

Appeal by Vistry Homes Ltd
Land East of Warwick Road, Banbury

Appeal ref. APP/C3105/W/24/3338211

LPA Ref. 23/000853/OUT

**Proof of Evidence – Housing Delivery and
Housing Land Supply**

Jeff Richards (BA (Hons) MTP MRTPI)

May 2024

Contents

Summary	3
1. Introduction	18
2. Relevant Planning Policy Context	20
3. Appeal Decisions on Housing Land Supply	25
4. The Council's Housing Delivery Performance to Date and Delivery to the End of the Plan Period	32
5. Cherwell District Council's Position on Housing Land Supply	38
6. Assessment of Cherwell District Council's Housing Land Supply	40
7. Conclusions	84

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Summary

Introduction

1. I am instructed to present evidence at this Inquiry by Vistry Homes Ltd, herein referred to as 'the Appellant'.
2. My evidence in this proof of evidence addresses both housing delivery and housing land supply in Cherwell District.

The Housing Requirement in the Statutory Development Plan and The Council's Housing Delivery Performance to Date

3. My evidence confirms that the Council's overall housing requirement in its Development Plan is set out in strategic policies across the two parts of its Part 1 Plan.
4. The first element of the overall housing requirement in Cherwell is contained in the adopted Cherwell Local Plan 2011 - 2031 Part 1 (July 2015) (**Core Document 5.1**). Policy BSC1 of the Local Plan states that provision will be made for **22,840 homes** in the period 2011 to 2031 (this equates to **1,142 homes per annum**).
5. This Local Plan is over 5 years old and so I acknowledge that, for the purposes of NPPF paragraph 77 and calculating five year housing land supply, LHN derived from the standard method calculation is to be used instead of the Local Plan housing requirement (in respect of Cherwell District's needs). Nevertheless, the Local Plan remains part of Cherwell's statutory Development Plan and so the Council's performance against meeting that housing requirement to date and in the plan period as a whole is an important material consideration in the determination of this Appeal.
6. The second element of the overall housing requirement in Cherwell is its agreed portion of Oxford's unmet needs as contained in the adopted Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford's Unmet Housing Need (September 2020) (**Core Document 5.2**). This part of the statutory Development Plan remains less than 5 years old and so is 'up to date'.
7. Policy PR1 of the Partial Review Plan confirms that Cherwell will deliver **4,400 homes** to 2031 in order to help meet Oxford's unmet housing needs – such delivery was planned to come forward from 2021. In addition, Policy PR12a 'Delivering Sites and Maintaining Housing Supply' confirms a stepped requirement - between 2021 and 2026, the annual requirement towards meeting Oxford's unmet needs is 340 homes and, from 2026 /27, the annual requirement will be 540 homes.
8. At the current base date (1st April 2023) the level of under-delivery against the Part 1 Local Plan (2015) housing requirement stands at **1,392 homes**. Against the Oxford unmet needs component of its housing requirement, under-delivery (in the period 2021-2023) already stands at **680 homes**. When combined, the Council has an **under-delivery of 2,072 homes** against its total housing requirement. This is a serious and significant level of under-delivery. The Council's housing delivery figures to date are broken down and provided at Summary Table JRT1, below:

Summary Table JRT1: Cherwell's Housing Requirement in the Development Plan Compared to Actual Completions									
Year	Local Plan Part 1				Local Plan Part 1 Partial Review				Combined Housing Requirement
	LP Part 1 Annual Req.	LP Part 1 Actual Delivery	LP Part 1 - Under or Over Delivery	LP Part 1 - Cumulative Under or Over Delivery	LP Partial Review Req.	LP Partial Review - Actual Delivery	LP Partial Review - Under or Over Delivery	LP Partial Review - Cumulative Under or Over Delivery	Combined Cumulative Under or Over Delivery
2011 - 12	1,142	356	-786	-786	0	0	0	0	-786
2012 - 13	1,142	340	-802	-1,588	0	0	0	0	-1,588
2013 - 14	1,142	410	-732	-2,320	0	0	0	0	-2,320
2014 - 15	1,142	946	-196	-2,516	0	0	0	0	-2,516
2015 - 16	1,142	1,425	283	-2,233	0	0	0	0	-2,233
2016 - 17	1,142	1,102	-40	-2,273	0	0	0	0	-2,273
2017 - 18	1,142	1,387	245	-2,028	0	0	0	0	-2,028
2018 - 19	1,142	1,489	347	-1,681	0	0	0	0	-1,681
2019 - 20	1,142	1,159	17	-1,664	0	0	0	0	-1,664
2020 - 21	1,142	1,192	50	-1,614	0	0	0	0	-1,614
2021 - 22	1,142	1,188	46	-1,568	340	0	-340	-340	-1,908
2022 - 23	1,142	1,318	176	-1,392	340	0	-340	-680	-2,072
Totals	13,704	12,312	-1,392	-1,392	680	0	-680	-680	-2,072

9. This track record of under-delivery worsens further still when one compares the Council's delivery to date to what it expected to have delivered by now, by reference to the Local Plan Housing Trajectory (**Core Document 5.1**, page 275) and to the Local Plan Partial Review Housing Trajectory (**Core Document 5.2**, page 164).
10. The Council's cumulative under-delivery against the Part 1 Local Plan (2015) housing trajectory to the 1st April 2023 base date stands at **4,531 homes**. When combined with the level of delivery the Council has expected towards Oxford's unmet needs, then the cumulative position is a **shortfall of 4,891 homes**. These figures are broken down and set out in Summary Table JRT2, below.

Summary Table JRT2: Cherwell's Local Plan Housing Trajectory (2011-2031) and Partial Review Plan Trajectory (2011-2031) Compared to Actual Completions

Year	Local Plan Part 1				Local Plan Part 1 Partial Review				Combined Housing Trajectory
	LP Part 1 Annual Traj.	LP Part 1 Actual Delivery	LP Part 1 - Under or Over Delivery	LP Part 1 - Cumulative Under or Over Delivery	LP Partial Review Traj.	LP Partial Review - Actual Delivery	LP Partial Review - Under or Over Delivery	LP Partial Review - Cumulative Under or Over Delivery	Combined Cumulative Under or Over Delivery
2011 - 12									
2012 - 13	1,106	1,106	0	0	0	0	0	0	0
2013 - 14									
2014 - 15	632	946	-314	-314	0	0	0	0	-314
2015 - 16	1,300	1,425	-125	-439	0	0	0	0	-439
2016 - 17	1,845	1,102	-743	-1,182	0	0	0	0	-1,182
2017 - 18	2,345	1,387	-958	-2,140	0	0	0	0	-2,140
2018 - 19	2,200	1,489	-711	-2,851	0	0	0	0	-2,851
2019 - 20	1,774	1,159	-615	-3,466	0	0	0	0	-3,466
2020 - 21	1,695	1,192	-503	-3,969	0	0	0	0	-3,969
2021 - 22	1,606	1,188	-418	-4,387	105	0	-105	-105	-4,492
2022 - 23	1,462	1,318	-144	-4,531	255	0	-255	-360	-4,891
Totals	15,965	12,312	-4,531	-4,531	360	0	-360	-360	-4,891

The Council's Expected Housing Delivery Performance to the End of the Plan Period

11. The significant level of under-delivery to date will also lead to serious consequences for the delivery of the Council's minimum housing requirement and for its overall housing delivery strategy.
12. My evidence shows that, when using the Council's own claimed assessment of its supply in the next 5 years and to the end of the plan period in 2031(both taken from the Council's December 2023 AMR (**Core Document 6.9**), there will remain serious shortfalls in the amount of homes delivered. This is shown in Summary Table JRT3, below:

Summary Table JRT3: Cherwell's Overall Housing Requirement (Across its Local Plan Part 1 (July 2015) and Local Plan Part 1 Partial Review (September 2020)) Compared to Actual and Predicted Completions to 2031

Year	Local Plan Part 1				Local Plan Part 1 Partial Review				Combined Housing Requirement
	LP Part 1 Annual Req.	LP Part 1 Actual or Predicted Delivery	LP Part 1 – Actual or Predicted Under or Over Delivery	LP Part 1 - Cumulative Actual or Predicted Under or Over Delivery	LP Partial Review Req.	LP Partial Review - Actual Delivery	LP Partial Review – Actual or Predicted Under or Over Delivery	LP Partial Review - Actual or Predicted Cumulative Under or Over Delivery	Combined Actual or Predicted Cumulative Under or Over Delivery
Actual Delivery to Date									
2011 - 12	1,142	356	-786	-786	0	0	0	0	-786
2012 - 13	1,142	340	-802	-1,588	0	0	0	0	-1,588
2013 - 14	1,142	410	-732	-2,320	0	0	0	0	-2,320
2014 - 15	1,142	946	-196	-2,516	0	0	0	0	-2,516
2015 - 16	1,142	1,425	283	-2,233	0	0	0	0	-2,233
2016 - 17	1,142	1,102	-40	-2,273	0	0	0	0	-2,273
2017 - 18	1,142	1,387	245	-2,028	0	0	0	0	-2,028
2018 – 19	1,142	1,489	347	-1,681	0	0	0	0	-1,681
2019 – 20	1,142	1,159	17	-1,664	0	0	0	0	-1,664
2020 – 21	1,142	1,192	50	-1,614	0	0	0	0	-1,614
2021 - 22	1,142	1,188	46	-1,568	340	0	-340	-340	-1,908
2022 - 23	1,142	1,318	176	-1,392	340	0	-340	-680	-2,072
Council's Predicted Delivery - Current 5 Year Period 2023-2028 - from the Council's December 2023 AMR (Core Document 6.9)									
2023 -24	1,142	853	-289	-1,681	340	0	-340	-1,020	-2,701
2024 -25	1,142	761	-381	-2,062	340	0	-340	-1,360	-3,422
2025 - 26	1,142	703	-439	-2,501	340	0	-340	-1,700	-4,201
2026 -27	1,142	890	-252	-2,753	540	0	-540	-2,240	-4,993
2027 - 28	1,142	914	-228	-2,981	540	80	-460	-2,700	-5,681
Council's Predicted Delivery - Remaining Years of the Plan Period 2028-2031 - from the Council's December 2023 AMR (Core Document 6.9)									
2028 - 29	1,142	969	-173	-3,154	540	305	-235	-2,935	-6,089
2029 - 30	1,142	1,049	-63	-3,217	540	440	-100	-3,035	-6,252
2030 - 31	1,142	1,033	-109	-3,326	540	580	+40	-2995	-6,321
Totals	22,840	19,484	-3,326	-3,326	4,400	1,405	-2,995	-2,995	-6,321

13. From Summar Table JRT3, it can be seen that the Council is expected to under-deliver against its 2015 Local Plan requirement in ever year from now to the end of the plan period in 2031. The Council's cumulative under-delivery (using its own figures) will be by some **3,326 homes by 2031** against that part of its housing requirement.
14. Against the Oxford unmet needs part of its housing requirements (in the Partial Review Plan (2020)), my evidence shows that the Council will also under-deliver by some **2,995 homes by 2031**. Combined, the **total level of under-delivery will be 6,321 homes**. That is a truly astonishing level of under-delivery by the end of the plan period.
15. It is clearly that the Council's housing delivery strategy has failed. It has failed to deliver the planned homes to date and will fail, substantially, by the end of the plan period.
16. At the end of the plan period, the Council will be many thousands of homes short of the combined minimum housing requirement in the Development Plan. Such under-delivery is not just of market homes, it will result in serious consequences for the delivery of desperately needed affordable homes (with evidence on affordable need consider further by Ms Gingell for the Appellant) and will also stifle the district's (and the wider Oxfordshire area's) economic potential.
17. The only remedy to seek to make inroads into these significant shortfalls in housing delivery is to grant consents for sites now which can deliver before the end of the Plan period (in 2031).

The Council's Five Year Housing Land Supply

18. Beyond the Council's failure to deliver the homes it has needed to, to date, my evidence also considers the Council's housing land supply over the next five years..

The Requirement for a Five or Four Year Housing Land Supply

19. In respect of National Planning Policy Framework (NPPF) paragraphs 77 and 226 and whether the Council is required to demonstrate a five or a four year housing land supply, my evidence confirms that the Council's Regulation 18 Local Plan does not meet the two requirements of paragraph 226.
20. Whilst the Regulation 18 Plan did include for some draft housing allocations, and whilst there were various plans identifying the sites embedded in the Regulation 18 Plan itself, there was no single policies map published alongside the Plan that meets the requirements of The Town and Country Planning (Local Planning) (England) Regulations 2012. In that respect, the Regulation 18 Plan does not meet the NPPF paragraph 226 expectations for a policies map to have been published.
21. Cherwell Council is, therefore, required to demonstrate a five year housing land supply.

The Appropriate Housing Requirement Against Which to Calculate Five Year Housing Land Supply

22. A key area of dispute in this Appeal is whether the Council's five year housing land supply should be calculated against a single housing requirement (being a combination of Cherwell's needs (using LHN) plus Cherwell's part of Oxford's unmet needs as contained in the Partial Review Local Plan) (the Appellant's position), or whether there should be separate calculations for Cherwell's needs and one for Oxford's unmet housing need (the Council's position and current approach in its AMR).
23. Importantly, my evidence confirms that this was a matter that was considered in detail in the recent Heyford Park appeal (**Core Document 10.1**). Against this issue, the Inspector found that housing land supply should be calculated against a single requirement (paragraph 75 of **Core Document 10.1**). The Inspector at the Heyford Park appeal identified the publication of the December NPPF and changes to the PPG to be an important factor in reaching her finding that housing land supply should be considered against a single housing requirement.
24. My evidence confirms that both paragraph 61 and 67 of the NPPF make reference to the establishment of a housing requirement figure. These paragraphs, which are changes from the previous NPPF in September 2024 (and indeed from the 2012 NPPF against which the two parts of the Local Plan were examined), make clear that the expectation is for a single housing requirement. PPG also confirms the expectation for there to be a single housing requirement and for supply to also be judged against a single housing requirement, including at Paragraphs 68-001, 68-002 and 68-055 (full text for these PPG paragraphs is provided at **Appendix JR1**).
25. The position in Cherwell is a very similar situation to that in the Vale of White Horse (VOWH), also in Oxfordshire. In the VOWH there are also two parts to the Development Plan. The first is The VOWH Local Plan 2031: Part 1 (which was adopted in December 2016, and which includes for the Vale's own housing needs). The second is The VOWH Local Plan 2031: Part 2 (adopted in October 2019 and which confirms the additional housing to be delivered towards meeting Oxford's unmet needs, and allocates sites to do so). As is the case in Cherwell, the housing requirement in the VOWH's Part 1 Plan is not up to date, but the requirement in the Part 2 plan is up to date. The Vale's latest Housing Land Supply Statement (December 2023) (**Core Document 13.10**) confirms that the Council's five year supply requirement is made up from the Vale's Local Housing Need **plus** the Vale's agreed portion towards meeting Oxford's housing needs. This meets the NPPF expectation for a single housing requirement, and provides support for the same approach to be taken in Cherwell.
26. Finally, my evidence confirms that further support for my position can be taken from the Housing Delivery Test (HDT) and how the results of the HDT impact the way that authorities must calculate the housing land supply requirement. My evidence confirms that the 'housing requirement' component of the HDT measurement must include for the unmet needs component in Cherwell's Local Plan Partial Review. It is the Council's housing delivery against the overall housing requirement that then leads to the HDT result and, in turn, this sets the requirement or otherwise for a buffer which, finally, allows the overall 5 year housing land supply requirement to be calculated. Given this,

there is clear planning logic in applying the buffer, derived from the HDT (which is based on delivery against a single, combined housing requirement) to a similarly single combined housing land supply calculation.

The Consequences on Housing Land Supply if a Single Housing Requirement is Used

27. If the Inspector agrees with my evidence on the use of a single housing requirement and calculation (and also agrees with the findings of Inspector Hockenhull in the Heyford Park appeal) then, even on the Council's own claimed deliverable supply, the Council would fall below a four year supply. This is confirmed by Summary table JRT4:

Summary Table JRT4 – Combined Supply Position (Council's Supply figures)				
Step	Description			Figures
A	Cherwell Needs LHN			710 homes
B	Cherwell Needs LHN 5 years (A x5)			3,550 homes
C	Partial Review Requirement			340 homes (years 1-3), 540 homes (years 4-5)
D	Under-delivery	against	Partial Review	680 homes
	Requirement to Date			
E	Partial Review Requirement 5 years (C x 5 + D)			2,780 homes
F	Combined Requirement 5 years (B + E)			6,330 homes
G	Cherwell Area Supply (LPA position)			4,121 homes
H	Partial Review Sites Supply (LPA Position)			80 homes
I	Total Combined Supply (G + H)			4,201 homes
J	Five Year Calculation			3.32 years

The Alternative Position if Separate Calculations are Found to be the Correct Approach

28. If the Inspector disagrees with my evidence on the need to calculate supply against a single housing requirement for the District, and instead concludes that the Council's position on separate calculations is the correct approach, then the fact that the Council acknowledges that it is not able to demonstrate a sufficient housing land supply against part of its overall requirement (indeed the supply against Oxford's unmet needs is only 0.1 years even on the Council's own figures) must have some policy consequence as a result. It must have some meaning for the determination of applications for homes in the District.
29. The Partial Review Plan does not provide any boundary or 'ring fence' area within which it suggests the presumption in favour of sustainable development would apply

as a consequence of not having a sufficient housing supply against Oxford's unmet needs. Logically, therefore, the policy consequence must be that the presumption at NPPF paragraph 11 is applied on a district wide basis.

