Truman's Farm appeal was determined in the context of relevant strategic policies that were more than five years old and that had been found to require updating. The central area of dispute between parties related to whether 2,000 homes derived from the three JCS urban extensions allocations should be counted toward the Borough's supply. The allocations in questions met the unmet needs arising from Gloucester city. The Inspector

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<sup>11</sup> Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (CD/10.24)

confirms in their decision (paragraph 35) that it is expressly stated in the NPPF and PPG that LHN was intended to shift to planning on an authority by authority basis and as such confirmed;

*“37. I therefore find that 2,000 homes arising from donor sites should be discounted from the TBC’s position in respect of anticipated forward supply. Therefore on that basis alone forward housing land supply stands, at best, at 3.39 years (some 2,055 dwellings).37 That is a significant shortfall.38 Accordingly the most important policies should be deemed out of date for the purposes of NPPF paragraph 11.d), a finding which neither alters the statutory basis for decision taking nor indicates the weight to ascribe to any policy conflict”. (CD/10.25)*

- 6.99 The position presented by Tewkesbury Council is in effect the reverse of that presented as part of this appeal where the local planning authority in that case sought to disregard the background to previous plan-making for sites specifically identified to meet part of a neighbouring authorities unmet needs. The Inspector rejected this view on the basis that the identification of the housing requirement is inherently related to the plan-making process and this cannot be disregarded in terms of how it informs the future management of supply (DL Paragraph 32).
- 6.100 The decision to remove the elements of supply related to unmet needs in the Tewkesbury appeal confirms firstly that local housing need forms the requirement against which supply should be assessed for the entire area of each authority; that relevant strategic policies may specifically address the contribution of specific sites identified to address unmet needs; and that in respect of identifying the contribution of supply towards the requirement based on local housing need this exercise is undertaken separately having regard to the facts of the case and background to the development plan.
- 6.101 It follows that that the circumstances of the housing requirement in adopting strategic policies related to the contribution towards part of unmet needs in Cherwell District could be (and are) distinct from those in the Vale of White Horse and other neighbouring Oxfordshire authorities.
- 6.102 The Appellant does not allege that relevant strategic policies of the Cherwell Local Plan Partial Review need to be subject a review in accordance with Regulation 10A and a conclusion that they do not require updating in order to be applied separately for the purposes of NPPF(Dec)2023 paragraph 77. That is correct as a matter of principle because the relevant policies are less than five years old.
- 6.103 Taken to its logical conclusion, the Appellant’s case for treatment of unmet needs as part of the housing requirement against which supply must be assessed for the purposes of NPPF(Dec)2023 paragraph 77 would be a disincentive to the preparation of strategic policies to meet these needs.
- 6.104 The Appellant’s case suggests in all instances where local housing need is applicable to the assessment of supply then any contribution towards unmet needs must be added to the sum total.
- 6.105 The explicit basis for adoption of the Partial Review was instead to provide for a separate adopted spatial strategy to contribute towards part of Oxford’s unmet needs. The Partial Review was not adopted on the basis that a singular requirement was necessary and therefore did not anticipate that this would become the case where BSC1 became more than five years old. Accepting the Appellant’s proposition would be inconsistent with the views of three Inspectors on this point: the Inspector appointed to undertake Examination of the Partial Review and the conclusions on the requirement against which supply is to be assessed in Milcombe and Deddington.



- 6.106 The effect of disregarding the basis for preparation of the Partial Review would be to accept that the policies for the housing requirement contributing towards Oxford's unmet needs in the Partial Review Local Plan were at risk of playing no role in providing the spatial distribution or management of supply to meet those needs almost immediately upon adoption of that Plan in September 2020.
- 6.107 If it were the basis that a singular figure was required it was highly unlikely that Cherwell would have proceeded with the Partial Review.
- 6.108 Depending on the circumstances it would risk the tilted balance being engaged to meet needs at locations not in accordance with the carefully designed spatial strategy and justification for the allocation of sites to contribute towards part of Oxford's unmet needs within Cherwell District.

## 7.0 THE HEYFORD PARK DECISION LETTER

### i) Introduction

- 7.1 Within the Heyford Park Decision Letter (CD/10.1) relevant conclusions on the **requirement against which supply is to be assessed** are contained at Paragraphs 67 to 75. Paragraph 73 specifically confirms that the changes to national and policy and guidance since December 2023 were taken as determinative to the Inspector's conclusions. For the avoidance of doubt I outline in this section why I disagree with the Decision Letter both in terms of its interpretation of changes to national planning policy and because the conclusions of the Decision Letter in represent of the requirement against which supply is to be assessed set aside the approach in the adopted development plan contrary to a plan-led system. Both observations are consistent with the Council's proposed grounds of challenge to the Decision Letter.
- 7.2 In respect of the relevance of changes to national policy I highlight that any interpretation of the requirement to assess housing land supply as a 'creature of national policy' is a straw man. Knocking it down does not change the status of the development plan, and it does not make incorrect that Paragraph 77 of the NPPF(Dec)2023 refers to the housing requirement in adopted strategic policies for a reason because, where they apply, they describe exactly what is required in terms of how the requirement against which supply is to be assessed is to be identified and what those policies mean in terms of how supply has been identified and how it is to be managed. Failure to recognise the importance of the requirement against which supply is assessed to the identification of the policies most relevant to determination of the application (for Para 11(d) footnote 8 and also weight under para 225) has profound consequences and risks fatally undermining the development plan.
- 7.3 In simple terms the harm through disregarding the separate adopted strategic policies of the Partial Review that I address in this section arises because supply contributing towards part of Oxford's unmet needs is required in locations other than where it was envisaged under the Partial Review and in excess of the distribution (including to Banbury and Bicester) specified in the CLP2015. Contributions of supply towards the separate requirements of the Partial Review if accounted for on that basis, and thus contributing towards the 4,400 dwellings specified in Policy PR1, potentially further harms the delivery of the strategy in the Partial Review.
- 7.4 The changes to national policy and guidance from 19 December 2023 onwards post-date the Inquiry Event for Heyford Park. They could not be addressed in oral evidence. I note also that the issue of deliverable supply and the requirement against which this was to be assessed were considered under the Round Table format. While the Round Table is not referenced, and my details are not included upon the Decision Letter, I confirm that session took place, and I was present for it.
- 7.5 I note at the outset that the following points are absent from the conclusions in the Heyford Park Decision Letter:
- a. Any express reference to paragraph 77 of the NPPF(Dec)2023 for the purposes of decision-taking
  - b. Confirmation of any relevant adopted strategic policies (and their application) relevant to the resultant conclusion for the requirement against which supply is assessed for the purposes of the Decision Letter. Specifically, this includes no express reference to Policies PR12a and PR1 of the Cherwell Local Plan Partial Review.
  - c. Confirmation of the specific numerical requirement against which supply is to be assessed for the purposes of NPPF(Dec)2023 paragraph 77 and what this comprises.

- 7.6 I confirm that there is no change to my evidence, or the case on behalf of the Council, in relation to the **requirement against which supply is to be assessed**. For the purposes of the Decision Letter:
- a. Paragraph 70 of the Decision Letter addresses the contents of the previous 2012 version of the NPPF.
  - b. Paragraph 71 of the Decision Letter refers to Paragraph 67 of the NPPF(Dec)2023,
  - c. Paragraph 72 of the Decision Letter comprises a reference to paragraph NPPG ID: 68-055

**ii) Background and Structure of Response to the Decision Letter**

- 7.7 Before expanding upon the response to points covered by this section I reiterate my position that the application of paragraph 77 of the NPPF(Dec)2023 is relevant for decision-taking and identification of the requirement against which supply is to be assessed.
- 7.8 Both the Appellant's case, and any acceptance of the conclusions of the Heyford Park Decision Letter, relies upon a change in the interpretation of paragraph 77 of the NPPF(Dec)2023. It expands the list of policies most important for dealing with this Appeal to include those concerned with addressing part of Oxford's unmet needs through the separate adopted strategic policies of the Partial Review.
- 7.9 It relies upon those policies being found out-of-date while disregarding that those separate adopted strategic policies make specific provision for the Vision and Objectives of the Partial Review, prescribe the separate treatment of past shortfall and contributions to undersupply only where these accord with the Vision and Objectives of the Partial Review and therefore by drafting and design prescribe a separate calculation of housing land supply. Within that context:
- a. Paragraph 77 of the NPPF(Dec)2023 is unchanged following the December 2023 NPPF.
  - b. Paragraph 71 of the Heyford Park DL relies upon changes to Paragraph 67 of the Framework, which relates to plan-making. In practice this imports wording already extant in the PPG at 2a-010 and read as a whole paragraph 67 outlines the role of adopted strategic policies (plural) to determine the requirement(s) to assess supply.
  - c. The change in circumstances relied upon at Paragraph 72 of the Heyford Park DL and the resultant introduction of PPG ID: 68-055-20240205 stems from a separate issue over the period over which supply is to be assessed in some circumstances from December 2023.
- 7.10 It is my view that had the Government sought to fundamentally change and restrict the scope of national policy to prescribe how the requirement against which supply is to be assessed using a singular figure, for an individual authority, it would have addressed this through changes to Paragraph 77 of the NPPF(Dec)2023. Any changes to the PPG would have been clear in the role to address this point. My view is that the Government would not seek to import such a fundamental point while clarifying a separate dispute relating to the **period over which supply is to be assessed** following changes to paragraph 226 of the NPPF(Dec)2023.
- 7.11 It is therefore also relevant to note:
- a. The Heyford Park Decision Letter provides no reasons to indicate that the Council's position was incorrect with respect of the requirement against which supply was to be assessed before December 2023.

- b. The Heyford Park Decision Letter does not indicate that the LPA's approach to preparation of its adopted strategic policies was not a permissive one. Subsequent to adoption of the Partial Review but prior to the interpretation provided by the Heyford Park Decision Letter applications for housing in Cherwell District but outside of sites allocated in the Partial Review did not need to have regard to the policies most important for contributing towards part of Oxford's unmet needs including the separate Vision and Objectives in Policy PR1 . There is no conflict identified with how these specific adopted strategic policies are intended to operate on the Council's case, including with respect of the paragraph 11(d) and footnote 8 of the NPPF(Dec)2023. This is important because the Council's case still relies on a position tested at Examination (via the policies of the Partial Review). The conclusions of the Heyford Park DL (while not actually specifying what the requirement is used to assess supply) cannot be stated to be an approach tested as part of plan-making.
- c. The change in circumstances relied upon for the conclusion of the Heyford Park DL draws no support from the Housing Delivery Test. The conclusions of the Heyford Park Decision Letter in terms of the requirement against which supply is to be assessed are not the same as the number of homes required under the HDT.
- d. Paragraph 70 of the Heyford Park DL represents a suggestion that circumstances had already changed following adoption of the Partial Review under the NPPF2012 Framework. This is not relied upon for the actual conclusions based on the NPPF(Dec)2023 and moreover if it was correct it would equally have applied to the Deddington and Milcombe Decisions that the Inspector distances herself from in paragraph 74. Specifically, the change in circumstances relied upon is the publication of the Revised Framework and associated PPG.
- e. The potential harm to the spatial strategy in Policy BSC1 and the focus of growth on the most sustainable locations at Banbury, Bicester and Heyford Park acknowledged in paragraph 29 of the Decision Letter does not, as required by the approach using a singular requirement, further acknowledge potential harm to directing growth to sites allocated in the Partial Review as the most sustainably located sites to address part of Oxford's unmet needs.

7.12 Having set out these points, within the remainder of this section I address:

- a. Changes to Planning Practice Guidance
- b. The Relevance of Paragraph 67 of the NPPF(Dec)2023
- c. The Relevance of changes since the 2012 version of the Framework and their relationship with plan-making.
- d. Relationship with Oxford's Unmet Needs and the Partial Review
- e. The treatment of past shortfall

**a) Changes to Planning Practice Guidance**

7.13 The changes to Chapter 68 of the PPG 'Housing Supply and Delivery' need to be read together and applied consistently with the provisions of the NPPF for decision-taking. While changes were introduced most recently in February 2024 the majority of the chapter was fundamentally unchanged.