The Appropriate Housing Requirement Against Which to Calculate Five Year Housing Land Supply – Conclusions

30. For the reasons summarised above, my evidence confirms that a single housing requirement should be used in Cherwell for the purposes of calculating the Council's housing land supply. That would result in an overall requirement figure in the five year period of **6,330 homes**.
31. Nevertheless, to assist the Inspector, my evidence also considers the supply position against separate requirements (being **3,550 homes** against Cherwell's LHN and **2,780 homes** against Oxford's unmet needs).

The Council's Deliverable Housing Land Supply

32. My evidence has found that there are several sites which should not be included in the Council's deliverable supply (when considered against the NPPF definition of 'deliverable') or where other reductions in supply should be made. My overall reductions in supply are summarised at Summary **Table JRT5** below:

Summary Table JRT5 – Summary of Overall Reductions to the Council's Claimed Housing Supply

Sites Identified by the Council to Meet Cherwell's Housing Needs

Site	Council's delivery	My delivery	Difference in delivery	Summary for why I have applied reductions
Caravan site, Station Road, Banbury	63	0	-63	An outline application (22/01564/OUT) is pending determination for development on this site. A resolution to grant permission was made in July 2023, however there is still no permission in place. Even when outline permission is issued this will remain a Limb B site requiring clear evidence. The site may need to be marketed and sold, reserved matters will need to be prepared, submitted and determined before development can start on this site. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Bankside Phase 2, Banbury	50	0	-50	An outline application (19/01047/OUT) is pending determination for development on this site. A resolution to grant permission was made in July 2021, however there is still no permission in place some 3 years later. Even when outline permission is issued this will remain a Limb B site requiring clear evidence, reserved matters will need to be prepared, submitted and determined before

				development can start on this site. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
South of Salt Way – East (Banbury 17)	400	237	-163	This row in the Council’s trajectory relates to the residual from outline application (ref. 14/01932/OUT) that isn’t already covered by other reserved matters within the trajectory table. The parts of this site that have detailed consent are not disputed (including the reserved matters consent (22/02068/REM for 237 homes) which was approved after the base date (20 April 2023)). However, there is no detailed permission in place for the remaining residual units from the outline and the Council has not provided the necessary clear evidence that completions will be delivered in the five year period.
Land Opposite Hanwell Fields Recreation, Adj To Dukes Meadow Drive, Banbury	78	0	-78	An outline application (21/03426/OUT) is pending determination for development on this site. A resolution to grant permission was made in April 2022, however there is still no permission in place over 2 years later. Even when outline permission is issued this will remain a Limb B site requiring clear evidence, reserved matters will need to be prepared, submitted and determined before development can start on this site. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Land Adjoining Withycombe Farmhouse Stratford Road A422 Drayton	50	0	-50	An outline application (22/02101/OUT) was recently permitted on this site (10 January 2024). A reserved matters application is pending determination for 250 homes (23/03139/REM), however, we are now into the 2024/25 monitoring year (and are over 1 year since the 1 st April 2023 base date), and there are unresolved objections to this (including from the LLFA, the highways team and the archaeology team) and there is no detailed permission in place. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
North West Bicester Phase 2	100	0	-100	Outline permission is in place (for mixed use development including 1,700 homes under ref. 14/02121/OUT), however there is no detailed consent in place for any of the residential units on this site. There is an application for reserved matters (for 123 residential units) currently

				pending determination (23/01586/REM). This was submitted in June 2023, so nearing a year of determination and there are unresolved objections to this including from the highways team. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Graven Hill - 20/02345/LD O	141	108	-33	The Local Development Order for this site (relating to the delivery of 276 self build plots) expired in December 2023. The Council has confirmed on another appeal ¹ that 33 units (that remaining without Certificates of Compliance in place when the LDO expired) should be removed from the supply. I will attempt to agree a position on this site with the Council through the topic specific Statement of Common Ground.
South West Bicester Phase 2	60	0	-60	Part of this site (covered by other lines in the trajectory) has detailed consent and is under construction, this element is not disputed. There is no detailed permission in place for the remainder of the units relied on; the residual from outline application ref. 13/00847/OUT. A revised hybrid application for a 82 bed care home and outline permission for 14 dwellings is now pending determination (23/03073/HYBRID). This received a resolution to grant consent in March 2023, however, over 1 year later, there is still no permission in place. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on the remaining part of the allocation.
Bicester Gateway Business Park, Wendlebury Road, Bicester	50	0	-50	This site has outline consent (20/00293/OUT) for a mixed use scheme including 273 dwellings. Since this outline was secured, reserved matters approval has been granted pursuant to an earlier outline on the site, for non residential development (12 Knowledge Economy Units). There is no reserved matters pending for the residential units. There is no clear evidence that residential completions will be delivered on site in the five year period. Indeed,

¹ Ploughley Road, Ambrosden (Ref. APP/C3105/W/23/3327213, with the inquiry held in March 2024)

				in recent appeal at Ambrosden ² , the Council has accepted that this site should not be considered deliverable. I will attempt to agree a position on this site with the Council through the topic specific Statement of Common Ground.
Former RAF Upper Heyford, Villages 5 – 89 units (15/01357/F)	89	0	-89	A full application was approved on this site for 89 homes in September 2023. However, there is clear evidence that this consent will not be progressed and an alternative scheme, for a wider site, progressed by a different applicant, is now pending determination. The new scheme does not yet have consent (and does not meet the test of being 'deliverable' at this time) and there is clear evidence that the extant consent will not be pursued.
Former RAF Upper Heyford – Villages 5, hybrid consent (18/00825/HY BRID 22/02255/REM)	488	138	-350	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, and this element is not disputed. There are no further reserved matters pending for homes on this site. There is no clear evidence that residential completions, beyond those with detailed consent, will be delivered on site in the five year period.
Former RAF Upper Heyford, Villages 5 – 31 units (21/03523/OUT)	31	0	-31	Outline consent was granted for 31 homes on this site in September 2023. There is no record of any reserved matters pending determination pursuant to this consent. There is no clear evidence that residential completions will be delivered on site in the five year period. This scheme is also linked to the 89 unit full permission ((15/01357/F)) considered above and there is a clear evidence that the two consents will not be progressed and an alternative scheme, for the combined site, progressed by a different applicant, is now pending determination. The new scheme does not yet have consent (and does not meet the test of being 'deliverable' at this time) and there is clear evidence that the extant consent will not be pursued.

² **Ploughley Road, Ambrosden** (Ref. APP/C3105/W/23/3327213, with the inquiry held in March 2024)

OS Parcel 2778 Grange Farm North West Of Station Cottage Station Road Launton	65	0	-65	This site has outline consent for 65 homes, however there is no detailed consent in place for any of the residential units on this site. There is an application for reserved matters (for 65 residential units) currently pending determination (23/03433/REM). This was submitted in December 2023, and there are unresolved objections to this application. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Land at Deerfields Farm Canal Lane Bodicote	26	0	-26	Outline consent was granted for 26 homes on this site in November 2022. There is no record of any reserved matters pending determination pursuant to this consent. There is no clear evidence that residential completions will be delivered on site in the five year period.
OS Parcel 3489 Adjoining And South West Of B4011, Ambrosden	60	0	-60	Outline consent was granted for 75 homes on this site in December 2023. There is no record of any reserved matters pending determination pursuant to this consent. There is no clear evidence that residential completions will be delivered on site in the five year period.
Land North Of Railway House, Station Road, Hook Norton	43	0	-43	Outline consent was allowed at appeal for 43 homes on this site in August 2022. A reserved matters application has very recently been submitted in April 2024 (24/01045/REM). As yet, there are no substantive consultation) pending determination pursuant to this consent. There is no clear evidence that residential completions will be delivered on site in the five year period.
Kidlington Garage, 1 Bicester Road, Kidlington	15	0	-15	A detailed application (22/00017/F) is pending determination for development on this site. A resolution to grant permission was made in March 2023, however there is still no permission in place over 1 year later. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Small Sites – Banbury Area	62	50	-12	It is reasonable to apply lapse rate of 20% to the total potential delivery from small sites with planning permission.
Small Sites – Bicester Area	45	37	-8	It is reasonable to apply lapse rate of 20% to the total potential delivery from small sites with planning permission.

Small Sites – Other Areas	202	162	-40	It is reasonable to apply lapse rate of 20% to the total potential delivery from small sites with planning permission.
Small Site Windfalls	250	200	-50	An increase to windfall rates (compared to previous AMRs) is not justified, with future trends indicating a decline rather than an increase in windfall rates.
SUB TOTAL	2,368	932	-1,436	

Sites Identified by the Council in the Partial Review Local Plan to Meet Oxford's Unmet Needs

Site	Council's delivery	My delivery	Difference in delivery	Summary for why I have applied reductions
Land West of Oxford Road, North Oxford	30	0	-30	There is no application pending for development on this site. A Development Brief has been drafted (required ahead of a planning application coming forward), but it does not appear that this has yet been formally adopted. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Land South East of Kidlington, Kidlington	30	0	-30	The Council list two applications in relation to this site, neither of which are determined. An outline (22/00747/OUT) for 370 homes has been pending since March 2022, and received a resolution to grant subject to s106 agreement in October 2023, however there is no permission yet in place. A full application (22/03883/F) for 96 homes is also pending determination, this received a resolution to grant consent in December 2023, however no permission has yet been issued. There are numerous examples (including in the list of sites above) where S106 agreements have taken many years (and counting) to come forward. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Land at Stratfield Farm, Kidlington	20	4	-16	An outline application (22/01611/OUT) is pending determination for development on this site. A resolution to grant permission was made in October 2023, however there is still no permission in place. There are numerous examples (including in the list of sites above) where S106 agreements have taken many years (and counting) to come forward. Even when outline permission is issued, this will remain a Limb B site requiring clear evidence and reserved matters will need to be

prepared, submitted and determined before development can start on this site. A full application (22/01756/F) for a net increase of 4 homes was permitted on part of the site in October 2023, this element is not disputed. The Council has not provided the necessary clear evidence that completions that the remaining homes will be delivered in the five year period on this site.			
SUB TOTAL	80	4	-76
TOTAL	2,448	936	-1,512

Calculating the Council's Five Year Housing Land Supply

33. Overall, my evidence shows that **1,512 homes** should be removed from the Council's deliverable housing supply, which equates to an overall supply in the five-year period (2023-2028) of **2,689 homes**. This results in the following five year supply position:

Summary Table JRT6 – Five Year Supply Calculation		
	Step	Calculation
A	Housing requirement (2023-2028)	6,330 homes
B	My assessment of deliverable supply	2,689 homes
C	Five Year Supply	2.12 years
D	Shortall in deliverable supply	-3,641 homes

34. My evidence shows that the actual supply in Cherwell stands at only **2.12 years**, a **shortfall of 3,641 homes** against a five year supply requirement. This is clearly a very serious and significant shortfall against a minimum housing requirement.
35. If the Inspector were to disagree with my evidence on the use of a single housing requirement figure and a single housing land supply calculation, then my evidence also shows that the Council would fall considerably short of demonstrating a five year housing land supply when separate calculations are used.
36. Against Cherwell's LHN, my evidence confirms that the Council has only a **3.78 year supply**, a **shortfall of 865 homes** against a five year requirement – this calculation is provided in Summary table JRT7. This is also below four years, even if the Council is found to meet the requirements of NPPF paragraph 226.

Summary Table JRT7 – Five Year Supply Calculation (Cherwell LHN)

	Step	Calculation
A	Housing requirement (2023-2028)	3,550 homes
B	My assessment of deliverable supply	2,685 homes
C	Five Year Supply	3.78 years
D	Shortall in deliverable supply	-865 homes

37. Against Oxford's unmet needs, my evidence shows that the Council supply is just **0.01 years**, a **shortfall of 2,776 homes**. Even if it were to be concluded that separate housing land supply calculations is the correct approach, there has to be a meaningful policy consequence as a result of this substantial level of undersupply, and that has to be the application of the presumption in favour of sustainable development on a district wide basis. This calculation is provided in Summary Table JRT8.

Summary Table JRT8 – Five Year Supply Calculation (Partial Review)

	Step	Calculation
A	Housing requirement (2023-2028)	2,780 homes
B	My assessment of deliverable supply	4 homes
C	Five Year Supply	0.01 years
D	Shortall in deliverable supply	-2,776 homes

Overall Findings

38. It is clear from my evidence that Cherwell District Council cannot demonstrate a five year housing land supply in accordance with paragraph 77 of the NPPF. The shortfalls in supply in the District are serious and significant. Furthermore, there will be significant shortfalls in plan period delivery that the Appeal Proposal can also help to address.
39. The planning proof of evidence of Mr Murray Cox considers in more detail the weight to be given to out of date policies as a result of the shortfalls in supply and the weight to be given to the benefits of the delivery of homes on the Appeal Site in the context of the Council not being able to demonstrate a five year supply, and based on my evidence on overall plan period shortfalls in delivery.

1. Introduction

- 1.1 My name is Jeff Richards, and I am a Senior Director at Turley. I am instructed to present evidence at this Inquiry by Vistry Homes Ltd, herein referred to as 'the Appellant'.
- 1.2 This Appeal follows the Council's refusal of an outline planning application for 170 dwellings on Land East of Warwick Road, Banbury.
- 1.3 My evidence addresses both housing delivery and housing land supply in Cherwell District.
- 1.4 The evidence which I have prepared and provide for this Appeal (PINS Reference No. APP/C3105/W/24/3338211) is true and has been prepared in accordance with the guidance of my professional institution. I confirm that the opinions expressed are true and professional opinions.

Qualifications

- 1.5 I have an Honours Degree in Town & Country Planning and a Masters degree in Town Planning, both from the University of the West of England. I am also a Member of the Royal Town Planning Institute and have over 20 years' experience in the planning profession.
- 1.6 I joined Turley as a Director in November 2014, I held the role of Head of Planning South West (heading up Turley's Bristol and Cardiff Offices) between 2016 and 2022 and I now hold the position of Senior Director. Turley has been working in planning and property for 40 years and is now one of the largest, leading planning practices in the UK, with offices in 14 locations.
- 1.7 Before my role at Turley, I practiced as a Planning Consultant with WYG for over 11 years, including as a Director from June 2013. Prior to that, I worked as a Planning Officer in Local Government at North Somerset Council for over 2 years.
- 1.8 I advise on a large range of development across many sectors, but hold a particular specialism in residential development where I provide strategic advice on residential promotions and progress numerous applications for development. I am currently advising on sites that, in total, will deliver over 20,000 new homes.
- 1.9 Since the publication of the 2012 National Planning Policy Framework (NPPF), and the inclusion of previous paragraphs 47³ and 14⁴ in that NPPF, I have also developed a particular specialism in the analysis of housing land supply, providing evidence on the requirement to demonstrate a five year housing land supply at numerous Local Plan examinations, appeal hearings and at public inquiries across the country. My experience in strategic residential development means that I am very familiar with the processes involved in promoting and progressing sites for residential development, including their

³ Setting out the requirement to demonstrate a five year supply

⁴ Setting out the presumption in favour of sustainable development

overall 'deliverability' and the time it can take to secure the necessary permission before first homes will be seen.

1.10 In that context, my evidence considers both the Council housing delivery performance against the housing requirement in its Development Plan and also the Council's ability to demonstrate a housing land supply sufficient to provide for five years' worth of housing, as required by paragraph 77 of the NPPF.

1.11 I have structured my evidence as follows:

Section 2 - I briefly consider the policy context relevant to the consideration of housing delivery and the determination of housing land supply;

Section 3 – I consider recent appeals relevant to five-year supply where the requirement for 'clear evidence' within limb b) of the definition of a deliverable site has been considered. I also consider recent appeals in Cherwell that have considered housing land supply;

Section 4 – I consider the Council's housing delivery since the beginning of the plan period. I also consider the Council's own position on expected cumulative delivery at the end of the 5 year period and at the end of the plan period in 2031 to determine whether Cherwell is expected to meet its minimum housing requirement;

Section 5 – I set out the Council's current published position on five year housing land supply;

Section 6 – I provide my assessment of the Council's housing land supply, including a consideration of matters of disagreement between me and the Council;

Section 7 - I set out my concluding remarks.

2. Relevant Planning Policy Context

The Development Plan and the Housing Requirement

2.1 For Cherwell District Council, the adopted Development Plan currently consists of:

- Adopted Cherwell Local Plan 2011 - 2031 Part 1 (July 2015) (the 'Part 1 Plan');
- Adopted Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford's Unmet Housing Need (September 2020) (the 'Partial Review');
- Minerals and Waste Core Strategy (September 2017);
- 'Made' Neighbourhood Plans in Cherwell District;
- Saved, retained policies of the Adopted Cherwell Local Plan 1996; and
- Saved policies from Oxfordshire County Council's Minerals and Waste Local Plan 1996.

2.2 Policy BSC1 of the Part 1 Plan states that provision will be made for **22,840 homes** in the period 2011 to 2031 (**1,142 homes per annum**) and sets out the overall distribution of development across the district.

2.3 Over the Plan period 10,129 homes are to be provided at Bicester, some 7,319 homes at Banbury and 5,392 homes in the rest of the district. At the time the Part 1 Plan was adopted in 2015, there remained 21,734 homes from the requirement to be completed.

2.4 Policy PR1 of the Partial Review Plan states that **4,400 homes** will be delivered to 2031 on specific sites allocated in that plan in order to help meet Oxford's unmet housing needs. Paragraph 5.163 of the Partial Review Plan confirms that the first five year period for monitoring delivery towards Oxford's unmet needs should be **from 2021**.

2.5 In addition, Policy PR12a 'Delivering Sites and Maintaining Housing Supply' confirms that:

"At least 1700 homes will be delivered for Oxford for the period 2021 to 2026 for which a five year land supply shall be maintained on a continuous basis from 1 April 2021. The remaining homes will be delivered by 2031."

2.6 This means that, **between 2021 and 2026**, the annual requirement towards meeting Oxford's unmet needs is **340 homes** and, **from 2026 /27**, the annual requirement will be **540 homes**.

2.7 Policy RP12a also sets out that:

"The Council will manage the supply of housing land for the purpose of constructing 4,400 homes to meet Oxford's needs. A separate five year housing land supply will be maintained for meeting Oxford's needs."

- 2.8 A table showing the combined housing requirement (across the Part 1 Plan and Part 1 partial Review Plan) is provided at Table JRT1 in section 4, below.

The National Planning Policy Framework

- 2.9 The NPPF was recently updated in December 2023. This included a number of changes to the requirement to demonstrate a five year housing land supply. I summarise key aspects relevant to housing delivery and housing land supply, below.
- 2.10 **Paragraph 11** sets out the presumption in favour of sustainable development and confirms that for decision taking, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, this means granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (with the policies those areas and assets listed at footnote 7); or
 - ii. any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as taken as a whole.
- 2.11 **Footnote 8** states that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (or four years where relevant in some LPAs) (with a buffer, if one is required) as set out in NPPF paragraph 77); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.
- 2.12 **Paragraph 60** advises that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The need for affordable housing is the subject of a separate proof of evidence prepared by Annie Gingell of Tetlow King Planning.
- 2.13 **Paragraph 61** confirms that in order to determine the minimum number of homes needed, strategic policies should be informed by a local housing need (LHN) assessment, conducted using the standard method in national planning guidance. However, it further guides that the outcome of the standard method is an advisory starting-point for establishing **a housing requirement for the area**. It also confirms that, in addition to the LHN figure, **any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for**.
- 2.14 Linked to paragraph 61, **paragraph 67** confirms that Strategic policy-making authorities should establish **a housing requirement figure for their whole area**, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. It confirms that **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.

- 2.15 In respect of sites and sources of supply that can contribute to an authority's deliverable supply, **paragraph 72** advises that a windfall allowance can be used where there is compelling evidence that they will provide a reliable source of supply.
- 2.16 **Paragraph 75** of the NPPF outlines that strategic policies should include a trajectory of expected housing delivery over the plan period.
- 2.17 **Paragraph 76** confirms that, where an LPA has an adopted plan that is less than 5 years old and where that plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded, there is no longer a need to demonstrate a supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing.
- 2.18 **Paragraph 77** confirms that in all other circumstances, local authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years of housing against the housing requirement in adopted strategic policy or against LNH where the strategic policy is more than five years old. There is no longer a requirement to include a 5% buffer as part of the 5-year supply requirement, but a 20% buffer should be included where HDT results show that the delivery in an area falls below 85%.
- 2.19 **Paragraph 77** also cross refers to the provisions of **Paragraph 226** which confirms that, in some circumstances, only a four year housing land supply needs to be demonstrated. This applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, **including both a policies map and proposed allocations towards meeting housing need**. This applies for 2 years from the date of publication of the NPPF. Whilst Cherwell District Council has published a Regulation 18 Local Plan (in September 2023) there is a dispute between the parties as to whether that draft plan meets the two requirements of paragraph 226 in order for the authority's need to demonstrate a supply to be lowered to 4-years. The Appellant's case is **that the requirement to demonstrate a five year housing land supply** in accordance with NPPF paragraph 77 remains the correct requirement for Cherwell.
- 2.20 **Footnote 42** associated with Paragraph 77 states that, where strategic policies are more than five years old, LHN, using the Government's standard method calculation, should be used for five year housing land supply purposes unless the strategic policies have been reviewed and found not to require updating.
- 2.21 The Glossary at Annex 2 of the NPPF provides a definition of what constitutes a Deliverable site as follows:

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

- a. sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until*

permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

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

2.22 This definition has not changed from the previous NPPF and my evidence refers to the two strands of the above definition as **‘limb a’** and **‘limb b’** of the definition of deliverable.

Planning Practice Guidance

2.23 The PPG provides further guidance on assessing a five-year housing supply including:

Housing Supply and Delivery

- Paragraph 001 - What policies are in place to encourage local authorities to promote a sufficient supply of land for housing and support delivery?
- Paragraph 002 – What is a 5 year land supply
- Paragraph 003 – What is the purpose of the 5 year housing land supply
- Paragraph 004 - How can an authority demonstrate a 5 year supply of deliverable housing sites?
- Paragraph 055 - What housing land supply does a local planning authority need to demonstrate for the purposes of decision making?
- Paragraph 007 – What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?
- Paragraph 008 – What happens if an authority cannot demonstrate a 5 year housing land supply?
- Paragraph 058 - How should local authorities monitor their land supply position?
- Paragraph 022 – When should the 20% buffer be added to the 5 year housing land supply requirement?
- Paragraph 026 - How is 5 year housing land supply measured where authorities have stepped rather than annual average requirements?
- Paragraph 031 – How can past shortfall in housing completions against planned requirements be addressed?
- Paragraph 032 – How can past over-supply of housing completions against planned requirements be addressed?

- Paragraph 035 – How can authorities count older people’s housing in the housing land supply?
- 2.24 Paragraph 007 (under ‘Housing Supply and Delivery’), mentioned above, sets out what evidence to demonstrate deliverability may include as the following:
- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;
 - firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;
 - firm progress with site assessment work; or
 - clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects
- 2.25 In addition, the following PPG on **Housing and Economics Needs Assessments** is also relevant for my evidence.
- Paragraph 010 - When might it be appropriate to plan for a higher housing need figure than the standard method indicates?
- 2.26 Finally, under the heading **Housing and Economic Land Availability Assessment**, the following PPG is relevant:
- Paragraph 017 - What can be considered by plan-makers when assessing whether sites / broad locations are likely to be developed?
 - Paragraph 018 - What factors can be considered when assessing the suitability of sites / broad locations for development?
 - Paragraph 019 - What factors can be considered when assessing availability?
 - Paragraph 020 - What factors should be considered when assessing achievability including whether the development of the site is viable?
 - Paragraph 021 - What happens when constraints are identified that impact on the suitability, availability and achievability?
 - Paragraph 022 - How can the timescale and rate of development be assessed and presented?
- 2.27 Relevant extracts from PPG are included at **Appendix JR1**.

3. Appeal Decisions on Housing Land Supply

Appeal decisions that have considered the approach to 'clear evidence'

- 3.1 There are a number of sites included in the Council's supply that have no detailed planning permission (including sites with a pending outline planning application only or sites with only outline planning permission secured) and so fall into limb b) of the definition of deliverable. Such sites should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.
- 3.2 In this context, there have been a number of recent appeal decisions where the definition of a deliverable site and the burden in respect of presenting 'clear evidence' has been considered.

Woolpit, Suffolk (Ref. APP/W3520/W/18/3194926), September 2018 (Core Document 10.2)

- 3.3 The Inspector's decision in the Woolpit appeal was one of the first decisions following the revised definition of a deliverable site in the NPPF.
- 3.4 With regards to the base date for land supply purposes (which is relevant to a number of claimed deliverable sites in Cherwell) it confirmed at paragraph 67 that;

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

- 3.5 It confirmed that, for sites with only outline permission, the onus is on the Council to provide the necessary clear evidence of deliverability. The Inspector stated, at paragraph 68, that:

"Sites with outline planning permission make up a very large proportion of the Council's claimed supply. The onus is on the Council to provide the clear evidence that each of these sites would start to provide housing completions within 5 years...the Council has not even come close to discharging the burden to provide the clear evidence that is needed for it to be able to rely upon those sites."

Ardleigh, Colchester (Ref. APP/P1560/W/17/3185776), September 2018 (Core Document 10.3)

3.6 At the time of the appeal, the draft PPG had been issued outlining the potential ways in which clear evidence might be provided. As the guidance had not yet been confirmed, the Inspector considered it appropriate to take a precautionary approach and to expect necessary evidence to involve a clear commitment to a programme of delivery.

3.7 When considering sites with outline planning permission only, the Inspector stated at paragraph 94:

*“Three of the sites have **not yet had applications for approval of reserved matters, which must be seen as a key milestone in the delivery process.** The Council’s own assessment acknowledges potential difficulties in bringing forward development on these sites...uncertainties about viability and access prevent full confidence of delivery within the period” (my emphasis).*

3.8 In this decision, sites with only outline permission were subsequently omitted from the predicted supply.

Little Sparrows, Sonning Common, Oxfordshire (APP/Q3115/W/20/3265861), June 2021 (Core Document 10.4)

3.9 The requirement for clear evidence and what it should comprise was considered in a recent appeal at Little Sparrows, Sonning Common, Oxfordshire. In the decision letter, dated June 2021, the Inspector states, at paragraphs 20 and 21, that:

“20. I have also had regard to the PPG advice published on 22 July 2019 on ‘Housing supply and delivery’ including the section that provides guidance on ‘What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking.’ The PPG is clear on what is required:

“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions.”

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

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

London Road, Woolmer Green (Ref. APP/C1950/W/17/3190821), October 2018 (Core Document 10.5)

- 3.10 The Inspector recognised at Paragraph 30 of the decision that there is no presumption of deliverability from sites with the second limb of the definition of a deliverable site, stating:

*“The second closed list refers to sites: with outline planning permission; with permission in principle; allocated in the development plan or identified on a brownfield register. Whilst such sites can be included within the 5-year HLS, **there is no presumption of deliverability and it is for the LPA to justify their inclusion with clear evidence that housing completions will begin on-site within 5 years**” (my emphasis).*

- 3.11 When considering sites with outline permission, the Inspector concluded at paragraph 32 that the information provided fell “well short” of the clear evidence required by the Framework.

Bures Hamlet, Essex (Ref. APP/Z1510/W/18/3207509), March 2019 (Core Document 10.6)

- 3.12 In the Bures Hamlet appeal, the Inspector considered the extent of evidence presented by the Council, including how this should be provided. At paragraph 66 of the decision, the Inspector found that:

*“Where there is to be a reliance on an annual assessment then that clear evidence should logically be included in that published assessment or at least published alongside it. That would qualify as publicly available in an accessible format as the PPG requires. It would accord with guidance in PPG Paragraph 3-048 which applies to all forms of annual review including, but not limited to, annual position statements. That is not to say there should be publication of every email or every note of a meeting or telephone conversation. The information can be provided in summary form but **there needs to be some means of identifying the basis for the conclusion reached**” (my emphasis).*

- 3.13 When considering the information made available in the Annual Monitoring Report (AMR), the Inspector states at paragraph 67 that:

“The information published here in the AMR is minimal and it relies heavily on unsupported assertions that a site will be delivered. That does not amount to clear evidence. In most cases it does not include the additional information that was introduced only in oral evidence at the inquiry such as: the date when a reserved matters submission was made or anticipated; when a S106 obligation was completed; why a full planning application and not a reserved matters application was submitted on a site that already had outline permission; the source of an estimate of a delivery rate; any assumptions and yardsticks that were applied where direct information was in doubt or missing; or other information of the type suggested in PPG paragraph 3-036” (my emphasis).

- 3.14 The Inspector concludes at paragraph 69 that the Council has not provided clear evidence in the AMR that there is a five year housing land supply. He also concluded

that, whilst there was insufficient evidence to draw a precise conclusion on supply, the likelihood is that the supply was closer to the Appellant's figure of 4.45 years.

Southfield Road, Gretton (Ref. APP/U2805/W/18/3218880) August 2019 (Core Document 10.7)

- 3.15 The Inspector considered the position on four contested sites against the NPPF definition of a deliverable site and the revised PPG guidance on what constitutes 'clear evidence'. The Inspector recognises at paragraph 35 that consideration of clear evidence now focuses on 'how much' and whether progress is 'firm'.
- 3.16 Within the Inspector's analysis of the four disputed sites, he considered that:
1. Information limited to a developer holding a meeting in respect of progressing towards a detailed application is not considered to be firm evidence of progression of reserved matters (paragraph 37).
 2. There had been attempts to develop on a site for a number of years and no firm progress had been demonstrated by the Council that it would deliver (paragraph 38).
 3. On a large sustainable urban extension, the delivery on site had been pushed back through several reviews of AMRs and the Inspector had difficulty with the evidence presented being sufficiently clear enough to demonstrate the Council's trajectory (paragraphs 39 and 40).
- 3.17 The Inspector concluded that the Council's submission fell short of the clear evidence required by the Framework.

Land at Farleigh Farm, Backwell (Ref. APP/D0121/W/21/3285624), June 2022 (Core Document 10.8)

- 3.18 Finally, in an appeal in Backwell in June 2022, the Inspector considered the concept of deliverability and what might be meant by the requirement for clear evidence. At paragraphs 48 and 49 of his decision, the Inspector states the following:

"I start by clarifying the concept of 'deliverability'. The Framework Annex 2 sets out the main considerations in this regard. In particular, Category A sites which do not involve major development and have planning permission, and all those sites with detailed planning permission should be considered deliverable in principle, unless there is clear evidence that homes will not be delivered within five years. In contrast Category B sites, including those which have outline planning permission for major development or have been allocated in a development plan, should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. The essential point for both categories is whether it is reasonable to assume that they will contribute to the five-year supply, though caselaw has determined that it is not necessary for there to be certainty of delivery as anticipated.

Some examples of the nature of 'clear evidence' are provided in the planning practice guidance (PPG). 5 These are necessarily generalised and refer to indicators such as

*‘progress towards approving reserved matters’ and ‘firm progress with site assessment work’. **Nonetheless, the evidence provided must be tangible and directly relevant to achieving development on site, as opposed to speculation and assertion.** In doing so such evidence should support the key test of whether there is a ‘realistic prospect’ of delivery within five years” (my emphasis).*

Summary of Appeal Decisions and Approach to ‘clear evidence’

- 3.19 Drawing the findings of the various appeals summarised above, it is my view that the following is relevant when considering whether a site has the necessary clear evidence to be considered deliverable:
- i. the onus is on the Council to provide the necessary clear evidence that first homes will be delivered in the five year period;
 - ii. any clear evidence should logically be included in the Council’s published assessment or at least published alongside it;
 - iii. the evidence provided must be tangible or cogent and directly relevant to achieving development on site, as opposed to speculation and assertion;
 - iv. clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward;
 - v. securing an email or completed proforma from a developer or agent does not in itself constitute clear evidence;
 - vi. the holding of a meeting to discuss progress towards a detailed application is not sufficient clear evidence;
 - vii. an application for approval of reserved matters, should be seen as a key milestone in the delivery process, but firm progress of any such application is also relevant to determine whether sufficient clear evidence can be demonstrated;
 - viii. where there is evidence that the delivery of a site has been pushed back through several reviews of AMRs, the current claimed delivery assumptions on that site should be approached with considerable caution; and
 - ix. where there have been attempts to develop on a site for a number of years and no firm progress had been demonstrated by the Council that it would deliver, then current claimed delivery assumptions on that site should be approached with considerable caution.

Appeal Decisions that have considered the housing land supply in Cherwell District

- 3.20 At the time of writing, there has been one appeal decision in 2024 that has considered the issue of 5 year housing land supply in Cherwell District against its latest five year supply position (with a 1st April 2023 base date). This was at Heyford Park which I summarise below.