7.14 Of principal importance this includes PPG ID: 68-006 set out in full below:

***Which strategic housing policies are used to calculate the 5 year housing land supply where there is more than one strategic housing requirement policy for an area?***

*“Where there is a conflict between adopted strategic housing requirement policies (for example if a new spatial development strategy supersedes an adopted local plan), the most recently adopted policies will need to be used for the purposes of calculating 5 year housing land supply, in accordance with Section 38 (5) of the Planning and Compulsory Purchase Act 2004.”*

Paragraph: 006 Reference ID: 68-006-20190722

- 7.15 This confirms that more than one strategic policy may apply, and more than one housing requirement may be relevant for the assessment of a five year supply calculation.
- 7.16 This is entirely consistent with the content of the Regulations where separate adopted strategic policies are expected to have separate provisions for monitoring. There is no dispute between the parties that the Partial Review contains separate adopted strategic policies (see CD/7.9).
- 7.17 Paragraph 76 of the NPPF(Dec)2023 must also be grappled with in terms of whether the development plan for Cherwell is to be considered as a single Local Plan or provides for separate adopted strategic policies across two documents in terms of the management of need and supply. This has implications for potentially applying land supply protections in future and is dealt with in my Section 5. The Partial Review is listed separately in terms of Plans containing strategic policies within Planning Inspectorate Guidance (CD/7.9).
- 7.18 PPG ID: 68-055-20240205 is central to the conclusions of the Heyford Park DL at paragraph 72. It is relevant to set this out in full:

***What housing land supply does a local planning authority need to demonstrate for the purposes of decision making?***

***The criteria for housing land supply requirements for decision-making purposes are set out in paragraphs 76, 77 and 226 of the National Planning Policy Framework.***

*Paragraph 76 sets out the criteria under which an authority is not required to annually demonstrate a housing land supply for decision making. If an authority does not meet the criteria in paragraph 76, paragraph 77 sets out the housing land supply of specific deliverable sites that authorities should demonstrate **for decision-making against either their requirement figure or LHN as appropriate.***

*Paragraph 226 sets out criteria where, for a period of two years from the date of publication of the National Planning Policy Framework published on 19 December, an authority only needs, for the purposes of decision-making, 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) **against either its housing requirement figure or LHN as appropriate.***

*The glossary of the National Planning Policy Framework defines what can be counted as a deliverable site for these purposes - those that are available now, offer a suitable location for development now, and those that will be achievable with a realistic prospect that housing will be delivered on the site within five years. Both the 5 year housing land supply and the 4 year housing land supply that authorities should demonstrate for decision making should consist of deliverable housing sites demonstrated against the **authority's five year housing land supply requirement, including the appropriate buffer.***



Paragraph: 055 Reference ID: 68-055-20240205 (my emphasis)

7.19

7.20 For the following reasons PPG 68-055 clearly needs to be read in-full in terms of its application for decision-taking:

- a. Paragraph 77 is referred to as providing relevant criteria for the requirement against which supply is to be assessed.
- b. The paragraph specifies that decision-taking may be undertaken against either their requirement figure or LHN as appropriate – this element of the PPG makes no provision for whether the requirement to assess supply could be comprised of components including both local housing need and elements of separate adopted strategic policies.
- c. The final paragraph deals only with clarification of circumstances where the extent of supply to be demonstrated is to be measured against four years' worth of provision. The final sentence makes no reference to LHN, despite this potentially forming the requirement against which supply is to be assessed. The final sentence, read with 68-055 as a whole (or indeed reading the PPG and NPPF as a whole) cannot in any way be taken as definitive in terms of applying the criteria under paragraph 77 of the Framework and prescribing the particular format for a requirement.

7.21 It is my position that various other PPG references that may be claimed support a singular requirement do not prescribe this approach. I disagree that these references are determinative or in any way change the application of paragraph 77 for the purposes of decision-taking. For example, PPG ID: 68-002 refers to 'a housing requirement set out in adopted strategic policies, or against a local housing need figure'. The correct interpretation of this language is that more than one housing requirement may apply.

7.22 The PPG is replete with references to the role of adopted strategic policies (plural) where relevant to the identification of the requirement against which supply is to be assessed. This definition can only be applied within the context of the criteria provided at paragraph 77 of the NPPF(Dec)2023. This expressly does not require a single requirement to assess supply or for the calculation to be undertaken covering the whole boundary of a strategic policy-making authority.

#### **b) NPPF(Dec)2023 Paragraph 67**

7.23 Given the reference to paragraph 67 within Paragraph 71 of the Heyford Park DL it is relevant to set this out in full.

*"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.”*

- 7.24 Highlighted is the new wording to the NPPF in comparison to the previous 2019 version of the NPPF. At Paragraph 71 of the Heyford Park Decision Letter this sets out the first sentence of Paragraph 67 but does not outline the remainder of the Paragraph, which should be read as whole. This includes the reference to strategic policies (indicating that there may be more than one policy on housing land supply).
- 7.25 I reiterate that these changes relate to the plan-making process, to be considered following the changes to the NPPF in December 2023.
- 7.26 Chapter 2a of the PPG addresses plan-making and determining the level of need to be planned for (ID: 2a-001-20190220). The title of PPG ID: 2a-010 specifically reads “When might it be appropriate to plan for a higher housing need figure than the standard method indicates?”
- 7.27 Two points follow from this:
- a. The relevant component of the PPG incorporated into paragraph 67 specifically relates to *plan-making*.
  - b. The express reference to the standard method illustrates that the provisions of this paragraph are to be considered only in the context of needs identified by the standard method and not an evaluation of existing adopted development plans and the approach to requirements in existing adopted strategic policies.

**c) Relevance of Changes Since the 2012 Framework and Relationship to Plan-Making**

- 7.28 This section should be read in the context that the language of paragraph 77 of the NPPF(Dec)2023 has not changed.
- 7.29 I have highlighted that in respect of Paragraph 70 of the Heyford Park Decision Letter changes since the 2012 version of the NPPF cannot be relied upon as determinative to the Inspector's reasoning that the requirement against which supply is to be assessed has altered.
- 7.30 It is factually correct that the NPPF2012 and NPPF2018 did lead to changes in wording that reflect how we now read paragraph 77 (as was 74) and paragraph 47 of the NPPF2012.
- 7.31 Paragraph 47 of the (archived) 2012 version of the Framework explained that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their "housing requirements" (plural). Paragraph 77 refers to requirement in the singular, which follows the reference to requirement in the singular at the start of paragraph 67.
- 7.32 The Council's case relies upon the wording of paragraph 77 of the NPPF(Dec)2023 and specifically its reference to adopted strategic policies in the plural. This is a point not addressed by the Inspector in the Heyford Park Decision Letter.
- 7.33 In other words, notwithstanding the changes between the 2012 and 2018 versions of the Framework and notwithstanding no further change in 2023 there remains nothing in paragraph 77 that expressly says a single figure, single policy or single requirement for the authority must be used as the requirement to assess supply. The reference remains to adopted strategic policies, in the plural, together with circumstances where local housing need applies.
- 7.34 The Heyford Park Decision Letter also does not address this nor the need for consistency with other Appeal Decisions that were Core Documents for that Inquiry and that are also before this Appeal.
- 7.35 For example, paragraph 42 of PINS Ref: 3289643 (Leigh Sinton) states (CD/10.24):  
*"I have been presented with references to the specific wording used of 'local planning authorities', 'authority' and 'their', suggesting that this makes it clear that this indicates that individual authorities are required to monitor their housing land supply. However, I do not read the Framework in this context. It does not specifically refer to 'each individual authority' and therefore I cannot conclude that this was the intention behind the wording in this instance."*
- 7.36 Without any express change to the wording of paragraph 77 of the NPPF(Dec)2023 the Council's case is that this principle remains correct. It is a principle not only of relevance to Cherwell but in the circumstances of other plan-making outcomes where specific approaches to managing need and supply are identified.
- 7.37 For example, there is a separate body of Appeals in West Northamptonshire that have dealt with this point and reached a similar conclusions. I summarise as follows and will expand on these matters as required during the Round Table:
- **Appeal Ref: APP/Z2830/W/21/3269904 Land East of Lower Road, Milton Malsor, Northamptonshire** see DL Paragraphs 36 – 41 (copy at CD/10.38)  
Specifically, I would highlight DL Paragraph 39 *"There is nothing in paragraph 74 of the NPPF that requires use of a single administrative area in calculating the housing land supply. The NPPF encourages cross boundary working and co-operation and the JCS seeks specifically to address housing delivery in Northampton through the NRDA."*

- **Appeal Ref: APP/Z2830/W/20/3259839 Land south of Thenford Road, Middleton Cheney OX17 2NB** see DL Paragraphs 56-62 (copy at CD/10.39)  
 Specifically, I would highlight DL Paragraph 61 *“Furthermore, the Framework at paragraph 26 encourages cross boundary working and co-operation. The JCS has been prepared to address, in part, the very specific issue of Northampton being unable to meet its own housing needs within its administrative boundary which has been an ongoing issue for a lengthy period. To then monitor housing supply figures on administrative areas would run counter to the objectives of the JCS.”*
- **Appeal Ref: APP/Z2830/W/21/3270614 Land off Northampton Road, Blisworth, West Northamptonshire** see DL Paragraphs 13 - 24 (copy at CD/10.40)  
 Specifically, I would highlight DL Paragraph 16 *“Although there are differences between the Council’s approach, the Framework and Guidance its strategic approach forms part of its adopted policy. In contrast the Framework is a material consideration, albeit an important one. However, the Framework does not carry the same weight as the policies included in the WNJCS.”*

7.38 These principles remain consistent with the Council’s case for precluding conflating need and supply through the implementation of the separate adopted strategic policies of the Partial Review. The approach to addressing unmet need, and how this is addressed through adopted strategic policies, is fundamentally an outcome of the plan-making process.

#### **d) Relationship With Oxford’s Unmet Needs and the Partial Review**

- 7.39 With respect of Paragraph 70 of the Heyford Park Decision Letter I consider that it is incorrect that the outcome of the Partial Review can be interpreted as an outcome of plan-making where the approach to and effectiveness of separate strategic policies was considered only against the requirements of the NPPF2012.
- 7.40 While that is strictly correct as a matter of transitional arrangements for the purposes of its Examination the Inspector was clearly aware of the requirements of the 2018 version of the Framework. For example, paragraphs 132 and 158 of the Inspector’s Report address the definition of affordable housing under the ‘current’ (2019) version of the Framework (CD/6.20).
- 7.41 Beyond this the Heyford Park Decision Letter makes no express reference to separate adopted strategic policies PR12a and PR1 of the Partial Review nor more widely the relevance of the process for preparation and adoption of that Plan. That the adopted development plan makes specific provision to preclude the inclusion of contributions towards part of Oxford’s unmet need from the requirement against which supply is to be assessed in this Appeal is also absent from the Appellant’s Statement of Case .
- 7.42 The original allocation of the PR sites (as set out in the sustainability appraisal of the Partial Review) was to provide new residential development that included:
1. Proximity to Oxford, the existing availability of public transport and the opportunity to maximise the use of sustainable and affordable transport in accessing Oxford’s key employment areas and services and facilities.
  2. Opportunity to achieve an overall, proportionate reduction in reliance on the private motor vehicle in accessing Oxford’s key employment areas and services and facilities and to achieve further investment in sustainable transport infrastructure.
  3. Deliverability of sustainable transport improvements in comparison to other Areas of Search.
  4. Relationship of existing communities to Oxford.

5. Existing economic relationship between the Areas of Search and Oxford

6. Opportunity to provide affordable homes to meet Oxford's identified need close to the source of that need.

7.43 The Inspector at the Heyford appeal makes no assessment of this matter in the decision to amalgamate housing land supply or the exceptional circumstances that were required as part of the Development Plan preparation.

7.44 The Partial Review is less than five years old. This matter is also not discussed by the Inspector within the Heyford Park Decision Letter.