Heyford Park (Ref. APP/C3105/W/23/3326761), March 2024 (Core Document 10.1)

- 3.21 This appeal, which was an outline planning application for up to 230 dwellings, was the first appeal decision to consider the Council's latest (1st April 2023 based) Five Year Housing Land Supply. It was allowed on 5th March 2024.
- 3.22 A key area of dispute (which remains an area of dispute in this Appeal) was whether the Council's five year housing land supply should be calculated against a single housing requirement (being a combination of Cherwell's needs (using LHN) plus Cherwell's part of Oxford's unmet needs as contained in the Partial Review Local Plan), or whether there should be separate calculations for Cherwell's needs and one for Oxford's unmet housing need.
- 3.23 Against this issue, the Inspector found that five year supply **should be calculated against a single requirement** (paragraph 75 of **Core Document 10.1**, based on the reasoning at paragraphs 67-73).
- 3.24 Whilst there was also a dispute on whether the Council was required to demonstrate a 4 or 5 years housing land supply (which, again, remains a matter of dispute here), the Inspector concluded that, whether she used the Council's own supply figures, or whether she used those of the Appellant, the Council would have less than a four year supply when using a single housing requirement figure⁵ and so there was no need to reach a conclusion on this matter, nor on any of the disputed sites. As I will set out, that would remain the case at this present Inquiry.
- 3.25 I understand that the Council has lodged an application for judicial review of this appeal, however, until such time as this appeal may be quashed, it should continue to be afforded full weight. This previous decision is a material consideration of significant weight because there should be consistency of administrative decision making⁶.

⁵ Paragraph 77 of **Core Document 10.1** confirms that, "*Based on the appellant's supply position, there would be a 2.26-year housing land supply with a shortfall of 3475 homes. Taking the Council's supply position, there would be a 3.32-year supply and the shortfall would be 2,129 homes.*"

⁶ The principle of consistency in decision making was explained by Mann LJ in ***North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137***: "*One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency [...]. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system.*"

Other Appeals Being Considered in Cherwell District

- 3.26 I am aware that there other recent appeal inquiries that have been progressed in Cherwell that have also considered the Council's ability to demonstrate a sufficient housing land supply⁷.
- 3.27 At the time of writing my evidence, no decision has been issued on either of these appeals. Should appeal decisions be issued on these sites ahead of the Inquiry for this present appeal, then it will be necessary to consider the conclusions of those Inspectors on the approach to supply and findings on the deliverability of individual sites.

⁷ At Land South of Green Lane, Chesterton (Ref. APP/C3105/W/23/3331122, with the inquiry held in February 2024) and Ploughley Road, Ambrosden (Ref. APP/C3105/W/23/3327213, with the inquiry held in March 2024)

4. The Council's Housing Delivery Performance to Date and Delivery to the End of the Plan Period

The Development Plan Housing Requirement in Cherwell

- 4.1 Within this section of my evidence, I consider the Council's housing delivery performance against the housing requirement in its Development Plan.
- 4.2 The first element of the overall housing requirement in Cherwell is contained in the adopted Cherwell Local Plan 2011 - 2031 Part 1 (July 2015) (**Core Document 5.1**). Policy BSC1 of the Local Plan states that provision will be made for **22,840 homes** in the period 2011 to 2031 (this equates to **1,142 homes per annum**).
- 4.3 I acknowledge that this part of the Development Plan is now in excess of 5 years old. Also, the Council undertook a Regulation 10A Review in February 2023 (**Core Document 6.11**), where the Council found that the housing requirement needed updating. As such, I acknowledge that for the purposes of NPPF paragraph 77 and calculating five year housing land supply, LHN derived from the standard method calculation is to be used instead of the Local Plan housing requirement (in respect of Cherwell District's needs). However, the Local Plan remains part of Cherwell's Statutory Development Plan and so the Council's performance against meeting that housing requirement to date and in the plan period as a whole is an important material consideration in the determination of this Appeal.
- 4.4 LHN doesn't simply replace the housing requirement in the plan for any other purposes than for the calculation of housing land supply (under NPPF paragraphs 77 and 226). It is for plan making and the Local Plan Review to determine what the appropriate figure is for the next Local Plan period. In this respect, the NPPF (December 2023) is clear that:
- "The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area" (paragraph 61); and*
- "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" (paragraph 67).*
- 4.5 It is clear, therefore, that one does not simply take the LHN figure and adopt that as a housing requirement – it is a starting point. As such, the first element of the overall housing requirement in the statutory Development Plan remains that set by Policy BSC1 of the Local Plan 2011 - 2031 Part 1 (July 2015) – i.e. 1,142 homes per annum.
- 4.6 The second element of the overall housing requirement in Cherwell is its agreed portion of Oxford's unmet needs as contained in the adopted Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford's Unmet Housing Need (September 2020). This part of the statutory development plan remains less than 5 years old and so is 'up to date'.
- 4.7 Policy PR1 of the Partial Review confirms that Cherwell will deliver **4,400 homes** to 2031 in order to help meet Oxford's unmet housing needs. Paragraph 5.163 of the Partial

Review Plan confirms that the first five year period for monitoring delivery towards Oxford's unmet needs should be from 2021. In addition, Policy PR12a 'Delivering Sites and Maintaining Housing Supply' confirms that:

"At least 1700 homes will be delivered for Oxford for the period 2021 to 2026 for which a five year land supply shall be maintained on a continuous basis from 1 April 2021. The remaining homes will be delivered by 2031."

- 4.8 This means that, between 2021 and 2026, the annual requirement towards meeting Oxford's unmet needs is **340 homes** and, from 2026 /27, the annual requirement will be **540 homes**.

Housing Delivery to Date in Cherwell District Against the Council's Housing Requirement in the Development Plan

- 4.9 Against the housing requirement (as set out above, when combined), Table JRT1, below, confirms that the following completions have been achieved.

Table JRT1: Cherwell's Housing Requirement in the Development Plan Compared to Actual Completions

Year	Local Plan Part 1				Local Plan Part 1 Partial Review				Combined Housing Requirement
	LP Part 1 Annual Req.	LP Part 1 Actual Delivery	LP Part 1 - Under or Over Delivery	LP Part 1 - Cumulative Under or Over Delivery	LP Partial Review Req.	LP Partial Review - Actual Delivery	LP Partial Review - Under or Over Delivery	LP Partial Review - Cumulative Under or Over Delivery	Combined Cumulative Under or Over Delivery
2011 - 12	1,142	356	-786	-786	0	0	0	0	-786
2012 - 13	1,142	340	-802	-1,588	0	0	0	0	-1,588
2013 - 14	1,142	410	-732	-2,320	0	0	0	0	-2,320
2014 - 15	1,142	946	-196	-2,516	0	0	0	0	-2,516
2015 - 16	1,142	1,425	283	-2,233	0	0	0	0	-2,233
2016 - 17	1,142	1,102	-40	-2,273	0	0	0	0	-2,273
2017 - 18	1,142	1,387	245	-2,028	0	0	0	0	-2,028
2018 - 19	1,142	1,489	347	-1,681	0	0	0	0	-1,681
2019 - 20	1,142	1,159	17	-1,664	0	0	0	0	-1,664
2020 - 21	1,142	1,192	50	-1,614	0	0	0	0	-1,614
2021 - 22	1,142	1,188	46	-1,568	340	0	-340	-340	-1,908
2022 - 23	1,142	1,318	176	-1,392	340	0	-340	-680	-2,072
Totals	13,704	12,312	-1,392	-1,392	680	0	-680	-680	-2,072

- 4.10 As can be seen from Table JRT1, the Council has a track record of cumulative under-delivery against the Part 1 Plan (July 2015) annual requirement since the beginning of the plan period. At the current base date (1st April 2023) the level of under-delivery against that part of Cherwell's overall housing requirement stands at **1,392 homes**.
- 4.11 Against the Oxford unmet needs, whilst this part of the requirement was to be delivered from 2021, under-delivery already stands at **680 homes**.
- 4.12 When combined, the Council has an **under-delivery of 2,072 homes** when compared to the total number of homes that it should have delivered by now (against annual requirements). This is a **serious and significant level of under-delivery**.
- 4.13 This track record of under-delivery worsens further still when one compares the Council's delivery to date to what it expected to have delivered by now, by reference to the Local Plan Housing Trajectory ([Core Document 5.1](#), page 275) and to the Local Plan Partial Review Housing Trajectory ([Core Document 5.2](#), page 164). That comparison is provided in Table JRT2, below.

Table JRT2: Cherwell's Local Plan Housing Trajectory (2011-2031) and Partial Review Plan Trajectory (2011-2031) Compared to Actual Completions

Year	Local Plan Part 1				Local Plan Part 1 Partial Review				Combined Housing Trajectory
	LP Part 1 Annual Traj.	LP Part 1 Actual Delivery	LP Part 1 - Under or Over Delivery	LP Part 1 - Cumulative Under or Over Delivery	LP Partial Review Traj.	LP Partial Review - Actual Delivery	LP Partial Review - Under or Over Delivery	LP Partial Review - Cumulative Under or Over Delivery	Combined Cumulative Under or Over Delivery
2011 - 12									
2012 - 13	1,106	1,106	0	0	0	0	0	0	0
2013 - 14									
2014 - 15	632	946	-314	-314	0	0	0	0	-314
2015 - 16	1,300	1,425	-125	-439	0	0	0	0	-439
2016 - 17	1,845	1,102	-743	-1,182	0	0	0	0	-1,182
2017 - 18	2,345	1,387	-958	-2,140	0	0	0	0	-2,140
2018 - 19	2,200	1,489	-711	-2,851	0	0	0	0	-2,851
2019 - 20	1,774	1,159	-615	-3,466	0	0	0	0	-3,466
2020 - 21	1,695	1,192	-503	-3,969	0	0	0	0	-3,969
2021 - 22	1,606	1,188	-418	-4,387	105	0	-105	-105	-4,492
2022 - 23	1,462	1,318	-144	-4,531	255	0	-255	-360	-4,891
Totals	15,965	12,312	-4,531	-4,531	360	0	-360	-360	-4,891

- 4.14 As can be seen from Table JRT2, the Council's cumulative under-delivery against the Local Plan (July 2015) housing trajectory expectation of delivery by the 1st April 2023 base date stands at **4,531 homes**.
- 4.15 Combined with the level of delivery the Council has expected towards Oxford's unmet needs, then the Cumulative position is a shortfall of **4,891 homes**.
- 4.16 Whether one uses the annual requirement or the Council's housing trajectory, this is one of the worse levels of under-delivery I have seen in many years of undertaking such assessments.
- 4.17 This level of under-delivery is also expected to lead to serious consequences for the delivery of the Council's minimum housing requirement and for its overall housing delivery strategy. Indeed, when using the Council's own claimed assessment of its supply in the next 5 years and to the end of the plan period in 2031, it is clear that there will increasing shortfalls in the level of delivery. This is further explored in the next section of my evidence, below.

Cherwell District Council's Predicted Delivery to the End of the Five Year Period in 2028 and to the End of the Plan Period in 2031 Against the Housing Requirement in the Development Plan

- 4.18 Using the Council's own claimed deliverable supply in the next 5 years and also its delivery figures for sites to the end of the Plan period in 2031 (both taken from the Council's December 2023 AMR (Core Document 6.9)⁸, Table JRT3 shows the level of additional under-delivery that is predicted to accrue in that period, and what the cumulative under-delivery will be at the end of the five year period and end of the Plan period.

⁸ PDF pages 85 and 86 of Core Document 6.9

Table JRT3: Cherwell's Overall Housing Requirement (Across its Local Plan Part 1 (July 2015) and Local Plan Part 1 Partial Review (September 2020)) Compared to Actual and Predicted Completions to 2031

Year	Local Plan Part 1				Local Plan Part 1 Partial Review				Combined Housing Requirement
	LP Part 1 Annual Req.	LP Part 1 Actual or Predicted Delivery	LP Part 1 – Actual or Predicted Under or Over Delivery	LP Part 1 - Cumulative Actual or Predicted Under or Over Delivery	LP Partial Review Req.	LP Partial Review - Actual Delivery	LP Partial Review – Actual or Predicted Under or Over Delivery	LP Partial Review - Actual or Predicted Cumulative Under or Over Delivery	Combined Actual or Predicted Cumulative Under or Over Delivery
Actual Delivery to Date									
2011 - 12	1,142	356	-786	-786	0	0	0	0	-786
2012 - 13	1,142	340	-802	-1,588	0	0	0	0	-1,588
2013 - 14	1,142	410	-732	-2,320	0	0	0	0	-2,320
2014 - 15	1,142	946	-196	-2,516	0	0	0	0	-2,516
2015 - 16	1,142	1,425	283	-2,233	0	0	0	0	-2,233
2016 - 17	1,142	1,102	-40	-2,273	0	0	0	0	-2,273
2017 - 18	1,142	1,387	245	-2,028	0	0	0	0	-2,028
2018 – 19	1,142	1,489	347	-1,681	0	0	0	0	-1,681
2019 – 20	1,142	1,159	17	-1,664	0	0	0	0	-1,664
2020 – 21	1,142	1,192	50	-1,614	0	0	0	0	-1,614
2021 - 22	1,142	1,188	46	-1,568	340	0	-340	-340	-1,908
2022 - 23	1,142	1,318	176	-1,392	340	0	-340	-680	-2,072
Council's Predicted Delivery - Current 5 Year Period 2023-2028									
2023 -24	1,142	853	-289	-1,681	340	0	-340	-1,020	-2,701
2024 -25	1,142	761	-381	-2,062	340	0	-340	-1,360	-3,422
2025 - 26	1,142	703	-439	-2,501	340	0	-340	-1,700	-4,201
2026 -27	1,142	890	-252	-2,753	540	0	-540	-2,240	-4,993
2027 - 28	1,142	914	-228	-2,981	540	80	-460	-2,700	-5,681
Council's Predicted Delivery - Remaining Years of the Plan Period 2028-2031									
2028 - 29	1,142	969	-173	-3,154	540	305	-235	-2,935	-6,089
2029 - 30	1,142	1,049	-63	-3,217	540	440	-100	-3,035	-6,252
2030 - 31	1,142	1,033	-109	-3,326	540	580	+40	-2995	-6,321
Totals	22,840	19,484	-3,326	-3,326	4,400	1,405	-2,995	-2,995	-6,321

- 4.19 As can be seen from Table JRT3, the Council is expected to under-deliver against its Local Plan requirement of 1,142 homes in every year to the end of the plan period in 2031. Its cumulative under-delivery (using its own figures) will be by some **3,326 homes by 2031** against that part of its housing requirement.
- 4.20 Against the Oxford unmet needs part of its housing requirements (in the Partial Review Plan), it will also under-deliver by some **2,995 homes by 2031**. Combined, the total level of **under-delivery will be 6,321 homes**. That is a truly astonishing level of under-delivery by the end of the plan period.
- 4.21 In the Heyford Park appeal decision (**Core Document 6.1**), the Inspector also noted the significant under-delivery and the overall failure of the Local Plan, with paragraph 96 of the decision stating:
- “The AMR indicates that there is a shortfall of some 5913 homes at the strategic allocations at Bicester, Banbury and Upper Heyford to 2031. This indicates **a significant failure of the Local Plan** to deliver the housing requirement.”* (my emphasis)
- 4.22 It is clear that the Council’s housing delivery strategy has failed. It has failed to deliver the planned homes to date and will fail, substantially, by the end of the plan period.
- 4.23 At the end of the plan period, the Council will be many thousands of homes short of the combined minimum housing requirement in the Development Plan. Such under-delivery is not just of market homes, it will result in serious consequences for the delivery of desperately needed affordable homes (a matter considered further in the evidence of Ms Gingell for the Appellant) and also stifle the district’s (and the wider Oxfordshire area’s) economic potential.
- 4.24 The only remedy to seek to make inroads into this shortfall is to grant consents for sites now which can deliver before the end of the Plan period (in 2031).

5. Cherwell District Council's Position on Housing Land Supply

The Council's Latest Housing Land Supply Position Statement (December 2023) with Updated Calculation (January 2024)

- 5.1 The latest position statement from the Council its housing land supply is set out in the Annual Monitoring Report, 2023, published in December 2023 (**Core Document 6.9**). A 'Housing Land Supply Position Statement (Update)' (**Core Document 6.6**) was also published in January 2024⁹ and presents an updated calculation of supply (against Cherwell's LHN only) based on the updated December 2023 NPPF.
- 5.2 The December 2023 AMR provides a five year housing land supply calculation against, firstly, Cherwell's own housing needs and, secondly, a separate five year housing land supply calculation for the Partial Review part of its housing requirement to meet part of Oxford's unmet need. Both calculations are for the supply period from 1 April 2023 to 31 March 2028.

Calculation of Cherwell's five year housing land supply

- 5.3 For the first calculation (in respect of Cherwell's needs), the Council uses the 2023 based LHN requirement based on the standard methodology of **710 homes per annum**. The Inspector will note that this a much lower figure than the housing requirement (for Cherwell's needs) in the Part 1 Local Plan, being 1,142 homes. This is a matter that is considered further in the evidence of Mr Murray Cox. Nevertheless, for five year supply calculation purposes, the use of LHN in place of the Part 1 Local Plan housing requirement (following the Council's Regulation 10A Review) is the correct approach.
- 5.4 An LHN of 710 homes per annum equates to a basic requirement of **3,550 homes**. I understand that, despite this being the LHN calculation that the Council uses in the December AMR and January updated calculation, the Council's housing land supply witness will be arguing that an updated 2024 LHN figure (of 706 homes per annum) should be used. I will seek to agree what I can on this matter with the Council's witness through a topic specific Statement of Common Ground, but I also consider this matter in a later section of my evidence. However, across a five year period, the different in LHN is only 20 homes, which will make only a marginal difference to the overall supply.
- 5.5 In accordance with PPG¹⁰, the Council do not make any adjustment to the calculation to take account for the under-delivery discussed above.
- 5.6 The Council's 2023 AMR calculation does include a 5% buffer, however, the Council's January 2024 updated calculation no longer includes a buffer, as this is no longer required by the December NPPF. That means that the total five year requirement against this part of Cherwell's housing requirement remains at **3,550 homes**.

⁹ The Position Statement is dated January 2023, but it was actually published in January 2024.

¹⁰ Paragraph 031 Reference ID: 68-031-20190722

- 5.7 Against that requirement, the Council claims that it has a deliverable supply of **4,121 homes**¹¹. This results in a claimed supply of **5.8 years, a surplus of 571 homes**.

Partial Review five housing land supply – Oxford’s unmet housing needs

- 5.8 For the Council’s Partial Review calculation of supply against Oxford’s unmet needs, the Council use the stepped requirement as set out by Policy PR12a which confirms that 1,700 homes will be delivered between 2021 and 2026 (340 homes per annum) and 540 homes thereafter to 2031. In the five year period, this leads to a basic requirement of **2,100 homes**.
- 5.9 Between 2021 and 2023 (the base date), there has been an under-delivery of **680 homes**. This is added to the requirement to provide an updated housing figure of **2,780 homes**. This is agreed to be the correct approach to dealing with under-delivery to date against that part of the Councils housing requirement.
- 5.10 The Council then applies a 5% buffer to this calculation in its 2023 AMR (and does not produce an updated calculation against the Oxford unmet needs part of its housing requirement in its January 2024 Update). That results in a final 5 year requirement of **2,919 homes**.
- 5.11 Against that, the Council claims a deliverable supply of **80 homes**, which results in a 5-year supply position of just **0.1 years (a shortfall of 2,839 homes)**.

¹¹ I do note that in the recent Ambrosden appeal (APP/C3105/W/23/3327213) (not yet determined), the Council (through Mr Goodall of DLP, who is also the five year housing land supply witness at this appeal, made reductions to the Council’s deliverable supply, bringing the total supply down by 83 homes to 4,038 homes).

6. Assessment of Cherwell District Council's Housing Land Supply

Determining the Council's Housing Land Supply

6.1 In order to demonstrate the extent of housing supply in Cherwell, it is necessary to determine a number of key steps as follows:

1. Determining whether, against paragraphs 77 and 226 of the NPPF, it is necessary for Cherwell to demonstrate a four or a five year housing land supply.
2. Determining the appropriate five year period for assessing housing land supply.
3. Determining the appropriate housing land supply requirement, including a review as to whether Cherwell's supply should be considered against a single housing requirement or whether it is appropriate to retain separate calculations against the Cherwell need and Oxford's unmet needs components of its overall housing requirement.
4. Identifying a realistic and deliverable supply in accordance with the NPPF definition of a deliverable site, including consideration of appropriate lead in times and annual delivery rates where relevant.
5. Calculating the Council's housing land supply using the steps above.

6.2 I consider these steps in turn, below.

Step 1: The Requirement to Demonstrate a 4 Year or a 5 Year Housing Land Supply

- 6.3 Paragraph 77 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply.
- 6.4 Paragraph 226 confirms that certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing. This applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need.
- 6.5 Whilst Cherwell District Council has published a Regulation 18 Local Plan (in September 2023) there is a dispute between the parties as to whether that draft plan meets the two requirements of paragraph 226 in order for the authority's need to demonstrate a supply to be lowered to four years.

- 6.6 In respect of the requirement for a Policies Map, Regulation 9 of Part 4 of The Town and Country Planning (Local Planning) (England) Regulations 2012 sets out the requirements that a Policies map must meet, as follows:

“(1) The adopted policies map must be comprised of, or contain, a map of the local planning authority’s area which must—

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

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

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

- 6.7 The Regulation 18 Plan which was consulted on between September 2023 and December 2023 is provided at **Core Document 5.6**. The Inspector will note that, whilst the plan did include for some draft housing allocations, and that there were various plans identifying the sites embedded in the Regulation 18 Plan itself, there was no single policies map published that meets the requirements of the 2012 Regulations.

- 6.8 As further support for this conclusion, Regulation 2 (1) of the 2012 Regulations also defines “*submission policies map*” as follows,

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

- 6.9 It is clear that the expectation is for a single policies map, and one that published separately but alongside the Local Plan, not within it.

- 6.10 It is the Appellant’s case, therefore, that the requirements of paragraph 226 are not met and that the requirement to demonstrate a five year housing land supply in accordance with NPPF paragraph 77 remains the correct requirement for Cherwell.

Step 2: The Appropriate Five Year Supply Period

- 6.11 The Position Statement presents completions data up to 31 March 2023 and the Council present five year supply calculations for the 2023-2028 period. I agree that this is the most appropriate period on which to assess supply.

Step 3: The Appropriate Housing Requirement Against Which to Calculate Five Year Housing Land Supply

A Summary of the Dispute

- 6.12 A key area of dispute in this Appeal is whether the Council’s five year housing land supply should be calculated against a single housing requirement (being a combination of Cherwell’s needs (using LHN) plus Cherwell’s part of Oxford’s unmet needs as contained in the Partial Review Local Plan) (the Appellant’s position), or whether there should be

separate calculations for Cherwell's needs and one for Oxford's unmet housing need (the Council's position and current approach in its AMR).

The Approach Taken by the Council in the Local Plan Partial Review

- 6.13 When considering this matter, I, firstly, acknowledge that policy PR12a of the Partial Review Plan (**Core Document 5.2**) does state that:

"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."

- 6.14 However, the requirement to demonstrate a sufficient housing land supply, and how this should be calculated is set by national planning policy, rather than by individual Development Plans. Furthermore, the Partial Review Plan was examined against the 2012 NPPF, under transitional arrangements, and so it is necessary to consider changes in national policy since that time.

The Heyford Park Appeal Decision

- 6.15 Importantly, this was a matter that was considered in detail in the recent Heyford Park appeal. Against this issue, the Inspector found that housing land supply **should be calculated against a single requirement** (paragraph 75 of **Core Document 10.1**).
- 6.16 The Inspector at the Heyford Park appeal identified the publication of the December NPPF and changes to the PPG to be an important factor in reaching her finding that housing land supply should be considered against a single housing requirement.

The Requirements of National Policy

- 6.17 As a starting point, paragraph 61 of the NPPF confirms that:

"The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area (see paragraph 67 below)." (my emphasis)

- 6.18 Leading from the above, paragraph 67 of the NPPF requires strategic policy-making authorities to

"...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." (my emphasis)

- 6.19 These paragraphs, which are changes from the previous NPPF in September and indeed from the 2012 NPPF against which the Partial Review Plan was examined, make clear that the expectation is for a single housing requirement.
- 6.20 PPG also confirms the expectation for there to be a single housing requirement and for supply to also be judged against a single housing requirement, including at Paragraphs

68-001, 68-002 and 68-055 (please see the full text for these PPG paragraphs at **Appendix JR1**). These paragraphs were updated in February 2024.

6.21 I acknowledge that paragraph 77 of the NPPF confirms that:

“The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old.”

6.22 However, in the case of Cherwell, we have a housing requirement that is set across two parts of its Part 1 Plan. The first, the Part 1 Local Plan (2015), is over 5 years old. It has been reviewed and the housing requirement in the Plan has been found to need updating. That part of the requirement is to be replaced by LHN using the standard method calculation – there is no dispute here. The second part of Cherwell’s housing requirement is in the Partial Review Plan (2020). It remains less than 5 years old and so remains ‘up to date’ - it not to be replaced by LHN. In this context, in order to determine a single housing requirement for the purposes of demonstrating a five year housing land supply, it is the combination of the two figures that should be used. That would result in an overall requirement figure in the five year period of **6,330 homes**¹².

Support from the Position Taken in the Vale of White Horse

6.23 The position in Cherwell is a very similar situation to that in the Vale of White Horse (VOWH), also in Oxfordshire.

6.24 In the VOWH there are also two parts to the Development Plan. The first is The Vale of White Horse Local Plan 2031: Part 1 (which was adopted in December 2016, and which includes for the Vale’s own housing needs) and the second is The Vale of White Horse Local Plan 2031: Part 2 (adopted in October 2019 and which confirms the additional housing to be delivered towards meeting Oxford’s unmet needs, and allocates sites to do so). As is the case in Cherwell, the housing requirement in the VOWH’s Part 1 plan is not up to date, but the requirement in the Part 2 plan is up to date.

6.25 Within the Vale’s latest Housing Land Supply Statement (December 2023) (**Core Document 13.10**) confirms, at a paragraph 3.2, that:

*“Table 1 sets out the housing requirement for each year in the five-year period, which we have derived from the standard method (661dpa) **plus** Core Policy 4a’s requirement for Oxford’s housing needs (183dpa), making a total of 844 dpa”* (my emphasis).

6.26 The approach taken in the VOWH meets the expectation of the NPPF for a single housing requirement. It supports the Government’s expectation of what the intended purpose of a five year housing land supply is. Paragraph 68-003 of PPG under the question, *What is the purpose of the 5 year housing land supply?*, states that:

¹² LHN of 710 x 5 (= 3,550) + Partial review requirement years 1-3 [340] + partial review requirement years 4-5 [540] + shortfall to date [680] (= 2,780) = 6,330 homes

*“The purpose of the 5 year housing land supply is to provide an indication of whether there are sufficient sites available to meet **the housing requirement** set out in adopted **strategic policies** for the next 5 years.” (my emphasis)*

- 6.27 If an authority does not have a sufficient sites available to demonstrate the requisite housing land supply to meet its housing requirement (singular, and noting that the PPG recognises that this requirement can be across more than one strategic policy), then there are policy consequences and these consequences are there to support the delivery of more homes.

Support from the Housing Delivery Test

- 6.28 Finally, further support for my position can be taken from the Housing Delivery Test (HDT) and how the results of the HDT impact the way that authorities must calculate the housing land supply requirement. The December 2023 NPPF has now removed the requirement for a 5% buffer, and only requires authorities who have a track record of significant under delivery in the previous three years (which is defined as when the HDT result falls below 85%) to apply a 20% buffer.
- 6.29 The Housing Delivery Test Measurement Rulebook (2018) (**Core Document 13.12**) confirms (at paragraph 12) that the housing requirement (for HDT purposes) is as follows:
- the latest adopted housing requirement, including any unmet need from neighbouring authorities which forms part of that adopted housing requirement; or
 - the minimum annual LHN figure (and any need from neighbouring authorities which it has been agreed should be planned for.
 - the minimum annual LHN figure (and any need from neighbouring authorities which it has been agreed should be planned for, and which has been tested at examination) for that authority.
- 6.30 This is further explained and made clear in Government Guidance entitled ‘Housing Delivery Test: 2022 measurement technical note’ (**Core Document 13.11**).
- 6.31 As such, it is clear that the ‘housing requirement’ component of the HDT measurement would include for the unmet needs component in Cherwell’s Local Plan Partial Review. It is the Council’s housing delivery against the overall housing requirement that then leads to the HDT result and, in turn, this sets the requirement or otherwise for a buffer and the overall 5 year housing land supply requirement.
- 6.32 Currently, the HDT result for Cherwell is 143% over the last 3 years and, as a result, no buffer needs to be applied. Following the publication of the December 2023 NPPF, Cherwell updated the housing land supply calculation against its LHN in January 2024 (**Core Document 6.6**) and applies no buffer. However, Cherwell’s calculation against Oxford’s unmet needs remains the calculation in the December 2023 AMR (**Core Document 6.9**) and continues to apply a 5% buffer despite there being a shortfall in delivery to date of 680 homes (100% of the expected delivery to date). In my view, whilst the application of no buffer to a separate calculation against Oxford’s unmet needs

would seem inappropriate, as there has been no delivery (0%) against that requirement to date, that is what the NPPF and HDT would direct Cherwell to do as there are no separate HDT calculations against different parts of an overall need (just a single HDT result against Cherwell's overall (single) housing requirement). This further supports the need and appropriateness of using a single requirement to test housing land supply.

- 6.33 My team requested a copy of the recent HDT returns issued by Cherwell to the Government so that we could interrogate these in more details, including how the Council reported its overall housing requirement. Unfortunately, we have been informed by Mr Nick Wyke, Principal Planning Officer at the Council (and who I understand will be providing planning evidence for the Council), by email dated 24th April, that: *"...they have not been able to locate the relevant data. This is due in part to the fact the personnel who sent the data to DLHUC has since left the Council"*.
- 6.34 I do find it difficult to believe that the Council's return to Government is not able to be located. If, ahead of the inquiry, the Council is able to locate its HDT return and provide it to me, then I will refer to this at the Inquiry.

The Consequences on Housing Land Supply if Single Requirement is Used

- 6.35 If the Inspector agrees with my evidence on this point (and also agrees with the findings of Inspector Hockenhull in the Heyford Park appeal) then, even on the Council's own claimed deliverable supply, then Council would fall below a four year supply. As such, whether Cherwell is a four or a five year supply authority (and notwithstanding other matters of dispute on LHN and deliverable supply), the Council would fail in either regard. The calculation (using Cherwell's claimed supply) is set out below:

Table JRT4 – Combined Supply Position (Council's supply figures)

Step	Description	Figures
A	Cherwell Needs LHN	710
B	Cherwell Needs LHN 5 years (A x5)	3,550
C	Partial Review Requirement	340 (years 1-3), 540 (years 4-5)
D	Under-delivery against Partial Review Requirement to Date	680
E	Partial Review Requirement 5 years (C x 5 + D)	2,780
F	Combined Requirement 5 years (B + E)	6,330
G	Cherwell Area Supply (LPA position)	4,121
H	Partial Review Sites Supply (LPA Position)	80
I	Total Combined Supply (G + H)	4,201
J	Five Year Calculation	3.32 years

- 6.36 As can be seen from Table JRT4, using the Council's own figures on supply, it would only have a **3.32 year supply**. If the Council's suggested LHN of 706 is used instead of 710 (considered further below), this would marginally improve the supply position to 3.33 years. Both figures are substantially under a 4 year requirement, if that were found to be the correct requirement.

The Alternative Position if Separate Calculations are Preferred

- 6.37 If the Inspector disagrees with me on the need to calculate supply against a single housing requirement for the District, then the fact that the Council acknowledges that it is not able to demonstrate a sufficient housing land supply against part of its overall requirement (indeed the supply is **only 0.1 years** even on the Council's own figures), must also have policy consequences as a result. It must have some meaning for the determination of applications for homes in the district.
- 6.38 **Paragraph 11** sets out the presumption in favour of sustainable development and confirms that for decision taking, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (which Footnote 8 confirms **includes situations where the local planning authority cannot demonstrate a five year supply** of deliverable housing sites (or four years where relevant in some LPAs) (with a buffer, if one is required) as set out in paragraph 77), this means granting permission unless:
- iii. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (with the policies those areas and assets listed at footnote 7); or
 - iv. any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as taken as a whole.
- 6.39 The Council accepts that it is unable to demonstrate a five year supply against Oxford's unmet needs and so what are the consequences?
- 6.40 The Partial Review Plan does not provide any boundary or 'ring fence' area within which it suggests the presumption in favour of sustainable development would apply as a consequence of not having a sufficient supply. Logically, the policy consequence must be that the presumption in favour of sustainable development at NPPF paragraph 11 is applied on a District wide basis. Of course, a relevant factor for the Inspector when determining the weight to be given to the benefits, might be the degree to which a site might best contribute to meeting Oxford's unmet needs (due to its location for example). Nevertheless, the starting point for decision making (under either the preferred position of the Appellant (a single calculation) or the position of the Council (separate calculations) must, in my view, be that the presumption in favour of sustainable development applies, and this must apply on a district wide basis.