7.45 In respect of the Partial Review becoming more than five-years old Para 74 of the NPPF(Dec)2023 states –

*“The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns...”*

7.46 As set out in Regulations, for dwellings, a large scale major development is one where the number of residential units to be constructed is 200 or more. The Partial Review makes provision as follows:

- PR6a – 690\*
- PR6b – 670\*
- PR7a – 466 (by the resolution to grant) – Allocation 430
- PR7b – 123 (by the resolution to grant) – Allocation 120\*.
- PR8 – 2100 (in the submissions) – Allocation 1950
- PR9 – 540 (both the application and allocation)

7.47 The allocations of PR6a and PR6b together with PR7a and PR7b are considered to have intimate relationships to each other and fall under the same heading and policy justification.

7.48 The PR Sites are in and around Kidlington which has a population of c.13723 (2011 Census) so 4,400 houses would be a significant extension to Kidlington as shown on the Adopted Policies Map (Appendix 1 of the Partial Review).

7.49 Further Appendix 4 outlines the level of infrastructure expected to be delivered and how it will be secured (funding and s106s). This complies with Para 74 –

*Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way. In doing so, they should:*

*a) consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains.....*

7.50 The Partial Review was subject to Challenge, and the County Council wanted to review the Transport Model and therefore did not remove a highways objection until mid-2023, so the resolutions to grant and progress has been made in a quick and efficient manner.

7.51 It is noted that Footnote 39 of the NPPF(Dec)2023 follows *“The delivery of large scale developments may need to extend beyond an individual plan period, and the associated infrastructure requirements may not be capable of being identified fully at the outset. Anticipated rates of delivery and infrastructure requirements should, therefore, be kept under*

*review and reflected as policies are updated”.*

- 7.52 Preparation of plans or policies and decision making are common phrases in a number of paras of the NPPF. The NPPF and Government is therefore setting out the expectation of where large-scale developments should be re-assessed.
- 7.53 Therefore, if the point of the non-delivery of the Partial Review sites is an issue, then this would be dealt with through the Local Plan Review and Reg 19 stage for more certainty. The NPPF tells us it is not a matter for any s78 Appeal to address this assessment.

#### **e) The Treatment of Past Shortfall**

- 7.54 Consistent with the position of the Council’s published AMR and the PPG there should be no adjustment for past shortfall where this is provided by local housing need for Cherwell District calculated in accordance with the standard method (PPG ID: 68-031-20190722). provision for this (through the affordability uplift) is imbedded in the standard methodology assumptions.
- 7.55 It is my understanding that the parties disagree regarding the inclusion of the separate adopted strategic policies providing for part of Oxford’s unmet need to the requirement against which supply is to be assessed for this Appeal.
- 7.56 I do not understand there to be any dispute between the parties that those policies are less than five years old, and require performance (including any surplus/shortfall) to be monitored separately. This is consistent with a shortfall of 680 dwellings against the adopted strategic policies of the Partial Review as shown in Table 4 above.
- 7.57 The relevant paragraph of the PPG applicable to any dispute between the parties on shortfall is titled: *“How can past shortfalls in housing completions against planned requirements be addressed?”* (my emphasis)
- 7.58 This explains: *“The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period”* (my emphasis).
- 7.59 The Council’s position, shown in rows (g) and (i) of Table 4 above is undertaken consistent with the PPG and provisions of the relevant strategic policies.
- 7.60 For the avoidance of doubt my position is that the Appellant’s case for a singular figure for the requirement against which supply is to be assessed comprising local housing need and the adopted strategic policies of the partial review is not a *planned requirement* for the purposes of the treatment of past shortfall. It would not be appropriate to add the shortfall of 680 measured specifically against the adopted strategic policies of the Partial Review.
- 7.61 The PPG states:
- “Where the standard method for assessing local housing need is used as the starting point in forming the planned requirement for housing, Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure.”*
- 7.62 This established a situation where under-delivery (or over-delivery) is not measured across Cherwell District as a whole against either local housing need nor the figure for local housing need together with the requirements of the Partial Review and yet the calculation of the five-year requirement using a singular figure attracts the full shortfall of 680 dwellings measured specifically against the geographic area for the policies covered by the Partial Review.
- 7.63 Such a position, for the Appellant’s case, is inconsistent with the development plan in



Cherwell and inconsistent with the approach in the Vale of White Horse. It fails to have regard to the distinctions between adopted strategic policies to provide for unmet needs in Cherwell and Vale of White Horse that I have outlined in my Section 6(f).

- 7.64 Within the Vale of White Horse a separate adopted strategic Policy (CP4a) is less than five years old (within the Part 2 Local Plan) and continues to specify a contribution towards part of Oxford's unmet needs. This figure is considered indistinguishable from the provision identified towards housing supply in the Vale of White Horse and thus the monitoring of need and supply is undertaken district-wide. In those circumstances VoWH reports total delivery in the district against *only* the planned requirement of the Part 2 Plan (consistent with the PPG) and also illustrates total delivery versus Policy CP4a and local housing need combined. In both instances, no shortfall arises (CD/5.12).
- 7.65 Within Cherwell, using the AMR, 1,188 dwellings were completed in 2021/22 and 1,318 in 2022/23. This would be a surplus of +1,826 versus the Partial Review planned requirement for the same period (680 dwellings see Table 4 row e). Even accounting for LHN and the Partial Review combined, though not fully according with the PPG, delivery would be +414 dwelling measured versus LHN together with the Partial Review (706 + 706 + 680 = 2,092)
- 7.66 This Council's case is consistent with the PPG and on the basis that only supply identified towards meeting Oxford's unmet needs within the Partial Review is counted towards the requirements of that Plan.
- 7.67 The Appellant's case for a singular figure seeks to set aside these geographic controls over need and supply, such that delivery across Cherwell District would contribute towards Oxford's unmet needs, but with reference to calculating shortfall has no regard to total delivery in Cherwell since adoption of the Partial Review with a 2021 base-date.
- 7.68 For the avoidance of doubt this is not an approach advocated by the development plan. The policies of the Partial Review, particularly those PR1 and PR12a specifying the approach to providing a contribution of 4,400 homes towards part of Oxford's unmet needs do this in a specific way to accord with the policies of the Partial Review Plan which contain policies which combine to establish what sustainable development to meet the unmet needs of Oxford (within CDC area) is pursuant to Section 38(6) of the 2004 Act<sup>12</sup>.
- 7.69 The policies are set out in terms that seek to ensure preventing harm to the specific strategy for meeting these needs. The policies do not invite development elsewhere to contribute towards these needs where it would not satisfy the Vision and Objectives of the PR. Nor do the policies invite a scenario where the delivery of the PR would contribute to needs elsewhere in Cherwell; the policies prevent harm to the distribution of development provided in Policy BSC1 and a focus on the most sustainable locations of Banbury, Bicester and Heyford Park to address the district's needs.
- 7.70 The policies are carefully constructed to manage the treatment of need and supply as an express outcome of the plan-making process and the separate treatment of the adopted strategic policies of PR is one that is tested, and entirely permissive for the purposes of decision-taking under the NPPF<sup>13</sup>. Not following these provisions, without good reason for the treatment of the aforementioned policies, is contrary to the plan-led approach for development in Cherwell. Adding shortfall against the planned requirements of the Partial Review is also contrary to the PPG and a plan-led approach.

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<sup>12</sup> With the confirmation of two Plans containing relevant strategic policies contained in CD 7.9

<sup>13</sup> See in particular paragraphs 5.75 (a-d) and 5.78 of Mr Goodall's main PoE in respect of these principles and support for his conclusions that the identification of the housing requirement is inherently related to the plan-making process and this cannot be disregarded in terms of how it informs the future management of supply



## 8.0 HOUSING DELIVERY TEST AND THE APPROPRIATE BUFFER

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

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

**Table 10. Housing Delivery Test Result**

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

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

- 8.2 The Housing Delivery Test deals with delivery. It is agreed that the HDT is passed.
- 8.3 The relevant HDT Result of 143% is calculated on a single authority basis for Cherwell District. No buffer is to be applied in accordance with the provisions of the NPPF(Dec)2023.
- 8.4 The HDT cannot determine the approach to calculating the housing requirement and housing land supply, which is a separate subject.
- 8.5 The approach to the housing requirement and housing land supply are set out in the development plan, which s.38(6) requires us to follow.
- 8.6 Notwithstanding any argument the Appellant may advance I demonstrate below that the calculation of the Housing Delivery Test is not relevant to the calculation of the housing requirement against which supply should be assessed.
- 8.7 In simple terms any scenario where the calculation of the number of homes required under the HDT arrives at a different answer to the requirement against which deliverable supply is to be assessed for this Appeal demonstrates that the HDT is a separate test to the measurement of housing land supply. This applies through my evidence on behalf of the Council where LHN forms the requirement to assess supply in accordance with NPPF(Dec)2023 paragraph 77. Difference with the number of homes required under the HDT also applies to the Appellant's case for a singular figure to assess supply including contributions towards part of Oxford's unmet needs specifically identified via the Partial Review.

- 8.8 I illustrate this with reference to the 2022 Housing Delivery Test calculations for both Cherwell District and Vale of White Horse District. References to the national policy and Planning Practice Guidance are provided together with the Housing Delivery Test Rule Book (CD/13.12) and Housing Delivery Test Measurement Technical Note (CD/13.11).
- 8.9 As Appendix 1 to my Proof of Evidence I have prepared calculations of the number of homes required (including unmet needs adjustments) for the HDT measurement in Cherwell District and Vale of White Horse District.
- 8.10 Both illustrate that the net unmet needs adjustment is not the same as the position the Appellant relies upon to calculate the requirement to assess supply. I have also illustrated the calculation of the number of homes required for Oxford City Council to illustrate why the HDT is inconsistent with the requirement against which supply would be assessed in the city if local housing need applied. This reinforces that the Appellant's position on the HDT cannot be applied correctly or consistently to determine the requirement to assess supply.

**c) Response to the Potential Use of the Housing Delivery Test**

- 8.11 It is relevant strategic policies *providing* for unmet needs and how these are applied that determine the application of NPPF(Dec)2023 paragraph 77 to unmet needs. Whether these continue to relate to the requirement against which supply is to be assessed for the purposes of a given application continues to be determined separately when other policies have been found to require updating.
- 8.12 There are no provisions to apply the same net unmet needs adjustment within the HDT for the purposes of NPPF(Dec)2023 paragraph 77. It is my view, and consistent with the calculations summarised above, that **unless there are additional strategic policies** dealing with the level and approach of contributions towards unmet needs then unmet needs should not be considered as part of the requirement against which supply is assessed when the second limb of NPPF2023 paragraph 77 and local housing need applies. This is entirely consistent with the recent Tewkesbury Appeal Decision in PINS Ref: 3284820 (CD/10.27 see DL Paragraph 45).
- 8.13 This would also be consistent with continuing to operate separate arrangements for monitoring the supply from sites previously identified to make a specific contribution towards unmet needs. This may be the approach to monitoring even were these to no longer relate to a specific housing requirement that continues to be applied for the purposes of adopted strategic policies (which is not the case in Cherwell).
- 8.14 Such an approach would, for example, ensure that such sites were not being counted towards a local planning authority's local housing need in circumstances where there is an expectation they would continue to form part of identified provision towards future levels of unmet need to be identified in subsequent rounds of plan-making. This is consistent with how the housing requirement related to contributions towards part of Oxford's unmet needs is currently being applied and monitored through the policies of the Partial Review.
- 8.15 This relates back to the language of NPPF(Dec)2023 paragraph 77 where the housing requirement in adopted strategic policies may require regard to more than one policy. The manner in which aspects of the housing requirement (such as contributions towards unmet need) are apportioned will not necessarily be the same as the net calculation of unmet needs derived on a single authority basis for the purposes of the Housing Delivery Test. In the case of Cherwell District, they are fundamentally different.

## 9.0 ASSESSMENT OF DISPUTED SUPPLY FROM SPECIFIC DELIVERABLE SITES

### a) Introduction

- 9.1 At the time of writing, I have outlined information relevant to supporting the Council's assessment of deliverability only upon those sites that I understand remain in dispute as part of the draft Topic SoCG.