How are Cherwell and Other Oxfordshire Authorities Performing Against Meeting Oxford's Unmet Needs

6.41 The status of the delivery of those allocations intended to meet Oxford's unmet needs (in both Cherwell and in the other Oxfordshire Authorities) is also important. It allows the decision maker to determine what collective progress is being made to deliver against the agreed level of unmet need and it is also relevant to the weight that one gives to the delivery of homes from the appeal proposal in that context, particularly in an authority that is failing to meet both its own needs and also the unmet needs apportioned to it.

6.42 I summarise the position, below, starting with Cherwell itself:

Table JRTR5 – The Apportionment of Oxford's Unmet Housing Needs and the Delivery of Allocated Intended to Meet that Need

Authority	Local Plan Status	Apportionment of Oxford's unmet needs	Commentary
Cherwell	Local Plan Partial Review (dealing with Oxford's unmet needs) adopted September 2020 (up to date)	4,400 homes	The partial review Local Plan allocates a total of 7 sites (totalling 4,400 homes) to meet Oxford's unmet needs. However, its 2023 AMR (Core Document 6.9) confirms that there have been 0 homes delivered to date, and only 80 homes are considered deliverable to 2028 (a 0.1 year supply). To 2031, Cherwell also predicts (see Table JRT3 , above) that 1,405 homes will be delivered on sites to meet Oxford's unmet needs, 2,995 homes fewer than required.
South Oxfordshire	Local Plan adopted December 2020 (up to date)	4,950 homes	Three sites were allocated to meet Oxford's unmet needs at Northfield, Bayswater Brook and Grenoble Road. No delivery has been achieved to date, no homes are claimed as deliverable in the 5 year period and only 375 homes in total are predicted to be delivered by 2031.
Vale of White Horse	Part 2 Local Plan (dealing with Oxford's unmet needs) adopted October 2019 (up to date)	2,200 homes	The Part 2 Plan confirms that site allocations across both the Part 1 Plan and the Part 2 Plan (totalling 2,860 homes in total) are intended to meet its portion of unmet need arising from Oxford City. The residual homes will meet the Vale's own needs. The latest HLS Position Statement confirms that, on these sites, 438 homes have been delivered to 1 st April 2023 and an additional 1,340 are predicted to be delivered to 2031 (1,778 in total). As such, whilst delivery progress has

			and is being made (and are certainly more progressed than other Oxfordshire authorities), the Council will still fall 422 homes short of meeting the unmet needs component of its supply even if all homes from these sites are counted towards Oxford's housing needs.
West Oxfordshire	Local Plan adopted September 2018 (over 5 years old)	2,750 homes	Two strategic allocations were identified to meet Oxford's unmet need - 2,200 homes from Oxfordshire Cotswold Garden Village where and 550 from West Eynsham. 0 homes have been delivered from the Garden Village to date (compared to 440 homes the Local Plan trajectory expected) and the site is no longer included as a deliverable site to 2028 in its 5YHLS Position Statement (whereas 1,540 homes were expected to have been delivered by 2028). At West Eynsham, the Council now claim that 256 homes can be considered deliverable in the five year period to 2028. However, even if that were achieved (and numerous Inspectors have removed it from the Council's supply) the Council would be 419 homes behind its Local Plan trajectory. In addition, the Council is counting those homes towards <u>its supply</u> (against its LHN requirement) and so, if that is the case, they cannot also contribute towards Oxford's unmet needs. Whilst the Council does not provide an updated trajectory to 2031 for these sites, 0 homes are predicted to be deliverable by 2028 with only 3 years of the plan period remain, in which 2,200 homes are required.

- 6.43 From the above, it is clear that, in total, Cherwell has delivered zero homes to date towards meeting Oxford's unmet needs; its own AMR finds that only 80 should be considered deliverable in the five year period to 2028; and the Council will clearly fall considerably short of meeting its portion of unmet needs for Oxford.
- 6.44 Beyond Cherwell, only the VoWH has achieved any meaningful delivery on sites identified to meet Oxford's unmet needs and, even then, it will still fall considerably short of meet its full apportionment figure.
- 6.45 Overall, 14,300 homes were proposed to be delivered across all the above four Oxfordshire Authorities. It is abundantly clear that the final delivery by 2031 will be many thousands of homes below that expectation. Cherwell, South Oxfordshire and the Vale of White Horse are collectively predicting that **3,558 homes** will now be delivered to

2031 – this can be compared to the **11,550 homes** that were apportioned to those three authorities in that same period (**7,992 homes short** of expectations). Whilst West Oxfordshire District does not provide an updated trajectory to 2031 for the sites it has allocated to contribute to Oxford’s unmet needs, its own figures confirm that zero homes are predicted to be deliverable towards Oxford’s unmet needs by 2028 with only 3 years of the plan period, with the strong potential that zero homes could be delivered (towards Oxford’s unmet needs) by the end of the plan period. If that were to occur, then, collectively, therefore, only **3,558 homes** would be delivered against the combined requirement of **14,300 homes**, a startling **9,637 homes behind expectations**.

- 6.46 In that context, there has to be a meaningful policy consequence for an authority, like Cherwell, who acknowledge that they have a significant shortfall in housing supply in the next five years against Oxford’s unmet needs, and who also accept that they will fall significant short of meeting those requirements by 2031.

The Appropriate Housing Requirement Against Which to Calculate Five Year Housing Land Supply – Conclusions

- 6.47 For the reasons I have set out above, a single housing requirement should be used in Cherwell for the purposes of calculating the Council’s housing land supply. That would result in an overall requirement figure in the five year period of **6,330 homes** (please see Table JRT4 (Row F), above)¹³.
- 6.48 Nevertheless, to assist the Inspector, my evidence will set out the supply position against both a single requirement (**6,330 homes** in the five year period) and also against separate requirements (being **3,550 homes** against Cherwell’s LHN and **2,780 homes** against Oxford’s unmet needs).
- 6.49 I also understand that, despite 710 homes being the LHN calculation that the Council uses in the December AMR and January updated calculation, the Council’s housing land supply witness will be arguing that an updated 2024 LHN figure (of 706 homes per annum) should be used. I will seek to agree what I can on this matter with the Council’s witness through a topic specific Statement of Common Ground, although I do make reference to any changes to my calculations if the alternative LHN figure is used.
- 6.50 Ultimately, whilst this is a minor disagreement in the overall context of considering the Council’s housing land supply (which, if the Council’s witness were correct, would reduce the overall housing requirement by 20 homes), it is my position that LHN, calculated at the relevant base date (1st April 2023), is the correct approach.
- 6.51 In a recent appeal decision South of Post Office Lane, Worcestershire (**Core Document 10.37**, appeal ref. APP/J1860/W/22/3313440), the correct use of LHN when undertaking an annual update in HLS was considered. That was in the context of the Council having updated its housing land supply calculation with an updated LHN figure, but not as part of an overall annual update, including to deliverable sites. That decision confirmed at para 40 that:

¹³ (LHN of 710 x 5 = 3,550) + (Partial review requirement years 1-3 [340] + partial review requirement years 4-5 [540] + shortfall to date [680] = 2,780) = **6,330 homes**

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

6.52 The Inspector also confirmed, at paragraph 41 that:

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

6.53 If the Council wanted to update its housing land supply position with a 2024 LHN calculation it could do so through a formal updated Annual Position Statement, with an updated base date and also taking into account an updated deliverable supply position. Given that we are now (at the time of writing) a month into the 2024 monitoring year, this is best done through an updated HLS Position Statement with a 1st April 2024 base date.

6.54 Finally on this point, a Council’s housing land supply position is meant to be published annually, through a publicly available document. If a member of the public wanted to find out what Cherwell’s position was on its housing land supply, they would find the Council’s December AMR (**Core Document 6.9**) and January 2024 updated calculation (**Core Document 6.6**). That member of the public should not be expected to undertake some kind of paper chasing exercise to find that the Council’s five year housing land supply requirement had changed as a result of a housing land supply witness taking a different approach.

Step 4: Determining what Sites are Deliverable

6.55 The Glossary at Annex 2 of the NPPF provides a definition of what constitutes a Deliverable site as follows:

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

- c. sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*

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

- 6.56 Against this definition, I have assessed all large sites of 10 or more units included by the Council in its supply trajectory on an individual basis. This has allowed me to determine what sites meet the definition of deliverable, in order to determine if they should be included in the Council's supply. Where sites are found to meet the definition of deliverable, I have also then considered whether the Council's trajectory provides a realistic figure for the delivery of new homes from those sites within the 5-year period.
- 6.57 A review of the planning status of sites has been undertaken and full details of the commentary on this are included at **Appendix JR2**. This sets out the Council's claimed five year trajectory for each site and also an amended trajectory based on the evidence established by my detailed review of the planning status of each (including the presence or otherwise of any clear evidence to show that the completion of homes will commence in the five year period). My review has considered the policy status, the ownership of the site (or land promotion positions secured on it), whether there are any planning applications lodged on the site (and if so, its progress) or whether an application has been determined; and whether there is any further evidence available that would indicate a progression of the site or otherwise. A summary of the reasons for any reductions are provided in the final column, although commentary on each site is also provided in this section of my evidence.
- 6.58 Having concluded this exercise, I have found that there are several sites which should not be included in the Council's deliverable supply (when considered against the NPPF definition of 'deliverable'). I have also identified where other reductions in supply should be made. In particular:
1. Some sites, or residual homes to be delivered on some sites, included in the Council's supply, which fall under the limb b) part of the definition of deliverable in the NPPF, do not meet the NPPF requirement for clear evidence to be provided demonstrating that first housing completions will begin on site within the five year period.
 2. It is reasonable to apply lapse rate of 20% to the total potential delivery from the remaining small sites with planning permission.
 3. The Council's windfall allowance is not justified and reductions to it should be made.
- 6.59 The details of disputed sites that fall within each of these categories is provided below, along with an explanation for why these sites should either be removed from the supply or why reductions in predicted delivery over the five year period should be made.

Disputed Sites

Canalside, Banbury 1, Cravan Site

- 6.60 This site is allocated in the Part 1 Local Plan (Banbury 1) for mixed use development including approximately 700 dwellings. Two other rows in the Council's trajectory relate to delivery of units within this site which have detailed consent and are not disputed.
- 6.61 For this part of the allocation, the Council claim that 63 homes will be delivered in the five year supply period relating to application ref. 22/01564/OUT. This outline application was submitted in May 2022 by a Mr Rooney but, some two years later, remains pending determination.
- 6.62 Whilst the application was considered by committee in July 2023 and did receive a resolution to grant consent subject to a s106 agreement, it has now been nearly a year since that committee with no decision. The resolution is also now time expired with the report confirming that *"The statutory determination period for this application expires on 23 august 2023. if the section 106 agreement/undertaking is not completed and the permission is not able to be issued by this date and no extension of time has been agreed between the parties, it is further recommended that the assistant director for planning and development is given delegated authority to refuse the application for the following reason."* Even if an extension of time has been agreed, given the time that has lapsed since the resolution, there is likely to be a need to return the application to committee.
- 6.63 Furthermore, even once the legal agreement is secured and outline permission issued, it will remain a site with outline planning permission only (and so still a limb b) site requiring clear evidence), and one that looks to have been secured by the landowner rather than the developer. There is no correspondence contained in the December 2023 AMR to confirm the landowner's intentions. Assuming the site is to be sold to a developer, it will need to be marketed and sold (on which we have no evidence of timescales), and it will take time for reserved matters to be prepared, submitted and determined, and for the requisite conditions to be discharged before development can start on the site. There is absolutely no clarity or certainty on any timescales and a complete absence of any clear evidence.
- 6.64 As a limb b) site under the definition of deliverable in the NPPF, to be included in the Council's Housing Land Supply, there needs to be clear evidence in place that homes will deliver in the five year period. There is no such clear evidence here and this site should be removed from the Council's supply. The adjustments to supply are shown on Table JRT6, below.

Table JRT6 – Canalside, Banbury 1, Cravan Site

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	33	30	63
My Delivery	0	0	0	0	0	0
						-63

Bankside Phase 2, Banbury 4

- 6.65 This site is allocated in the Part 1 Local Plan (Policy Banbury 4) to deliver approximately 600 homes.

- 6.66 An initial outline application (17/01408/OUT) was submitted on the site in July 2017 for development of up to 700 homes - this was submitted by Hallam Land, and the Council's planning application webpage states the status as 'not proceeded with'.
- 6.67 A revised application (19/01047/OUT) for up to 820 homes was submitted, again by Hallam Land, in March 2021 and this remains pending determination. The application was considered by planning committee in July 2021 and a resolution to grant consent was made subject to a s106 agreement and also subject to the provision of a suitable mechanism to secure the land required for the relocation of Banbury United Football Club. No decision notice has yet been issued for this development, so there is no consent in place at the present time despite the resolution to grant consent being in place for over two and a half years.
- 6.68 It appears from the Council's application webpage that revised parameter plans and junction plans have also now been submitted in February this year with the applicant agent's covering letter confirming that these follow further requests from the local highway authority on the need for a 3metre cycleway. It is not clear whether the application will need to return to committee given 1. the change in parameters and 2. the passage of time since the committee resolution.
- 6.69 Nevertheless, even once the legal agreement is secured and outline permission issued, this will remain a site with outline planning permission only (and so still a limb b) site requiring clear evidence on first completions in order to be considered a 'deliverable site'), and one that will have been secured by a land promoter who will need to sell the site (or parcels) to a housebuilder(s).
- 6.70 There is no correspondence contained in the December 2023 AMR to confirm Hallam Lands intentions. Despite this, it is a site that will need to be marketed and sold (on which we have no evidence of timescales), and it will take time for reserved matters to be prepared, submitted and determined, and for the requisite conditions to be discharged before development can start on the site. There is absolutely no clarity or certainty on any timescales, nor on any details for future reserved matters and a complete absence of any clear evidence. Indeed, given the scale of the development, the initial reserved matters will likely be for strategic infrastructure rather than first homes.
- 6.71 As a limb b) site under the definition of deliverable in the NPPF, to be included in the Council's Housing Land Supply, there needs to be clear evidence in place that homes will deliver in the five year period. There is no such clear evidence here and this site should be removed from the Council's supply. The reduction in homes from the supply is shown in Table JRT7, below.

Table JRT7 – Bankside Phase 2, Banbury 4						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	0	50	50
My Delivery	0	0	0	0	0	0
						-50

South of Salt Way – East, Banbury 17

- 6.72 This site is part of a site allocated in the Part 1 Local Plan for up to 1,345 homes (Policy Banbury 17). Outline permission was obtained in December 2019 for up to 1,000 homes as well as a local centre, school and sports facilities, under application ref. 14/01932/OUT.
- 6.73 Reserved matters for two of the development parcels (22/02068/REM) was permitted in April 2023 for 237 dwellings. This application was submitted by Persimmon Homes and relates to Phases 1 and 3. 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). The parts of this site that have detailed consent are not disputed.
- 6.74 Since the supply report was published an additional reserved matters application (24/00772/REM) for 95 homes (Phase 2) has been submitted, by Charles Church. This was validated in March 2024 (some 11 months after the 1st April 2023 five year housing land supply base date) and remains pending determination. There are no other pending detailed applications for homes on this site. On the pending application, a response from Thames Valley Policy was issued in April 2024 which seeks amendments and further information on the proposals. A response from the County Highways team, also from April 2024 states an objection to the proposals on several grounds; parking, cycle parking, visibility splays, access onto Ancillary Road, Landscaping Proposals and Vehicle Tracking. As yet there are many key consultation responses outstanding in relation to this application and it is not clear whether other officers may also have concerns with the proposals as submitted and seek amendments to the scheme. Clearly amendments will need to be made to the pending reserved matters submission in order to address the highways comments before the application can be determined. In my view it is also likely that other officers will have comments that need to be addressed.
- 6.75 The Council claim delivery in the current five year period of 400 homes, this is in excess of both the current number with detailed consent, and also in excess of those with consent plus those currently subject to the pending reserved matters application.
- 6.76 As set out in Limb 2 of the definition of a deliverable site; where sites do not have full permission (as is the case with the residual units from this site beyond the 237 in phases 1 and 3) they should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. No such clear evidence has been presented to suggest completions can be expected on this site within five years beyond those associated with the existing detailed consent for 237 homes. It is not clear when the current reserved matters application will be determined, nor when further reserved matters applications will be submitted. It is uncertain how long it will take to determine these applications, what conditions will need to be discharged and when homes can be expected to first come forward.
- 6.77 Consequently, in my view only the units with detailed consent meet the definition of 'deliverable' and only these units should be included in the current supply. The reductions in supply are shown in Table JRT8, below.

Table JRT8 – South of Salt Way – East						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	50	75	75	100	100	400
My Delivery	50	50	50	47	40	237
						-163

Land Opposite Hanwell Fields Recreation, Adj To Dukes Meadow Drive, Banbury

- 6.78 This site is not allocated for development in the Development Plan.
- 6.79 An outline application (21/03426/OUT) for up to 78 homes was submitted by Manor Oak Homes in October 2021 and remains pending determination. The application was considered by committee in April 2022 and a resolution was made to grant consent subject to a Section 106 Agreement. However, over two years since this resolution there is still no outline approval for this development.
- 6.80 As such, this site does not currently fall under either limb a or limb b of the definition of deliverable. In addition, as and when this outline permission is granted, this will be some considerable time after the 1st April 2023 base date (at the time of writing, we are 13 months beyond the base date) . With regards to the base date, the Woolpit Inspector (**Core Document 10.2**) concluded, at paragraph 67, that:
- “In my view the definition of ‘deliverable’ in the Glossary to the NPPF 2018 does not relate to or include sites that were not the subject of an allocation but had a resolution to grant within the period assessed within the AMR. The relevant period is 1 April 2017 to 31 March 2018. There is therefore a clear cut-off date within the AMR, which is 31 March 2018. The Council’s supply of deliverable sites should only include sites that fall within the definition of deliverable at the end of the period of assessment i.e. 31 March 2018. Sites that have received planning permission after the cut-off date but prior to the publication of the AMR have therefore been erroneously included within the Council’s supply. The inclusion of sites beyond the cut-off date skews the data by overinflating the supply without a corresponding adjustment of need. Indeed that is why there is a clear cut-off date set out in the AMR. Moreover, the site West of Barton Road, Thurston, should be removed from the supply as its permission postdates the cut-off for the relevant period of assessment.”*
- 6.81 Even if the view were taken that this site could potentially be included, it should only be included as a deliverable site at the 1st April 2023 base date if the necessary clear evidence was available at that base date – in my view, clear evidence was not available at the base date and it remains the case that clear evidence is not available now.
- 6.82 The Council’s commentary on this site in the AMR suggests the signing of the s106 is ‘imminent’ but that was stated in December 2023, and this still has not happened. I also note that in the Council’s February 2023 Five Year Housing Land Supply Statement (**Core Document 6.5¹⁴**) that this site was considered by the council not to meet the definition

¹⁴ PDF page 14 of 21

of deliverable, with first completions shown outside of the five year period. Despite the same application status i.e. a resolution to grant with no decision, the site has now been included as deliverable in the Council's latest supply.

- 6.83 Even once the legal agreement is secured and outline permission issued, this will remain a site with outline planning permission only (and so still a limb b) site requiring clear evidence on first completions in order to be considered a 'deliverable site'). It will take time for reserved matters to be prepared, submitted and determined, and for the requisite conditions to be discharged before development can start on the site. There is nothing in the AMR from the intended developer to confirm intentions, and absolutely no clarity or certainty on any timescales and a complete absence of any clear evidence.
- 6.84 As a limb b) site under the definition of deliverable in the NPPF, to be included in the Council's Housing Land Supply, there needs to be clear evidence in place that homes will deliver in the five year period. There is no such clear evidence here and this site should be removed from the Council's supply. The reduction in supply is shown in Table JRT9, below.

Table JRT9 – Land Opposite Hanwell Fields						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	28	50	78
My Delivery	0	0	0	0	0	0
						-78

Land Adjoining Withycombe Farmhouse Stratford Road A422 Drayton

- 6.85 This site is not allocated for development in the Development Plan. However, outline permission was granted (22/02101/OUT) in January 2024 for up to 250 homes. This application was submitted by Bloor Homes.
- 6.86 Importantly, that outline permission is some 9 months after the base date which, as confirmed in the commentary for the above site, was a matter considered by the Woolpit Inspector (paragraph 67, **Core Document 10.2**).
- 6.87 Clear evidence was not available at the base date and, despite further progression (outlined below) it remains the case that clear evidence is not available now.
- 6.88 I am aware that a reserved matters application (23/03139/REM), also by Bloor Homes was submitted in January 2024 and that this remains pending determination. This seeks detailed consent for all 250 homes. There is an objection from the Ecology officer (January 2024) which is seeking further detail on Biodiversity Net Gain (BNG), and amendments in relating to the number of bird/bat bricks and hedgehog gaps proposed. There is an objection from the County Highways Team (February 2024) relating to cycle parking, parking provision, footway widths, pedestrian visibility, refuse tracking and footway gradients. Amendments to the scheme will be required to address these comments. There is also an objection from the County archaeology team which states concerns that planting is proposed in the 'no dig' area agreed at outline stage, this

comment will also requirements amendments to the proposed scheme in order for the objection to be removed.

- 6.89 Clearly amendments will need to be made to the pending reserved matters submission in order to address the issues raised before the application can be determined. In my view it is also likely that other officers will have comments that need to be addressed.
- 6.90 There is clarity on the timescales for resolving the outstanding issues on the pending reserved matters application. This site at present only has outline permission and, importantly, this permission was granted 9 months after the base date. Whilst some progress has been made with the reserved matters application, the determination of this application is still at an early stage, comments remain outstanding, and several comments have been received that object and ask for amendments.
- 6.91 As a limb b) site under the definition of deliverable in the NPPF (albeit only achieving outline permission 9 months after the base date), to be included in the Council's Housing Land Supply there needs to be clear evidence in place that homes will deliver in the five year period. There is no such clear evidence here and this site should be removed from the Council's supply. The reduction in supply is shown in Table JRT10, below.

Table JRT10 – Land Adjoining Withycombe Farmhouse						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	0	50	50
My Delivery	0	0	0	0	0	0
						-50

North West Bicester Phase 2

- 6.92 This site is allocated in the adopted Plan (Policy Bicester 1) for a zero carbon mixed use development including new employment and up to 6,000 new homes.
- 6.93 An outline application (14/02121/OUT) for 1,700 homes a retirement village and some commercial floorspace was submitted by Portfolio Property Partners Ltd in December 2014, and approved in January 2020.
- 6.94 An initial reserved matters application (21/02339/REM) for Phase 1, 500 homes, was submitted by Countryside Properties in July 2021 and subsequently withdrawn in November 2022.
- 6.95 A further reserved matters application (23/00214/REM) for infrastructure for Phase 1A was approved in February 2024. A further reserved matters application (23/01493/REM) for internal roads and drainage was submitted in June 2023 and remains pending determination.
- 6.96 In addition, a reserved matters application (23/01586/REM) has been submitted by Cala Homes in July 2023, seeking detailed approval for 123 homes. Various comments have been received from officers on the proposed details, and amended plans were submitted

in March 2024. However, since these amendments were provided there continue to be objections to the scheme and requests for further information and amendments. A response from Active Travel England, dated April 2024 states they are seeking deferral of a decision as the body is not currently in a position to support the application and have several issues with the revised proposals including in relation to walking and cycling access routes and the internal street layout. In addition, a response from the Ecology team (March 2024) is seeking clarification on a number of points, further work in relation to farmland birds, and amendments to ensure dark corridors for bats are delivered on the site. Further consultee responses are awaited.

- 6.97 The site has a long planning history, and the current reserved matters for actual homes has been pending determination for nearly a year (at the time of writing). There remain issues and there is a lack of clarity on the timescales for their resolution. This site, at present only has outline permission for actual homes - whilst some progress has been made with the reserved matters application, comments remain outstanding despite amendments already having been progressed to the application during its determination to date.
- 6.98 As a limb b) site under the definition of deliverable in the NPPF, to be included in the Council's Housing Land Supply, there needs to be clear evidence in place that homes will deliver in the five year period. There is no such clear evidence here and this site should be removed from the Council's supply. The reduction in supply is shown in Table JRT11, below.

Table JRT11 – North West Bicester Phase 2						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	50	50	100
My Delivery	0	0	0	0	0	0
						-100

Graven Hill - 20/02345/LDO

- 6.99 A Local Development Order (Third Revision) was established on this site in 2020 to deliver 276 self-build plots. This LDO expired in December 2023 and there is no replacement order in place.
- 6.100 This site was considered in the evidence for the Ambrosden appeal¹⁵ at which the Council confirmed (through Mr Jon Goodall, who is also the five year housing land supply witness for this appeal as well) that 33 units should be removed from the supply¹⁶ to reflect the homes that were not already covered by Certificates of Compliance at the time the LDO

¹⁵ Ploughley Road, Ambrosden (Ref. APP/C3105/W/23/3327213, with the inquiry held in March 2024)

¹⁶ Mr Goodall removed 33 units from Graven Hill and 50 units from Bicester Gateway Business Park, considered below, reducing the Council's deliverable supply by 83 homes to 4,038 homes).

expired. I will seek to agree this with the Council through the topic specific Statement of Common Ground.

- 6.101 There are no new applications for homes on this site and as such although the original LDO envisaged a total of 276 self build plots would come forwards, this is not now possible given the order has expired. 33 units should therefore be removed from the supply.

Table JRT12 – Graven Hill - 20/02345/LDO						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	25	25	25	25	41	141
My Delivery	25	25	25	25	8	108
						-33

South West Bicester Phase 2

- 6.102 This site is part of an allocated site identified for up to 726 homes via Policy Bicester 3 of the Plan.
- 6.103 Various reserved matters applications are in place and covered by other rows in the Council's supply trajectory. This row relates to the residual units from the outline consent, detailed below.
- 6.104 Outline permission (13/00847/OUT) for up to 709 homes was submitted by Countryside Properties and approved in May 2017. The Council's trajectory states that 60 units remain as residual from the outline and a planning application for 82 homes was expected in November 2023.
- 6.105 A hybrid application (23/03073/HYBRID) with details for an 82 bed extra care scheme (C2 use) and outline information for 14 dwellings was submitted in November 2023 (after the base date) by Preferred Homes and Countryside Properties and remains pending determination. A response from the Ecologist (February 2024) has requested further information in relation to biodiversity net gain and the Policy Team have concerns about the use class of the extra care element and have requested that it be delivered as C3 (March 2024). It is not clear from the correspondence available online whether the Applicant will agree to amend the use class for the proposed C2 units, it is not yet, therefore possible to establish how many units from this site would contribute to the supply once the application was approved¹⁷. The scheme as submitted only has

¹⁷ PPG (ID: 68-035-20190722) advises that "Local planning authorities will need to count housing provided for older people, including residential institutions in Use Class C2, as part of their housing land supply. This contribution is based on the amount of accommodation released in the housing market" and PPG (ID: 63-016a-20190626) further advises that Plan-making authorities will need to count housing provided for older people against their housing requirement. For residential institutions, to establish the amount of accommodation released in the housing market, authorities should base calculations on the average number of adults living in households, using the published Census data.

detailed information for the C2 units, with outline only for the 14 C3 units. At present, there is no detailed consent in place for any units (C2 or C3) on this site. There is no clarity on the timescales for resolving the outstanding issues on the application, whilst some progress has been made with the hybrid application, comments remain outstanding.

- 6.106 As a limb b) site under the definition of deliverable in the NPPF, to be included in the Council's Housing Land Supply, there needs to be clear evidence in place that homes will deliver in the five year period. There is no such clear evidence here and this site should be removed from the Council's supply. This is reflected in Table JRT13, below.

Table JRT13 – South West Bicester Phase 2						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	60	0	60
My Delivery	0	0	0	0	0	0
						-60

Bicester Gateway Business Park, Wendlebury Road, Bicester

- 6.107 This site has outline consent for office space and up to 273 homes (20/00293/OUT). This application was submitted by Bicester Gateway Ltd and approved in April 2021. Condition 5 of this consent required reserved matters to be submitted within 3 years, i.e. by 1 April 2024. No reserved matters appear to have been progressed in relation to this consent, which I assume has now expired.
- 6.108 A variation of this application was submitted in August 2021 (21/02723/OUT) - this sought to amend the consent to remove the requirement to deliver the mixed use co-working hub as part of the first residential phase. This was approved in October 2021 and did not amend the timescales for submission of reserved matters pursuant to the outline.
- 6.109 An earlier outline permission on the site (16/02586/OUT) for Phase 1 of a business park (including employment and a hotel) was submitted by Bloombridge LLP and approved in July 2017. Reserved matters pursuant to this earlier consent have been progressed; application ref. 22/02025/REM for 12 knowledge economy units was submitted by Bicester Gateway Ltd and approved in November 2022.
- 6.110 There is now no consent in place for residential development on this site, given the outline including 273 homes appears to have now expired without reserved matters being submitted. The most recent activity on the site relates to details being approved for an earlier scheme; the knowledge economy units, which does not include residential development. Whilst the Council's AMR indicates '*Discussions occurring with developer, who is the landowner, on developing site for new homes*', there is no clarity on this and no record of any new application for residential development on the site.

6.111 Indeed, this is a position that appears to now be accepted by the Council. This site was considered in the evidence for the Ambrosden appeal¹⁸, at which the Council confirmed (through Mr Jon Goodall, who is also the Council's five year housing land supply witness for this appeal as well) that the 50 units assumed from this site should be removed from the supply. I will seek to agree this with the Council through the topic specific Statement of Common Ground. Consequently, this site should be removed from the Council's supply, as reflected by Table JRT14.

Table JRT14 – Bicester Gateway Business Park, Wendlebury Road						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	0	50	50
My Delivery	0	0	0	0	0	0
						-50

Former RAF Upper Heyford

6.112 This site is divided into several rows within the Council's delivery trajectory, three of which I contest, as follows:

- 15/01357/F relating to the delivery of 89 homes;
- 21/03523/OUT relating to the delivery of 31 homes.
- 18/00825/HYBRID relating to the delivery of 1,175 homes in total, of which 488 are claimed to be deliverable in the five year period; and

6.113 The first and second of these relate to two parts of an overall site which is now subject to a revised application progressed by a different housebuilder, for a greater number of units. These sites are initially considered below, I then turn to consider the 2018 hybrid consent.

21/03523/OUT relating to the delivery of 31 homes and 15/01357/F relating to the delivery of 89 homes

6.114 Application ref. 21/03523/OUT for 31 homes was submitted by Pye Homes in 2015 and achieved outline approval in September 2023 – 5 months after the base date. The location plan is set out at figure JRF1 below (which is relevant to refer to when consider subsequent applications now submitted on a larger site).

6.115 No reserved matters applications pursuant to this outline consent have been submitted. This site, therefore, does not have detailed consent and it appears from a further planning application on the site (considered below) that there is now no intention to proceed with reserved matters pursuant to this outline application. These 31 units should, therefore, be removed from the supply.

¹⁸ Ploughley Road, Ambrosden (Ref. APP/C3105/W/23/3327213, with the inquiry held in March 2024)

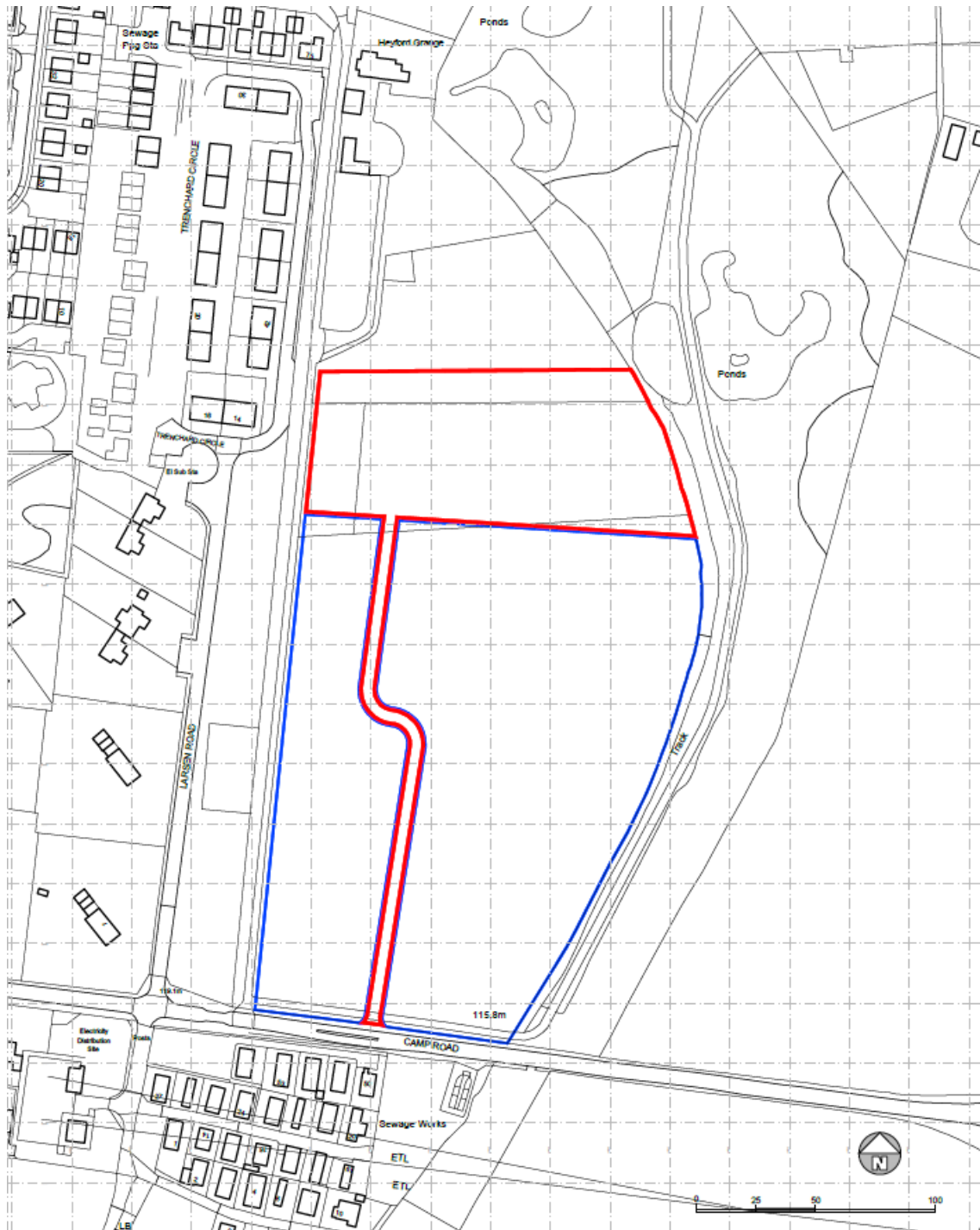


Figure JRF1 - Application Ref. 21/03523/OUT – Site Location Plan

6.116 Application ref. 15/01357/F for 89 dwellings, also submitted by Pye Homes Ltd in August 2015, was approved in September 2023 (5 months after the base date). The location plan is set out at figure JRF2 below which, as the Inspector will see, covers the blue land shown in Figure JRF1 above.