### b) My Position Prior to Responding to the Appellant's Position on Forecast Supply with Regards to National Policy and Guidance

- 9.2 Pending receipt of details for supply contested by the Appellant I set out my position on matters to be considered in providing a response.
- 9.3 In seeking to narrow any dispute between the parties I highlight that the Appellant's approach to identifying contested sites must be consistent and objective.
- 9.4 The Appellant has indicated an intention to contest sites falling under the examples given in both parts (a) and (b) of the NPPF2023 definition of deliverable including those that wholly or partly benefitted from a detailed permission at the base-date. In those circumstances the Appellants effectively seek two opportunities to contest deliverability on relevant 'part (a) sites':
- 1) To suggest that part (a) of the NPPF2019 test was not satisfied on 1 April 2023.
  - 2) To consider further information post-dating 1 April 2023 to suggest *clear evidence* that homes will not be delivered within five years.
- 9.5 The Council's published assessment also includes sites falling under 'part (b)' of the NPPF2019 definition of deliverable where the onus falls upon the local planning authority to provide clear evidence of deliverability. Judgements on the deliverability of sites (or parts thereof) falling under part (b) is therefore also relevant to the dispute between the parties on specific sites.
- 9.6 Revisiting the assessment of deliverability for sites falling under part (a) or part (b) of the definition must have regard to whether these meet the NPPF central test that there is a realistic prospect that housing will be delivered within five years<sup>14</sup> – that they are available now, offer a suitable location for development now, and are achievable.
- 9.7 The PPG sets out a non-exhaustive list of evidence that may be considered to demonstrate deliverability and the progress of sites (ID: 68-007-20190722). The Council's published position draws upon these examples within the PPG, including in some cases the engagement with developers as outlined in Paragraph 35 of the HLSS. In themselves these are neither a pre-requisite for confirming deliverability nor confirmation of clear evidence of a realistic prospect. The published position cannot reflect the totality of information available to the Council in terms of the status of sites within the development management process and can only provide a snapshot in time in terms of the position for development of the site.
- 9.8 I draw attention to Inspector Clark's Decision Letter for Poplar Hill, Stowmarket (PINS Ref: 3214324) (CD/10.23) which supports my view on the approach to assessing deliverability. The second and third main criticisms of the Council's evidence made by the appellant in that Appeal related to respectively whether information gathered after the cut-off date may be

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<sup>14</sup> See Secretary of State decision letter concerning Land at site of former North Worcestershire Golf Club, Hanging Lane, Birmingham, 3192918 (24 July 2019) at paragraph 20: "*The Secretary of State has carefully considered the Inspector's conclusions on the meaning of the definition of deliverability in the Framework. For the reasons given at IR14.35-14.43 he agrees with the Inspector's view that 'realistic prospect' remains the central test against which the deliverability of all sites must be measured (IR14.41) (CD/10.28).*"

relevant when it confirms assumptions applied when deciding what should be included in forecast supply; and whether sites without Reserved Matters approval at the base-date should be included in the supply. The Inspector found in favour of the Council on both points (DL Paragraph 61 – 63) where the Council demonstrated that its assumptions were well-founded.

- 9.9 Local evidence such as likely build-out rates on sites with similar characteristics, and timescales for development, as specified in the PPG for the purposes of assessing the developability or deliverability of sites (ID: 68-020-20190722) also reasonably falls into an understanding of the position on disputed sites when relevant to judgement at the base-date.
- 9.10 The following points are relevant:
- a. It is necessary to objectively revisit all parts of the Council's conclusions where there is a requirement to demonstrate clear evidence of a realistic prospect for completions beginning on site within five years.
  - b. Where other evidence is relied upon to inform assessments of delivery rates and timescales this should be applied objectively to all sites in dispute. It should further be recognised that this information may be different to the combination of factors used to inform the Council's judgement of deliverability in the published assessment.
- 9.11 In terms of the observations provided in my evidence on behalf of the Council, including responding to the position in dispute regarding the assessment of deliverable supply from specific sites, it follows that subsequent activity after publication of the December 2023 AMR would be relevant as a further indication that the Council's assumptions were well-founded.

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

- 9.12 I set out the following observations to provide my view on the Council's most recent AMR (CD/6.9) where it is relevant to clarifying the dispute between the parties regarding the assessment of deliverability and forecast of supply from specific sites. This is relevant to confirming where my professional opinion supports the Council's assessment.
- 9.13 The Updated Assessment provides a base date of 1 April 2023 and covers the five year period 1 April 2023 to 31 March 2028. Appendix 1 of the AMR should not be read in isolation. I note that 'Theme 2: Building Sustainable Communities' within the main AMR document references and provides a summary of the Updated Assessment and provides relevant information relating to housing delivery at Paragraphs 4.27 – 4.34 and tables therein.
- 9.14 Paragraphs 4.121 - 4.127 and the tables therein also provide reporting against indicators for Policies Villages 1 and Villages 2. This includes an assessment of housing completions and outstanding planning commitments within certain settlements and thus provides relevant information relating to housing delivery.

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

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

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

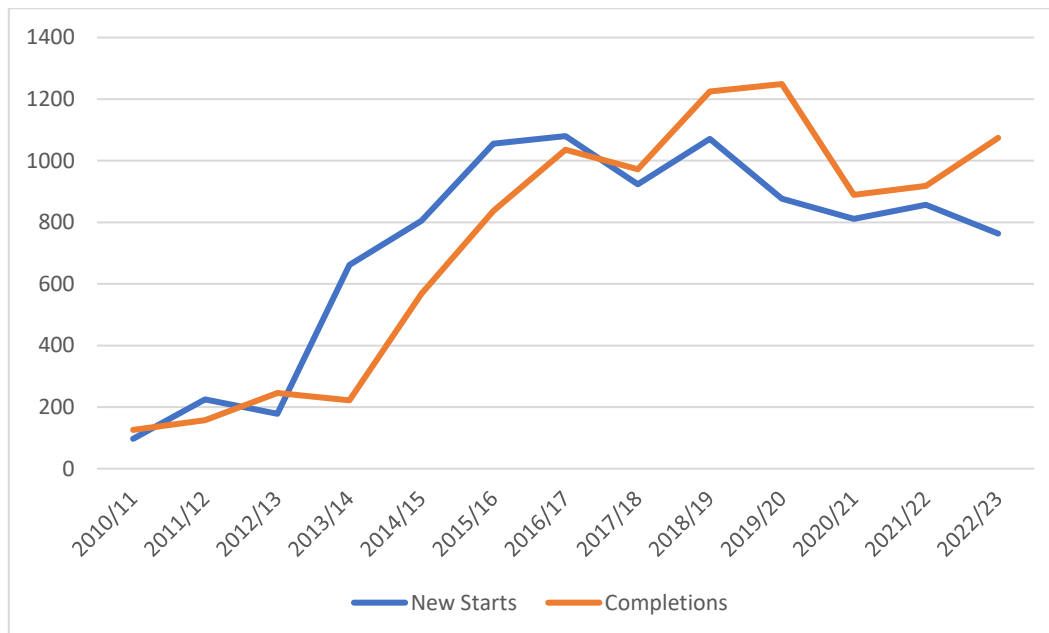
- 9.18 The assessment of deliverability does not provide or require certainty of delivery and inherently includes a greater number of variables later in the forecast for a five-year period. In the Council's case Table 11 also shows it has generally adopted a conservative approach to successive updates to assessments such that these in some instances show forecasts for subsequent years being revised downwards. This does not necessarily indicate an absence of clear evidence of deliverability of sites. It may instead reflect adjustments to assumptions for start dates or build-out rates. A positive relationship between actual and forecast completions in the first year remains a leading indicator that even if greater conservatism is applied to forecasts for later years the level of development activity remains robust and that sites may still come forward faster or sooner. In any event even more recent more conservative forecasts considered against the background of completions exceeding 1,100dpa indicate a robust expectation of supply in excess of local housing need

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

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

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

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



Source:

<https://app.powerbi.com/view?r=eyJrIjoizjg4NWl1MjMtZTRkNC00MGM4LWFkZTltMjdIODc4YWUwOTdhliwidCI6ImJmMzQ2ODEwLTljN2QtNDNkZS1hODcyLTl0YTJIZjM5OTVhOCJ9>

**Table 12. Indicators of New Supply - Starts and Completions**

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

Source:

<https://app.powerbi.com/view?r=eyJrIjoizjg4NWl1MjMtZTRkNC00MGM4LWFkZTltMjdIODc4YWUwOTdhliwidCI6ImJmMzQ2ODEwLTljN2QtNDNkZS1hODcyLTl0YTJIZjM5OTVhOCJ9>

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



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

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

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

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

Source:

<https://app.powerbi.com/view?r=eyJrIjoiazg4NWw1MjMtZTRkNC00MGM4LWFkZTItMjdIODc4YWwOTdhliwidCI6ImZmMzQ2ODEwLTJhN2Q0NDNkZS1hODcyLTl0YTJlZjM5OTVhOCJ9>

## ii) Local Evidence for Housing Delivery – Current Construction Activity

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

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

<b>Component of Supply</b>	<b>2023/24</b>
Small Sites - 'Started'	113
Under Construction	536
Granted <sup>15</sup>	201
Total - U/C	649
Total - incl Granted	850
<b>Granted - 0 forecast 2023/24</b>	
AMR Notes indicate commencement <sup>16</sup>	239
<b>Total including sites with commencement</b>	<b>1089</b>

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

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

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

<sup>15</sup> South of Salt Way – East; Former RAF Upper Heyford; Land at Merton Road, Ambrosden; Land North of Hempton Road and West of Wimborn Close, Deddington; Land South and Adj. to Cascade Road, Hook Norton; Land South of Home Farm House, Clifton Road, Deddington; "OS Parcel 9100 Adjoining And East Of Last House Adjoining And North Of Berry Hill Road, Adderbury"; The Ley Community, Sandy Lane, Yarnton

<sup>16</sup> OS Parcel 9507 South of 26 and adjoining Fewcott Road, Fritwell; OS Parcel 9507 South of 26 and adjoining Fewcott Road, Fritwell; Land West of Southam Road; Bolton Road; North West Bicester Eco- Town Exemplar Project (Mixed-Use Centre)

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

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

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

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

- 9.30 Finally, in respect of build-out rates I note that the AMR includes at Table 16 an annual schedule of progress and completions on strategic sites. This indicates that strategic sites in Cherwell have regularly delivered substantially in excess of 100 dwellings per annum and that average completions of over 50 dwellings per annum have been achieved by single developers. In 2022/23 over 250 completions were achieved at RAF Upper Heyford and Kingsmere Phase 2.
- 9.31 In Table 16 below I have illustrated a sample of strategic sites from the Council's Updated Assessment. Reflecting progress on other strategic sites this generally indicates a more conservative series of forecasts and in-part corresponds to those remaining strategic sites with a higher proportion of supply falling under 'part (b)' of the NPPF definition at the base-date. The Council's approach is nonetheless consistent with local evidence for the delivery of strategic sites as outlined in its AMR.

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

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

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

- 9.32 This analysis is critical to informing my assessment of the robustness of the Council's assessment of supply. Of 4,121 units forecast in the most recent assessment 1,967 units (48%) comprise sites under part (b) of the definition in national policy. This is relevant to the assessment of deliverability and sites requiring clear evidence of a realistic prospect of completions within five years. The proportion of sites falling under part (b) has increased from the previous assessment of supply at 1 April 2022 (comprising around 27% (1,092 units') of the previous total).
- 9.33 It is relevant, however, to note that within this global total there is a more nuanced understanding of the requirements of clear evidence and the information available to support the Council's assessment at the 1 April 2023 base-date. Based on the position of discussions regarding the HLS Topic SoCG at the point of exchanging evidence the Appellant is seeking to dispute the assessment of up to 1434 units' supply from specific deliverable sites compared to the Council's published position of which 1293<sup>17</sup> units are upon sites falling under part (b) of the definition. This corresponds to only around 30% of the total under 'part (b)' sites.
- 9.34 The total forecast supply falling under 'part (b)' can be summarised across three components:
- Sites falling under 'part b' at the base date and assessed as deliverable in previous iterations of the HLSS but without detailed permission
  - Sites falling under 'part b' at the base date and with detailed (Reserved Matters) permission granted since the base-date

<sup>17</sup> Up to 141 units are identified as contested at Graven Hill under 20/02345/LDO comprising a Local Development Order and thus detailed permission for the purposes of part (a) of the definition of deliverable. In my paragraph 8.49 I confirm that based on a reconciliation of permission records -33 units should be removed from the Council's published position which has resolved the dispute between parties in previous Appeals.

- Site falling under 'part b' at the base date and not assessed as deliverable in previous iterations of the HLSS.

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

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

	AMR Dec 2023	Appellant	Difference
Part B Sites - No Detailed Permission included in previous assessments	330	0	-330
Part B Sites - Detailed Permission Granted Since 1 April 2023	1187	674	-513
Part B Sites - No Detailed Permission and not included in previous assessments	450	0	-450
<b>Total</b>	<b>1967</b>	<b>674</b>	<b>-1293</b>

- 9.36 While I consider each disputed site separately it is apparent that the Appellant is principally seeking to dispute those sites requiring clear evidence and not included in previous iterations of the assessment. Conversely, a substantial degree of firm progress and availability of clear evidence is by definition accepted on sites falling under other components of the 'part b' definition.
- 9.37 All 'new' sites not included in previous iterations of the HLSS correspond to Outline (or pending Outline) applications for planning permission with the exception of one record pending full planning permission at Kidlington Grange. For those unallocated sites pending grant of planning permission my position recognises that the part (b) definition in national policy is not a 'closed list' albeit this may affect judgement when assessment clear evidence of a realistic prospect.
- 9.38 I note that the Council's Updated Assessment does not provide a specific breakdown of sites by the NPPF definition of deliverable. However, there is recognition (for example at Paragraphs 34 and 38) that recent evidence indicates sites granted planning permission have a strong track record of building out within five years. This corresponds to the identification of 'New Sites' within the forecast supply falling under 'Part B' corresponding to those I have identified.
- 9.39 I note, for example, that where local evidence for lead-in timescales is applied to the 'New Sites' category the Council's forecasts compare conservatively with when first completions would be expected reflecting local evidence. This provides relevant information alongside the Council's assessment and justification for including sites within the forecast supply. This is shown in Table 18 below:

**Table 18. Local Evidence for Lead-in Timeframes for 'New' Part B Sites**

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

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

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

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

9.41 In Table 19 below I have set out those sites identified by the Appellant within the Topic SoCG where the Council's published assessment of deliverable supply is dispute.

9.42 I have included only those sites relevant to the Council's case to assess supply against the requirement based upon local housing need for Cherwell District. This excludes the contribution from any supply identified to contribute towards Oxford's unmet needs from the Partial Review Local Plan.

9.43 Prior to receipt of any further reasons to contest the Council's assessment I would note that in setting these out the Appellant is required to have regard to the Council's approach to assessing supply in the latest Statement. This includes the commentary provided for each site, together with the overarching context provided within the document.

9.44 The Statement references the range of evidence that the Council references as relevant for consideration up to publication of the December 2023 AMR (CD/6.9). Paragraph 37 of the Statement provides an illustration that the Council has generally maintained a conservative assessment to the contribution of supply from sites such as North West Bicester in terms of start dates and build-out rates.

9.45 I have highlighted within the previous sub-section that progress since the base-date is relevant to reviewing conclusions on deliverability and the Council's judgement at the previous base date. The Appellant is required also required to take this into account if guidance is to be applied consistently in contesting the Council's position.



**Table 19. Summary of Disputed Supply from Specific Sites Identified Within the Draft Topic SoCG**

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
Banbury 1*	Banbury Canalside (Caravan Site)	63	63	0	-63	<p>The AMR states:</p> <p>“Outline permission for 63 dwellings expired in June 2022. A new outline application for 63 dwellings (22/01564/OUT) at Station Road was approved in July 2023 subject to signing of a section 106 agreement. Site is part of a wider allocation in the adopted Cherwell Local Plan and the wider site is proposed to be allocated for mixed use development in the draft Local Plan Review 2040. Projection allows sufficient time (circa 3 years) for reserve matters submission and determination.”</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> <li>- Chased by agent on behalf of applicant to move drafting of S.106 forward.</li> <li>- A formal extension of time sought and agreed between parties to 5 February 2024.</li> <li>- Lack of resource within Legal Services slowed progress initially. However, the drafting work was outsourced to 3rd party legal firm and Terms of agreement and associated costs have been agreed and is to be based upon previously agreed (but never implemented) permission and associated S.106 agreement.</li> <li>- Confirmation of legal representatives acting for applicant have also been provided.</li> </ul>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>There are no major viability or infrastructure issues affecting the deliverability of this site. It is not reliant on other sites coming forward.</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions September 2026.</p>
Banbury 4/12*	Land North East of Oxford Road, West of Oxford Canal)	350	50	0	-50	<p>The AMR states:</p> <p>"Planning application for 700 dwellings (17/01408/OUT) was received in June 2017. A new application (19/01047/OUT) for a residential development of up to 825 dwellings was approved subject to legal agreement in July 2021. It is assumed that 2 housebuilders will be on site at a peak of 50 homes per year per developer. The expected delivery rates allow sufficient lead-in time for Outline and Reserved Matters approvals and construction time. Five years from the base date is considered sufficient time for the first dwellings to come forward."</p> <p>Named Housebuilder(s) Hallam / Henry Boot</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> <li>Meeting with LPA and applicant and legal representatives (CD/14.1). August 2023.</li> <li>Following on from this an updated S.106 agreement has been drafted and is broadly agreed between LPA, OCC and Hallam which includes provision for the relocation of BUFC (CD/14.2 refers).</li> <li>Correspondence on the matter last provided Nov 2023 whereby a further EoT has been requested to</li> </ul>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>bring matters to a close (informally agreed at meeting in Nov 23 – awaiting written confirmation.</p> <ul style="list-style-type: none"> <li>Scheme amendments submitted 28 February 2024 incorporating 3m cycle way (in addition to the 2m footpath already included in the scheme) to be incorporated within the proposed Banbury Road Site access and internal spine road (requested as part of progression of the S106). The Cover Letter for these amendments anticipates that negotiations on the S106 will be complete, with the document ready for engrossment in around 3 months. It is not anticipated that the proposed change will delay the issuing of the Decision Notice.</li> <li>Conditions agreed between parties.</li> </ul> <p>Promoter engagement? Hallam Land Management</p> <p>Relevant evidence of firm progress with infrastructure delivery to enable development and relationship with surrounding sites :</p> <ul style="list-style-type: none"> <li>All within same New College Oxford ownership.</li> <li>Within S.106/S.278 - Provision of new link road between Oxford Road and Bankside/Longford Park by end of 2025.</li> </ul> <p>Developer submission (Framptons) received on 30 October 2023 (CD/14.3). It states that the Council's trajectory is unduly pessimistic and should be updated.</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>Their representation to the Local Plan regulation 18 consultation supports the continued allocation of this site which shows their ongoing commitment to the delivery of this site.</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions November 2025.</p>
Banbury 17 **	South of Salt Way, East	700	400	237	-163	<p>The AMR states:</p> <p>"Outline permission for the 1000 homes is secured. This covers the remaining area of the site which is the majority of the strategic allocation. Reserved matters for two of the development parcels (Parcels 1 &amp; 3) (22/02068/REM) were permitted in April 2023 for 237 dwellings. Reserved matters has also been granted for a spine road (20/03702/REM) and link road (20/03724/REM) serving the school and a foul water pumping station (21/03950/REM). Construction of the first 70 plots in Parcel 1 has commenced , conditions discharged, S106 obligations varied to allow early road construction to facilitate speedier development (21/00653/M106), ground works in place. Infrastructure will be delivered based on the number of occupations meaning that there will be no significant delays in delivering the homes permitted. Persimmon homes are developing the 237 homes in Phases 1 &amp; 3. Discussions are underway on reserve applications for further phases. Charles Church is currently preparing an application (anticipated Jan.'24) for the Phase 2 land (south of Phases 1 &amp; 3 – zoned for 110-122 dwellings). Projection is consistent with build rates on this site and in Banbury generally in recent years. There are two house builders on site. A significant proportion of the site is forecast to be completed within the 5 year</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>period. Developer has indicated that development is likely to be delivered in line with the projection.”</p> <p>Pre-App guidance for a development of 91 homes (23/01301/PREAPP) issued 20 June 2023. Application ref: 24/00772/REM for 95 dwellings in Parcel 2 was validated 20 March 2024</p> <p>Developer Submission (Persimmon homes) received on 10 November 2023. This assumes a delivery of 250 within the next 5 years. However, looking at historic delivery in Banbury this appears to be unduly pessimistic projection. (see AMR Table 16)</p> <p>Email correspondence between the LPA and Persimmon (Dated 23 October 2023 to 10 November 2023) provided during preparation of the AMR (CD/14.4 refers).</p> <p>In applying the evidence provided by engagement with the promoter the LPA has also taken into account the latest position of delivery of the site, with 70 plots identified at slab level (or above) as of November 2023 with sales office operating on-site.</p> <p>The Council also notes Persimmon are delivering Phase 1&amp;3 as a single element of the scheme, therefore reference to further ‘second and possibly third phases’ are in addition to, rather than component parts, of the first Phase 1&amp;3 element.</p> <p>Details of the phasing of other site infrastructure requirements addressed under 20/01099/DISC (Condition 2) are material to the assessment of deliverability for this site. Infrastructure is set to be delivered based on the number of occupations, so this will not present a significant obstacle to delivery as any issues that need to be resolved are being worked on now as a part of delivering an undisputed 237 units including completion of the spine road (see Section 5 of the submitted Phasing Statement – CD/14.14). This corresponds to the Reserved Matters</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>granted for site infrastructure elements including the spine road (20/03702/REM).</p> <p>Finally, the LPA has moderated the forecast build-out of the trajectory in years 4 and 5 compared to the 2022 HLSS but notes that a minimum 273 units forecast completions for the previous period 2022-2027 were accepted as deliverable in the Milcombe Appeal Decision.</p>
Land Opposite Hanwell Fields Recreation (adjacent to Dukes Meadow Drive, Banbury)*	Land Opposite Hanwell Fields Recreation (adjacent to Dukes Meadow Drive, Banbury)	78	78	0	-78	<p>The AMR states:</p> <p>"Outline planning application (21/03426/OUT) for up to 78 dwellings and associated open space was approved subject to legal agreement in April 2022. The application was submitted on behalf of a housebuilder, Manor Oak Homes, who will be developing the site. Signing of section 106 agreement is imminent. Projection is consistent with build rates in Banbury generally in recent years"</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> <li>S.106 has been drafted by CDC and has been passed to applicant and their legal representative for comment/assessment. This was due to be undertaken towards end of Nov 23. Awaiting further comments from the applicant (CD/14.6 refers).</li> </ul> <p>Regarding relevant evidence for development timeframes</p> <ul style="list-style-type: none"> <li>Site advertised with sales particulars confirming Manor Oak Homes as promoter of the site (CD/14.5) confirming expectation of submission timeframes for Reserved Matters.</li> </ul>



LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<ul style="list-style-type: none"> <li>Developer Submission (AR Planning for Manor Oak) received on 23 October 2023 which supports the trajectory proposed (CD/14.6 and CD/14.7).</li> </ul> <p>No known infrastructure or viability constraints</p> <p>The developer has also responded to the regulation 18 consultation on the Cherwell Local Plan Review and affirmed that in addition to the 78 dwellings currently granted subject to legal agreement a further submission of 117 dwellings would shortly be submitted. The developer can therefore be demonstrated to be committed to bringing this scheme forward.</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions January 2026.</p>
Land Adjoining Withycombe Farmhouse Stratford Road A422, Drayton *	Land Adjoining Withycombe Farmhouse Stratford Road A422, Drayton	250	50	0	-50	<p>The AMR states:</p> <p>“Outline planning application for a residential development comprising up to 250 dwellings was permitted in February 2023 (22/02102/OUT) subject to the signing of a section 106 agreement which is expected imminently. Developer (Bloor homes) anticipates delivery of homes within the next 5 years and reserve matters application to be submitted imminently. Site is identified in the draft Local Plan Review 2040. Projection is consistent with build rates in Banbury generally in recent years.”</p> <p>Named Housebuilder Bloor Homes</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<ul style="list-style-type: none"> <li>S106 agreed and Decision Notice issued 8 January 2024.</li> </ul> <p>Regarding relevant evidence for development timeframes</p> <ul style="list-style-type: none"> <li>Bloor's currently building phase 2 to north from which this site will gain access (see CD/14.9). Intend construction start as early as Q2/Q3 '24, upon completion of 2nd phase.</li> <li>REM application lodged with LPA in October 2023 and validated 8 January 2024 upon issue of Outline PP with cover letter emphasising the developer's objectives of build continuity.</li> <li>3no. Discharge of Conditions Applications submitted January 2024 and pending determination including SW Drainage, Design Code and Phasing Plan (24/00181/DISC, 24/00120/DISC, 24/00121/DISC)</li> <li>The Council updates that the Reserved Matters Application Reference is 23/03139/REM validated 10 January 2024. The Council further confirms that the application was subject to a PPA, with a timetable for determination by end March 2024. Reserved Matters approved on 15 April 2024</li> </ul> <p>Developer submission (Bloor Homes) received on 13 October 2023 (See CD/14.8) confirming delivery within the five years.</p> <p>In their response to the regulation 18 Cherwell Local Plan Review consultation, the developer suggests that the development of the site will commence in the first quarter of 2024 and yield the following completions:</p> <p>2024 – 48 dwellings</p> <p>2025 – 63 dwellings</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>2026 – 63 dwellings</p> <p>2027 – 63 dwellings</p> <p>2028 – 13 dwellings</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions October 2026.</p> <p>Table 16 of the Council's AMR confirms the local evidence for build-out rates on the Wretch Hill / Banbury Rise allocated site adjacent to the north.</p>
21/04112/OUT	OS Parcel 2778 Grange Farm North West Of Station Cottage Station Road Launton *	65	65	0	-65	<p>The AMR states:</p> <p>“Outline application for the erection of up to 65 dwellings granted following an appeal in November 2022. The expected delivery rates allow sufficient lead-in time for Outline and Reserved Matters approvals and construction time. Greencore homes are developing and are advertising the site. A reserved matters application is expected imminently.”</p> <p>Named Housebuilder: Greencore Homes</p> <p>Developer website advertising homes</p> <p><a href="https://www.greencorehomeslaunton.co.uk/">https://www.greencorehomeslaunton.co.uk/</a></p> <p>This supports assumptions on delivery as the site is being actively promoted by the housebuilders, Greencore.</p> <p>Regarding relevant evidence for development timeframes</p> <ul style="list-style-type: none"> <li>23/02290/DISC – Discharge of Condition 16 (Great Crested Newt licence) of 21/04112/OUT. Submitted in August 23 and approved in October 23.</li> <li>23/02291/DISC – Archaeological Written Scheme of Investigation) of 21/04112/OUT. Submitted in</li> </ul>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>August 23 and approved in October 23 (app form and decision attached).</p> <ul style="list-style-type: none"> <li>Non-Material Amendment application has been submitted in August 2023 associated with Great Crested Newt District Licence. Ref 23/02231/NMA. Approved in Sept 2023</li> <li>Pre-app ref 23/01945/PREAPP – enquiry seeking advice from the LPA on the requirements for a Reserved Matters application. Submitted in July 2023</li> <li>Reserved Matters application now received. 23/03433/REM validated 5 December 2023.</li> <li>Further Discharge of Conditions application 23/03518/DISC validated 14 December 2023</li> </ul> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions March 2026.</p> <p>The Council also provides the public consultation boards from Greencore explaining that a reserved matters application is to be submitted in Autumn 2023 and an email from the planning agent to the Council confirming a pre-application. (CD/14.15)</p>
Land at Deerfields Farm, Canal Lane, Bodicote *	Land at Deerfields Farm, Canal Lane, Bodicote	26	26	0	-26	<p>The AMR states:</p> <p>“Outline permission was granted in November 2022 for up to 26 dwellings. The expected delivery rates allow sufficient lead-in time for Outline and Reserved Matters approvals and construction time.”</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions February 2024.</p> <p>No known viability or infrastructure constraints</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>No email response received as part of engagement for preparation of HLSS Update (CD/14.10)</p> <p>An application Ref: 24/00332/NMA seeking a Non-Material Amendment to Condition 3 was validated on 7 February 2024 and approved 25 March 2024 to:</p> <p><i>"Remove reference to plan 19 24 05 and replace it with the amended plan 23021 010-P01 (Enclosure 2). The amended plan retains the key access points but removes the 'greyed out' development (for the avoidance of doubt given that this relates to a reserved matter) and amends the pink highlighted internal road to a form that will not conflict with the forthcoming proposed reserved matters layout, on the understanding that the acceptability of the internal layout in highways terms will be assessed by the highway authority under the reserved matters application (proposed as non-material amendment to 19/02350/OUT)"</i></p> <p>The cover letter from the agents for this application (Surface Planning) confirms they act on behalf of Minster Property Group are seeking to take the existing planning permission 19/02350/OUT forward as a 100% affordable housing development. Details of the reserved matters are being prepared on this basis (copy at CD/14.19)</p>
OS Parcel 3489 Adjoining and South West of B4011, Ambrosden *	OS Parcel 3489 Adjoining and South West of B4011, Ambrosden	75	60	0	-60	<p>The AMR states:</p> <p>"Outline application for 75 homes permitted in February 2023 subject to section 106. With permission granted over 9 months ago, the section 106 is expected to be signed shortly."</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> <li>Decision Notice issued 19 December 2023 granting Outline Planning Permission including provision for</li> </ul>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>Biodiversity Net Gain to be controlled via condition (Condition 23)</p> <p>Site has been sold to housebuilder (Mulberry Homes) who have contacted the LPA with a view to commencing pre-application discussion on the Reserved Matters.</p> <p>The Council updates that 24/00066/PREAPP by Mulberry Homes was submitted on 17/1/2024 but was not validated and commenced until 31/1/2024 due to the provision of further information.</p> <p>The applicant is Mulberry Homes (who have developed a site in Launton) and the agent has worked on the Kingsmere development so there is a familiarity with the Council's processes and policies. The target response is March 2024 with the expected REM submission in Summer 2024.</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions October 2026.</p>
Land North of Railway House, Station Road, Hook Norton *	Land North of Railway House, Station Road, Hook Norton	43	43	0	-43	<p>The AMR states:</p> <p><i>"Outline application approved following appeal for 43 homes in August 2022. Section 106 is agreed."</i></p> <p>Regarding relevant evidence for development timeframes</p> <ul style="list-style-type: none"> <li>• Named Housebuilder: Deanfield Homes</li> <li>• Pre-app enquiry submitted by Deanfield Homes in Oct 23 for up to 43 homes. Meeting subsequently undertaken in 8 Nov 23 (Email attached). Pre-App Ref 23/02990/PREAPP (CD/14.11 and CD/14.12 refers)</li> <li>• Revised layout discussed subsequent to that pre-app response and comments provided; the</li> </ul>



LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>applicant is preparing an RM submission expected to provide for 42 homes.</p> <p>No known constraints to development.</p> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions June 2025.</p>
Kidlington Garage, 1 Bicester Road, Kidlington * ( 22/00017/F)	Kidlington Garage, 1 Bicester Road, Kidlington	15	15	0	-15	<p>The AMR states:</p> <p>“Application for 15 flats was granted planning permission in March 2023 subject to the signing of a section 106 agreement. Sweetcroft Homes are the developer. This is a full application and expected to be built out well within the five year period.”</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> <li>Email update provided July 2023 from LPA to Applicant (CD/14.13 refers)</li> <li>The Council received an engrossed version of the s106 agreement on the 3.1.2024 and it is anticipated that planning permission will be granted prior to the end of February 2024 subject to checks via Land Registry</li> <li>The Council further updates that CDC and the applicant have signed the S106 agreement. Subject to receipt of Land Registry checks and documentation OCC will complete the S106 and the Decision Notice will be issued. This is anticipated imminently.</li> </ul> <p>Local evidence for lead-in timeframes (see Table 18) anticipates first completions December 2023 (i.e., delivery somewhat beyond typical timescale.</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
18/00825/HYBRID **	Former RAF Upper Heyford	1,175	488	138	-350	<p>The AMR states:</p> <p>“A new Hybrid application for 1175 dwellings was approved in September 2022. Reserved matters (22/02255/REM) is approved for phase 10 for 138 dwellings. The Councils latest monitoring shows that foundations are in place for the majority of the homes with some near completion. Recent history of delivery on the site with 250 dwellings completed in 2022/23. Dorchester is a long standing and active developer on the site and there are two developers at Heyford Park. Dorchester Living are in partnership with Picture Living who will deliver private rented dwellings. Over the last five years an average of 100 new homes per year were built at Heyford Park. It is anticipated that this level of delivery will continue. Dorchester anticipate that they will deliver over 150 dwellings per year going forward including delivering phase 10 at the same time as future phases. They do not identify any infrastructure constraints to delivery. Discussions are occurring with the developer concerning future reserved matters applications which are expected shortly. Dorchester's website indicates a range of new homes for sale.”</p> <p>Developer Submission (Dorchester) received on 3 November 2023. Dwellings delivered during the 5 year period.</p> <p>It should be noted that the developers are projecting a faster rate of delivery than assumed by the Council.</p> <p>Dorchester's committed new build completions to end Q1 2028 = 23 dwellings (built and occupied in the last 6 months at Phase 9A approved under 16/02446/F) + 270 (approved and under construction in Phases 9B – 9G also approved under 16/02446/F) + 5 (new occupations at Phase 8C under 19/00446/F in last 6 months) + 9 (built but not yet occupied at Phase 8C) + 34 (built and occupied in last 6 months in Phases 5C and 7A approved under 10/01642/OUT, 19/00439/REM &amp; 19/00440/REM) + 138 (currently under construction at Phase 10 and approved under 22/02255/REM) = 479 dwellings.</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>In addition, Dorchester also anticipate the following additional completions within the next five years based on their phasing plan submission as previously indicated under 22/03016/DISC (subsequently Withdrawn):</p> <p>6 dwellings (at Phase 13) + 114 (Phase 11) + 62 (Phase 17) which are all due to be the subject in new reserved matters application submissions in Feb. 2024 and with construction expected Q1/Q2 2025 = 182.</p> <p>These additional occupations all appear quite likely to the LPA.</p> <p>Dorchester also suggest that:</p> <p>100 dwellings (at Phase 23A) + 100 (56% of Phase 16) + 16 (Phase 39) + 62 (62% of Phase 23B) + 42 (42% of Phase 12) = 320 dwellings could all come forward over the next 5 years.</p> <p>That would bring construction and occupation rates up to almost 200dpa, which is not considered likely by the LPA so have not been included in the Council's supply calculations.</p>
18/01882/OUT Banbury 18 **	Drayton Lodge Farm, Banbury	320	250	250	-0	<p>The AMR states:</p> <p>“Outline permission for up to 320 dwellings is secured. The site was acquired by Vistry Group which consist of Bovis Homes and Linden Homes in November 2020. Reserved matters application (22/02357/REM) has now been approved in May 2023. Most conditions have now been discharged. Projection is consistent with build rates in Banbury generally in recent years. Developer has estimated that the majority of the site will be built out in 5 year period and they will start on site in early 2024..”</p> <p>Regarding relevant evidence for development timeframes and build-out:</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<ul style="list-style-type: none"> <li>Correspondence from Vistry informing CDC of Management Company to transfer for areas of open space including play areas, sports pitches, all ecological areas and potentially the SUDs features (email attached March 23). CDC advised that such details would need to form a DISC application and required prescribed info contained within schedule 3 (April 23) (see CD/14.17).</li> <li>Construction vehicle routing discussed in July 2023 following complaints from residents about traffic through Hanwell village. Email sent to applicant confirming approved routing with the CTMP (CD/14.16).</li> <li>Developer Submission (Vistry Homes) received 10 November 2023 (CD/14.18). Generally supports the Council's assumptions and states in relation to build-out and the Council's maximum forecast of 75dpa:</li> </ul> <p><i>"with the market how it is, we are assuming it will be around 30 for 2024 then 50 per annum onwards.....so built out by 3030. But this may be more in line with your assumption should the market get back on track again."</i></p> <p>In applying the evidence provided by engagement with the promoter the LPA notes the response does not expressly forecast completions by monitoring year.</p>
14/02121/OUT Bicester 1 ***	North West Phase 2	1,700	100	0	-100	<p>The AMR states:</p> <p>"Outline planning permission for 1700 homes on land to the north of Middleton Stoney Road, forming part of the wider North West Bicester strategic allocation was secured by P3EcoLtd on 30 January 2020. A Reserved Matters application (21/02339/REM) for 500 of the 1700 homes (forming phase 1) was submitted on behalf of Countryside Properties in July 2021 and was subsequently withdrawn. Applications continue to be submitted for Discharge of Conditions (including Phasing Plan and Design Code) and Reserved Matters for access arrangements, road layouts and a first residential phase of 123 dwellings (23/00214/REM, 23/00170/REM, 23/01493/REM and 23/01586/REM and</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>23/00207/DISC, 23/01496/DISC and 23/01558/DISC). The active engagement between developer (Cala homes) and Council relating to delivery of Reserved Matters are separate to restrictions imposed by infrastructure delivery as 500 dwellings are permitted on the site for 1700 dwellings prior to strategic infrastructure needing to be in place. Cala homes have submitted a phasing plan which indicates development will start in 2024. Due to the absence of reserved matters permission the site will not deliver homes before 2026/27."</p> <p>Further Discharge of Conditions application 23/03546/DISC validated 19 December 2023 for Landscape and Habitat Management Plan upon Phase 2A only.</p> <p>In relation to progress with determination a draft PPA is under preparation aiming to agree the Design Code and issue the first Reserved Matters for housing (123 dwelling) by the end of August 2024. The applicant (CALA Homes) is actively engaging with the Council to facilitate regular scheduled meetings to progress matters as part of proactively working with the LPA.</p> <p>The Reserved Matters for Phase 1b – infrastructure is likely to be determined earlier – target is by the end of May 2024 and commencement of infrastructure delivery is anticipated in the 2024 calendar year with the housing to follow next year).</p>
13/00847/OUT Outline Remainder	BICESTER 3 - SOUTH WEST BICESTER PHASE 2	60	60	0	-60	<p>The AMR states:</p> <p><i>"Outline permission for up to 709 homes was secured in May 2017. 60 homes remain as commitments under this Outline permission. Forecast delivery of specialist housing for older people corresponds to requirements in signed legal agreement. Discussions on-going with developer/promoter. Planning application expected in November 2023. Application for alternative scheme for 82 homes likely to be made. This demonstrates on-going commitment to bringing the site</i></p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p><i>forward. Infrastructure works including roads and utilities are already in place to service the parcel."</i></p> <p>Application ref: 23/03073/HYBRID was validated on 14 November 2023 and remains pending determination in-line with the expectations in the AMR.</p>
21/03523/OUT*  And  15/01357/F**	Former RAF Upper Heyford	31 + 89 (120 total)	31 + 89 (120 total)	0	-120	<p>The AMR for ref: 21/03523/OUT states:</p> <p><i>"An outline application for 31 homes on land within the allocation by Pye Homes was approved in September 2023. The expected delivery rates allow sufficient lead-in time for Reserved Matters approvals and construction time. Application (22/03063/F) now submitted by David Wilson homes resulting in additional dwellings and expected to be determined shortly. Anticipated legal agreement in line with existing agreement. Further developer interest indicates delivery within the 5 year period."</i></p> <p>And for 15/01357/F states:</p> <p><i>"A full application for 89 homes on a greenfield site within the strategic allocation by Pye Homes was approved subject to legal agreement in January 2022. Application permitted in September 2023 with the section 106 signed. Application (22/03063/F) now submitted by David Wilson homes resulting in additional dwellings and expected to be determined shortly. Anticipated legal agreement in line with existing agreement. Further developer interest indicates delivery within the 5 year period."</i></p> <p>Following the submission of scheme amendments to reduce the number of units to 123 dwellings the application was reported to the 21 March 2024 Planning Committee and approved, in line with the officer recommendation, subject to conditions and S106 legal agreement (copy at CD/14.20)</p>

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



- 9.46 Having regard to the details for each disputed site in terms of the forecast date for first completions and build-out within the five year period I would conclude that the Appellant has not considered relevant matters consistently before determining that an adjustment to the Council's assessment is warranted. While I provide this view without prejudice to any further detailed consideration of the published assessment that may be necessitated following the exchange of evidence it is my opinion that each site identified within the disputed supply is capable of satisfying the central test of a realistic prospect for completions beginning within five years.
- 9.47 The characteristics of the sites identified within the disputed supply are such that where part (b) of the NPPF2023 definition of deliverable applies matters assessed by the Council in its judgement at the base date, and progress since 1<sup>st</sup> April 2023, are capable of constituting clear evidence of a realistic prospect. Details of the sites are such that the examples of evidence available to demonstrate deliverability can generally be considered to indicate firm progress and clear, relevant information of delivery expectations (ID: 68-007-20190722).
- 9.48 In Table 19 above I have therefore indicated relevant aspects of evidence and progress that in my view support the Council's published assessment. These points may provide the basis for more detailed assessment dependent on the response required to the case advanced by the Appellant.

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

- 9.49 I provided factual updates on behalf of the Council during preparation of the Topic SoCG (CD/8.6) to agree the following amendments to forecast supply within the published HLSS:
- 50 dwellings should be removed from the Bicester Gateway Site (LPA ref: 20/00293/OUT). This site is not regarded as deliverable subsequent to correspondence from the promoter regarding progressing commercial elements of the mixed-use proposals
  - 33 dwellings should be removed from the entry covered by 20/02345/LDO Local Development Order (Bicester 2) to address units identified in the forecast supply that are not covered by Certificates of Compliance with the LDO (15 units) or separate Reserved Matters permission (22/02312/REM – 93 units) with the LDO itself no longer remaining in force beyond December 2023.
- 9.50 I confirm both the entries relate to capacity at Bicester.
- 9.51 These five entries together result in the removal of 83 dwellings from the published position (4121 – 83 = 4,038 units)

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

- 9.52 The published HLSS addresses these sites within a separate schedule of the Housing Delivery Monitor Document (at Appendix 1). Paragraph 42 provides a summary that progress towards delivery has been made to substantiate the assessment of only 80 units' deliverable supply. It is my understanding that the Appellant will also seek to dispute the assessment of supply from these sites.
- 9.53 The assessment of deliverable supply from sites identified in the Partial Review is not relevant to the Council's case for the requirement against which supply should be assessed (for the reasons outlined in Section 5). I do not therefore consider it necessary to address in detail the Council's evidence for these sites.
- 9.54 I would nonetheless highlight that Section 5 of my evidence outlines reasons relevant to adoption of the separate housing requirement in adopted strategic policies against which the contribution towards part of Oxford's unmet needs is assessed and the identification of sites to meet these needs. The circumstances for the types of evidence that might be used to demonstrate deliverability for sites identified in such a strategic context are expressly recognised by Planning Practice Guidance:
- "clear relevant information about site viability, ownership constraints or infrastructure provision, such as **successful participation in bids for large-scale infrastructure funding or other similar projects.**"* (ID: 68-007-20190722)
- 9.55 Two observations arise from these examples:
- a. It is evident that such evidence may relate to more than one site and may represent a continuation of support for development identified through the plan-making process.
  - b. The assessment of deliverability at one point in time, and for one individual site, will not necessarily correspond to the ideal methodology for capturing progress on matters such as infrastructure funding and delivery to overcome potential constraints to development. Progress may occur at various points throughout the assessment period.

- 9.56 Application of the Planning Practice Guidance for the assessment of deliverable supply may be affected by the characteristics of supply identified to contribute towards part of Oxford's unmet needs in the Partial Review. The Delivery Position Paper (paragraphs 2.10 – 2.12) (CD/6.13) confirms that the preparation of Development Briefs forms a requirement of policies within the Plan, and these were substantially progressed by the time the Partial Review was adopted. Planning Performance Agreements are also in place for sites where delivery is forecast, arising from consistent promotion of the sites as part of the Partial Review process. The PPG recognises where these may be relevant to assessing the current planning status of sites.
- 9.57 The assessment of deliverable supply from sites identified by the Partial Review should be considered in this context. I provide an overall snapshot of delivery of the Partial Review in section 7(d) of my evidence. There are common elements to delivery of these allocated sites, including those assessed as deliverable by the Council, that should be assessed having regard to the characteristics of each site and their relationship with the policies of the Partial Review. I would note, for example, that:
- Numerous sites are subject to Outline planning applications pending determination.
  - The sites have been actively promoted by the same parties since preparation of the Partial Review (see Table 1 of the Delivery Position Paper) including housebuilders and experienced land promoters.
  - None of the sites are forecast to deliver first completions before 2027/28 (year 5) and forecast totals would indicate first completions part-way through that year. The timescales allowed for by the Council can be assessed having regard to 'typical norms' or averages for sites of the same size. There is no local precedent for delivery timescales for sites specifically contributing towards Oxford's unmet needs, but it is relevant to note that the Partial Review allocates land at different scales. Having regard to Table 4 of the Partial Review examples of the allocated sites in question provide for 100-499 units each (PR7a/PR7b) and 500-1000 units (PR9). The Lichfields' 'Start to Finish' (Second Edition) Report (Figure 4) summarises typical timescales from validation to first completions (including planning approval and delivery periods) of 4 years and 5 years for these respective groupings. The Council's assumptions are broadly consistent with these 'norms'
  - Each of the sites is subject to an agreed Development Brief. This is consistent with the policies of the Partial Review.
  - Ongoing engagement with statutory consultees exists for all sites subject to applications for planning permission and this can be viewed as firm progress towards the sites' delivery. In my opinion these must be assessed with regard to the overall timescales for determination and delivery and the context for the sites within the Partial Review. For example, while outstanding objections for Oxfordshire County Council do exist in relation to traffic modelling this follows upon previous work undertaken jointly by the promoters/developers of respective sites. Given that progress exists on all sites (in respect of submitting applications) there is no reason to suggest such active engagement will not continue to provide updated modelling assumptions (principally in respect of use of sustainable transport) noting also the progress with other infrastructure delivery. Likewise, the objections to the delivery of pedestrian/cycle links from PR7b should be assessed in the context of progress with DFT funding for the closure of the Yarnton level crossing, expected to be complete in 2024.

- 9.58 I therefore reserve the right to adduce further evidence should the Appellant seek to address the performance of this part of the strategy and housing requirement in adopted strategic policies following the exchange of evidence.

## 10.0 SUMMARY AND CONCLUSIONS

- 10.1 These conclusions should also be taken as providing a summary of my Proof of Evidence.
- 10.2 My overall conclusion is that the Council can demonstrate **5.72 years' deliverable supply** against the relevant housing requirement following my assessment in the preceding sections. This is set out in Table 20 below, corresponding to Council's case to be presented in draft HLS Topic SoCG at the point of exchanging evidence (CD/8.6).

**Table 20. Components of Five-Year Housing Land Supply**

	Step	Description	LHN 2024 + NPPF(Dec)2023 Buffer Changes
Five-Year Requirement	a	Standard Method Requirement (2023/24-2027/28)	3530
	b	Annual Requirement (a / 5)	706
	c	Requirement Over 4 Years (b x years)	2824
	d	4 Year Requirement plus 5% buffer (c + 5%)	N/A
	e	Revised Annual Requirement over next 5 years (d / 5)	706
Components of Supply	(i)	Banbury Supply	1483
	(ii)	Bicester Supply	718
	(iii)	Other Areas	1587
	(iv)	Windfall	250
	f	Deliverable Supply over next 5 Years	4038
Years' Supply	g	Total years supply over next 5 years (f/ e)	<b>5.72</b>
	h	'Shortfall' / Surplus(f – c)	+1214

- 10.3 The calculation reflects a surplus in excess of the relevant requirement and indicates that the policies most important for determining the Appeal proposals remain up-to-date. Paragraph 11(d) is therefore not engaged for the purposes of decision-taking on the basis of footnote 8.
- 10.4 In **Section 2** of my Proof of Evidence I provide an overview of my understanding of the Appellant's case on the matter of housing land supply. I establish that there is a substantial level of disagreement between the parties in relation to the calculation of the requirement against which supply should be assessed.
- 10.5 I also outline that the Appellant intends to contest the Council's assessment of deliverable supply. This is a less significant area in dispute. On the Council's case – that the requirement is provided by local housing need calculated for Cherwell District – the Appellant's own position on supply (which the Council does not accept) at the point of exchanging evidence would result in 4.82 years' supply.
- 10.6 Within this section I identify that there is agreement between the parties that the Cherwell Local Plan (Part 1) (adopted July 2015) including relevant strategic policy **BSC1** is more than

five years old. It is further agreed that following the latest review in accordance with Regulation 10A (February 2023) (CD/6.11) the housing requirement within its adopted strategic policies requires updating for the purposes of NPPF2023 paragraph 74 and footnote 39.

- 10.7 The policy of the NPPF at paragraph 77 and footnote 42, to apply local housing need where the strategic policies are more than five years old and to use the standard method for Cherwell District, is therefore applicable.
- 10.8 The parties agree that the 'Cherwell Local Plan 2011-2031 (Part 1) Partial Review- Oxford's Unmet Housing Need' (CD/5.2) or "Partial Review" was adopted on 7 September 2020 and that relevant strategic policies **PR1 and PR12a** are less than five years old.
- 10.9 These respectively specify the contribution towards unmet needs (4,400 dwellings) and arrangements for maintaining housing land supply to meet these needs. I outline that that there is no suggestion from the Appellant that these policies should be subject to the conclusions of a Regulation 10A Review in order to be considered up-to-date.
- 10.10 In **Section 4** I consider the most recent assessment of supply for Cherwell District Council comprising the Housing Land Supply Statement (CD/6.6) published in December 2023. The published position provides the starting point to the Council's case for this Appeal.
- 10.11 I set out that the published position reflects separate monitoring of the housing requirement within the separate adopted strategic policies of the Partial Review in relation to providing a contribution towards part of Oxford's unmet needs. This is central to the disagreement between the parties.
- 10.12 I have outlined my position that the calculation of local housing need should utilise the most recent inputs in accordance with PPG ID: 2a-004-20201216 and provide reference to numerous Appeal decisions supporting my evidence. The calculation of local housing need is undertaken independently from the assessment of supply. Applying the relevant chapter of the PPG relating to the assessment of housing needs consistently and objectively for the purposes of decision-taking and its relationship with plan-making is underpinned by the use of the most recent inputs.
- 10.13 In **Section 5** I address the implications of the most recent changes to national policy in revised National Planning Policy Framework first published 19 December 2023 ('NPPF(Dec)2023'). I confirm that this results in no changes to the annual requirement against which supply should be assessed, save no buffer being applied and forecast deliverable supply should continue to be considered for the five year period. I confirm that the policy in paragraph 226 to the NPPF(Dec)2023 applies and under the provisions of paragraph 77 the extent of deliverable supply identified must provide for a minimum 4 years' supply.
- 10.14 The contents of the Cherwell Local Plan Review 2040 – Regulation 18 Consultation Draft published for consultation between 22 September 2023 and 3 November 2023 identify sites for housing and satisfy the requirement for the inclusion of a policies map for the purposes of a Local Plan under preparation (prior to its submission) under regulation 5(a) of The Town and Country Planning (Local Planning) (England) Regulations 2012 and any accompanying maps as specified in regulation 5(b).
- 9.59 In **Section 6** I respond to the Appellant's case for the requirement against which supply is assessed. I provide evidence in support of the Council's position.
- 9.60 I illustrate that the Council's case that local housing need provides the requirement against which to assess supply is simple. It is consistent with national policy and accords with the



adopted development plan and supported by relevant Appeal Decisions<sup>18 19</sup>.

- 9.61 The Council's case is reinforced by the clear approach to accounting for supply related to Oxford's unmet needs, which remains as set out in adopted strategic policies of the development plan that are less than five years old and fully consistent with national policy. These provide for a specific approach to managing supply for the housing requirement related to these needs. The approach to managing supply is consistent with the spatial strategy to provide for sustainable development and tested as part of plan-making.
- 9.62 The Council's case is entirely in accord with NPPF(Dec)2023 Paragraph 77. It does not conflate the assessment of need and approach to managing supply, which underlies why the Appellant's position should not be followed.
- 9.63 I have demonstrated why the Appellant's case represents a departure from the adopted development plan and represents an alteration of the approach to manage supply towards unmet needs. It is an approach that is not consistent with national policy and has not been tested at Examination.
- 9.64 I explain that Paragraph 77 of the NPPF, not being the adopted development plan, cannot and does not seek to change the housing requirement set out in the adopted development plan. By referring to "*adopted strategic policies*" in the plural, the NPPF contemplates that regard may need to be had to more than one strategic policy.
- 9.65 Paragraph 77 of the NPPF2023 has two limbs and must be interpreted and applied as such for the purposes of decision-taking. It first requires identification of the housing requirement in adopted strategic policies. It second directs circumstances where local housing need provides the requirement against which to assess supply.
- 9.66 NPPF(Dec)2023 Paragraph 77 is therefore clear regarding the use of local housing need to assess housing land supply in the circumstances of Cherwell District. The calculation of LHN operates housing need purely on administrative boundaries and makes no reference to unmet need.
- 9.67 My evidence illustrates that while NPPF(Dec)2023 Paragraph 77 is very clear regarding LHN, neither that paragraph, the PPG nor the inputs to the standard method calculation indicate that the method by which housing supply is to be accounted for should alter.
- 9.68 In the case of Cherwell District, the method to account for supply is provided by separate policies related to Oxford's unmet needs within the Partial Review.
- 9.69 It follows that that the circumstances of the housing requirement in adopting strategic policies related to the contribution towards part of unmet needs in Cherwell District could be (and are) distinct from those in the Vale of White Horse and other neighbouring Oxfordshire authorities. I have highlighted differences in the approach to plan-making between the authorities, including site selection, the distribution of growth and where exceptional circumstances have been identified to support the amendment of Green Belt boundaries and provide further details in my Appendix 2. This provides a distinction with the *Grove* Appeal Decision (CD/10.21).
- 9.70 I further outline that no weight should be given to the Council's emerging Plan for the purposes of the requirement against which supply should be assessed, having regard to the early stage of plan-making and untested nature of the evidence base with respect of managing the housing requirement and distribution of growth. Emerging approaches to plan

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<sup>18</sup> Appeal Ref: APP/J1860/W/21/3289643 Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (CD/10.24)

<sup>19</sup> Part Parcel 0025, Hill End Road, Twyning, Gloucestershire, GL20 6JD, 389971, 237249 PINS Ref: 3284820 (CD/10.27)

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

- 9.71 Within **Section 7** I also address the Heyford Park Decision Letter and note that while it is a material consideration for this Appeal it is subject to ongoing legal proceedings from both the Council and Rule 6(6) Party seeking to challenge the Decision.
- 9.72 I confirm I was further involved in preparation of the Statement of Facts and Grounds relating to the ongoing legal challenge, including preparation of a witness statement relating to my written and oral contributions to the Heyford Park Inquiry.
- 9.73 The changes to national policy and guidance from 19 December 2023 onwards post-date the Inquiry Event for Heyford Park. They could not be addressed in oral evidence. I have identified where the changes to national and policy and guidance since December 2023 were taken as determinative to the Inspector's conclusions. I have explained why I disagree with these conclusions including relating to the distinction between plan-making and decision-taking (and specifically the application of paragraph 77 of the NPPF(Dec)2023 together with identifying why the Decision Letter incorrectly sets aside the approach of the adopted development plan.
- 9.74 The Heyford Park Decision Letter thus does not change my position for this Inquiry and I do not depart from the basis of my original instructions supporting the Council's case for the requirement against which supply is to be assessed.
- 9.75 In **Section 8** (and calculation at Appendix 1) I address the Housing Delivery Test (HDT). The HDT cannot determine the approach to calculating the housing requirement and housing land supply, which is a separate subject, but its operation in Cherwell is consistent with the Council's position on the requirement against which supply should be assessed.
- 9.76 In **Section 9** I provide observations on the Council's assessment of supply (CD/6.9) and have responded to the Appellant's case on disputed sources of deliverable supply from specific sites based on the contents of the draft Topic Statement of Common Ground currently under preparation (CD/8.6).
- 9.77 I do not consider that the Appellant's details of disputed supply amount to a deficit against the relevant requirement. I do not consider that the Appellant's approach to disputing supply is consistent or objective, having regard to national policy and guidance. While I provide this view without prejudice to more detailed consideration of the published assessment that may be necessitated following the exchange of evidence it is my opinion that each site identified within the disputed supply is capable of satisfying the central test of a realistic prospect for completions beginning within five years.
- 9.78 The characteristics of the sites identified within the disputed supply are such that where part (b) of the NPPF2023 definition of deliverable applies matters assessed by the Council in its judgement at the base date, and progress since 1 April 2023, are capable of constituting clear evidence of a realistic prospect. Details of the sites are such that the examples of evidence available to demonstrate deliverability can generally be considered to indicate firm progress and clear, relevant information of delivery expectations (ID: 68-007-20190722).
- 9.79 Within this section I identify the removal of 83 units' supply from the published position, reducing slightly the extent of disagreement between the parties.
- 9.80 The conclusions of this section of my Proof of Evidence and evidence for the deliverability of disputed sites result in 4,038 units' deliverable supply. This amounts to a **5.72 years' supply against the relevant housing requirement** as shown in Table 20 above.
- 9.81 The Council's case is that the policy in paragraph 226 to the NPPF(Dec)2023 applies

and under the provisions of paragraph 77 the extent of deliverable supply identified must provide for a minimum 4 years' supply. The Council's case is therefore that it can demonstrate a surplus of 1,214 dwellings. At the point of exchanging evidence the Appellant's position on disputed supply from specific deliverable sites (which the Council does not accept) results in a deficit of only -79<sup>20</sup> dwellings against the relevant requirement for an extent of supply measured against four years' provision (equivalent to 3.89 years' supply).

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<sup>20</sup> Assuming 1,293 units in dispute where the difference between the parties in respect of detailed permission at Graven Hill is addressed by my adjustment of 33 units (see paragraph 8.49).

**APPENDICES (PAGINATED SEPARATELY)**

<b>APPENDIX 2</b>	<b>THE HOUSING DELIVERY TEST IN CHERWELL DISTRICT - TECHNICAL APPENDIX REGARDING CALCULATION OF THE NUMBER OF HOMES REQUIRED</b>
<b>APPENDIX 3</b>	<b>JOINT WORKING IN OXFORDSHIRE PLAN-MAKING IMPLICATIONS AND OUTCOMES FOR ADDRESSING UNMET NEEDS</b>
<b>APPENDIX 4</b>	<b>OXFORDSHIRE GROWTH DEAL: INFRASTRUCTURE SCHEME LIST VIA: <a href="http://WWW.FUTUREOXFORDSHIREPARTNERSHIP.ORG">WWW.FUTUREOXFORDSHIREPARTNERSHIP.ORG</a></b>
<b>APPENDIX 5</b>	<b>PROPOSED TRANSPORT AND WORKS ACT ORDER FOR THE CLOSURE OF YARNTON LANE LEVEL CROSSING, SANDY LANE LEVEL CROSSING AND TACKLEY LEVEL CROSSING AS PART OF THE OXFORD PHASE 2A ENHANCEMENT WORKS – SCREENING DECISION REF TWA/2/2/0196</b>
<b>APPENDIX 6</b>	<b>ANALYSIS OF LOCAL LEAD-IN TIMEFRAMES BASED ON TABLE 39 OF THE DECEMBER 2023 AMR</b>

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