Figure JRF2 – Application Ref. 15/01357/F – Site Location Plan

6.117 Whilst this site does now have detailed consent there is, in my view, clear evidence that the homes that have been permitted by this application will not be delivered in the five year period – where there is such evidence, such sites would not meet the definition of deliverable in the NPPF. A more recent application (22/03063/F) has been submitted by David Wilson Homes across the two parcels of land encompassing the 89 unit and 31

unit schemes discussed above. The location plan for this current pending detailed application for 123 homes is shown at figure JRF3 below.

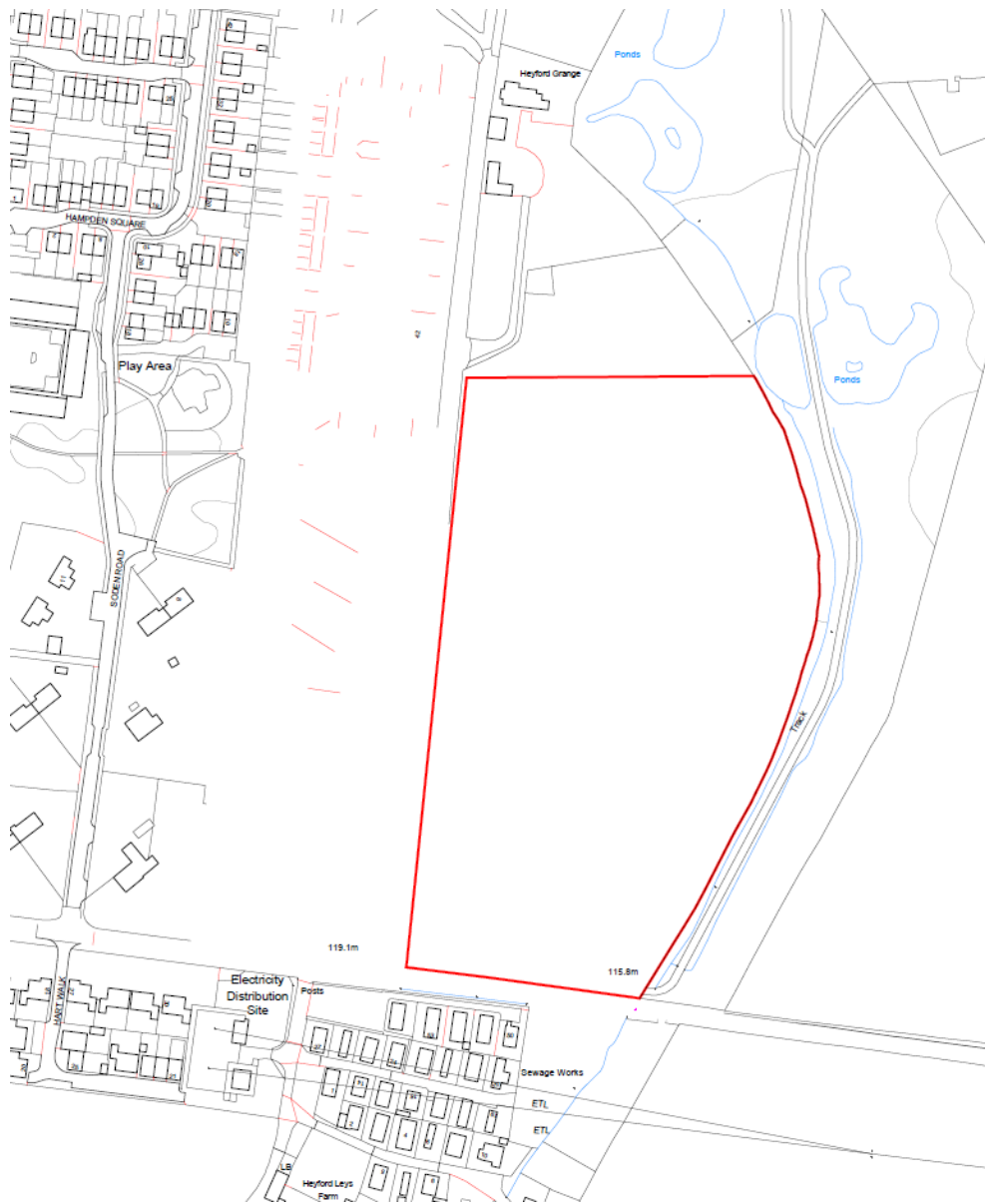


Figure JRF3 - Application Ref. 22/03063/F – Site Location Plan

- 6.118 This pending full application was submitted in October 2022 and received a resolution to grant subject to s106 agreement in March 2024 – some 11 months after the base date.
- 6.119 We understand that David Wilson Homes have secured the site from Pye Homes. The progression of this latest application, covering the whole site on which previous (outline and full) applications have been granted provide evidence that neither of the two prior applications is likely to be delivered. Instead, the intention is for the revised proposal for 123 homes to come forward.
- 6.120 This later David Wilson Homes application does not yet have permission in place. Whilst a resolution to grant consent has recently been obtained, this was 11 months after the five year supply base date and as can be seen from the timelines on various other

applications discussed in this evidence, it can take many months and often years for S106 Agreements in Cherwell to be completed.

- 6.121 At present this site lacks the clear evidence necessary to demonstrate homes are likely to be delivered in the five year period as it is likely the 123 unit scheme will be progressed, and that currently lacks consent.
- 6.122 The reductions associated with these sites are set out in the Tables JRT15 and JRT16, below. I then turn to consider the third contested element of Upper Heyford (18/00825/HYBRID).

Table JRT15 – 15/01357/F relating to the delivery of 89 homes

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	19	30	40	0	89
My Delivery	0	0	0	0	0	0
						-89

Table JRT16 – 21/03523/OUT relating to the delivery of 31 homes

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	10	21	31
My Delivery	0	0	0	0	0	0
						-31

18/00825/HYBRID relating to the delivery of 1,175 homes in total, of which 488 are claimed to be deliverable in the five year period

- 6.123 This allocated site has hybrid consent (18/00825/HYBRID) for a mixed use development including outline permission for up to 1,175 homes. This was submitted by Dorchester Living Ltd and approved in September 2022.
- 6.124 Various rows in the Council's trajectory relate to delivery of reserved matters pursuant to this outline element of the hybrid permission.
- 6.125 This row makes specific reference to phase 10 of the site, for which reserved matters are in place for 138 homes. This was approved under application ref. 22/02255/REM which was submitted by Heyford Park Developments Ltd and approved in February 2023. I do not contest that these 138 homes with detailed consent are deliverable.
- 6.126 However, the Council includes 488 homes as deliverable on this site in the next five years. It is assumed this relates to the residual units from the outline element of the hybrid consent that do not already have consent and are not covered by other rows in the trajectory. There are no further pending reserved matters applications for development on this site.

- 6.127 This 'residual' element of the site at present only has outline permission, and no indication has been given as to when further reserved matters applications will be submitted, how long they will take to determine, or indeed how many homes they will be for.
- 6.128 As a limb b) site under the definition of deliverable in the NPPF, to be included in the Council's Housing Land Supply, there needs to be clear evidence in place that homes will deliver in the five year period. There is no such clear evidence for the residual element of this site and, therefore, all units should be removed from the Council's supply aside from the 138 which have consent. The reduction in supply is shown in Table JRT17, below.

Table JRT17 – Upper Heyford 18/00825/HYBRID

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery			488			488
My Delivery			138			138
						-350

OS Parcel 2778 Grange Farm North West Of Station Cottage Station Road Launton

- 6.129 This site is not allocated for development in the Development Plan.
- 6.130 Outline consent (21/04112/OUT) for 65 dwellings was submitted by Richborough Estates and approved in April 2022. Reserved matters pursuant to this consent were submitted by Greencore Homes in December 2023 (some 8 months after the base date), it remains pending determination and we are now into the 2024 monitoring year.
- 6.131 As a limb b) site under the definition of deliverable in the NPPF, to be included in the Council's Housing Land Supply, there needs to be clear evidence in place that homes will deliver in the five year period. There is no such clear evidence here and this site should be removed from the Council's supply. This is reflected in Table JRT18, below.

Table JRT18 – OS Parcel 2778 Grange Farm North West Of Station Cottage

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	30	35	65
My Delivery	0	0	0	0	0	0
						-65

Land at Deerfields Farm Canal Lane Bodicote

- 6.132 This site is not allocated for development in the Development Plan.
- 6.133 An outline application for up to 26 dwellings on the site (ref. 19/02350/OUT) was submitted by a Mr Morris, and this was granted permission in November 2022.

- 6.134 An application for a non-material amendment to the scheme (to amend an access plan) was submitted, again, by a Mr Morris and approved in March 2024.
- 6.135 Whilst there is outline permission in place, it is not clear whether the applicant is a developer and there is no record of any reserved matters submission to date. It may be that the site needs to be marketed and sold to a housebuilder before reserved matters can then be prepared, submitted and determined and the necessary pre-commencement conditions discharged before development can commence on site. Regardless, now 1 month in to the 2024 monitoring year (and 13 months beyond the base date), there is no reserved matters application submitted, no indication of timescale for when that might be submitted, we do not know what issues may be raised on any future application, when it may be determined, or when delivery of first homes may occur.
- 6.136 The site falls within limb b of the definition of a deliverable site in the NPPF. Consequently, the onus is on the local planning authority to provide clear evidence that housing completions will begin on site within five years. No such clear evidence has been provided by the Council to show that homes will begin in the five year period, and the site should not be included in the supply currently. The reductions are set out in table JRT19 below.

Table JRT19 – Land at Deerfields Farm Canal Lane

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	26	0	26
My Delivery	0	0	0	0	0	0
						-26

OS Parcel 3489 Adjoining And South West Of B4011, Ambrosden

- 6.137 This site is not allocated in the Plan for development.
- 6.138 An outline application (22/01976/OUT) for up to 75 homes was submitted by Hallam Land and approved in December 2023 – 8 months after the base date.
- 6.139 Even if the view were taken that this site could potentially be included as deliverable, despite it's planning status at the base date, it should only be included as a deliverable site at the 1st April 2023 base date if the necessary clear evidence was available at that base date – in my view, clear evidence was not available at the base date and, despite outline consent now being in place, that clear evidence is still not available now.
- 6.140 Hallam Land is a land promoter and will not deliver the homes on the site. There is no correspondence contained in the December 2023 AMR to confirm Hallam Land's intentions. Despite this, it is a site that will need to be marketed and sold (on which we have no evidence of timescales), and it will take time for reserved matters to be prepared, submitted and determined, and for the requisite conditions to be discharged before development can start on the site. There is absolutely no clarity or certainty on any timescales, nor on any details for future reserved matters.

- 6.141 The site falls within limb b) of the definition of a deliverable site in the NPPF. Consequently, the onus is on the local planning authority to provide clear evidence that housing completions will begin on site within five years. No such clear evidence has been provided by the Council to show that homes will begin in the five year period, and the site should not be included in the supply currently. The reductions are set out in table JRT20 below.

Table JRT20 – OS Parcel 3489 Adjoining And South West Of B4011						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	25	35	60
My Delivery	0	0	0	0	0	0
						-60

Land North Of Railway House, Station Road, Hook Norton

- 6.142 This site is not allocated in the Plan for development.
- 6.143 An outline application (21/00500/OUT) for up to 43 homes was submitted by Greystoke Land Ltd and allowed at appeal in August 2022.
- 6.144 A reserved matters application has very recently been submitted (24/01045/REM) by Deanfield Homes Ltd and deemed valid as of 17 April 2024 – a year after 1st of April 2023 base date, and now into the 2024 monitoring year. As yet, there are no substantive consultation responses to the submission. I would normally expect some issues to be raised during the course of the application (as is evidenced by other sites considered in this proof) and so the overall timescales for the determination of this application are uncertain at this time.
- 6.145 As and when the Council progress further annual updates to its housing land supply, this could be a site that, subject to progress, will likely be included, but based on the sites current status and, importantly, its status at 1st April 2023 base date, it should not be included as a deliverable site in the Council's 2023-2028 five year supply. The reductions are set out in table JRT21 below.

Table JRT21 – Land North Of Railway House, Station Road						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	25	18	43
My Delivery	0	0	0	0	0	0
						-43

Kidlington Garage, 1 Bicester Road, Kidlington

- 6.146 This site is not allocated for development in the adopted Plan. A detailed application (22/00017/F) was submitted by Sweetcroft Homes in January 2022 and remains pending determination. The application received a resolution to grant consent at committee in

March 2023 subject to a s106 agreement, albeit no decision has yet been issued over a year later.

- 6.147 Although a resolution to grant consent has been made but, as can be seen from the timelines on various other applications discussed in this evidence, it can take months and often years for agreement to be reached and for permission to be issued. At present this site lacks the clear evidence necessary to demonstrate homes are likely to be delivered in the five year period.
- 6.148 The site falls within limb b of the definition of a deliverable site in the NPPF. Consequently, the onus is on the local planning authority to provide clear evidence that housing completions will begin on site within five years. No such clear evidence has been provided by the Council to show that homes will begin in the five year period, and the site should not be included in the supply currently. The reductions are set out in table JRT22 below.

Table JRT22 – Land North Of Railway House, Station Road						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	15	0	0	15
My Delivery	0	0	0	0	0	0
						-15

Small Sites (less than 9 units) with Planning Permission and Small Site Windfalls

Small Sites (less than 9 units) with Planning Permission

- 6.149 Given the volume of sites identified and the nature of small scale development, it is appropriate to consider the application of a lapse rate to this source of supply.
- 6.150 In my experience, the application of a lapse rate to small sites is an approach that many local authorities apply to ensure that the anticipated supply small scale development sites is realistic and not an over estimation of homes that will realistically come forward in the 5 year period.
- 6.151 The nature of small scale development is that it is typically undertaken by small and medium developers, or even private individuals, rather than national housebuilders. It is not unusual or uncommon for consents to lapse before they are implemented, or for revised applications to be progressed – indeed, there is clear evidence of lapses in permissions in Cherwell, which I will set out later.
- 6.152 I am aware of several local authorities who consider it appropriate to apply a non-implementation or lapse rate to certain components of supply, so as not to over estimate the number of units that are likely to come forward. This is particularly appropriate where an authority has some local data on historic lapse rates. Examples of deductions are as follows;

- Stroud apply a non-implementation rate of 22% to all un-allocated small sites (9 dwellings or less);
- Somerset West and Taunton apply a lapse rate of 10% to all small sites;
- Cornwall apply a 10% discount to all small sites;
- South Somerset apply a 5% non-implementation rate to the total of all sites (large and small) included in the Council's supply; and
- Malvern Hills District Council apply a 5% lapse rate to the total identified supply from all sources (large and small).

6.153 I presented evidence to an appeal at Witney Road, Ducklington¹⁹ where, in that case, my assessment identified that a 10% lapse rate should be applied to the Council's small sites supply. The Inspector agreed, concluding the paragraph 93 that:

"There was also dispute whether an assumption should be made that some permissions on small sites will lapse. The appellant suggests 10% and a reduction of 66 dwellings should be made. There is a logic to the assumption that some permissions will lapse as the owners may change their minds, may neglect the 3 year deadline or a constraint emerges. Given these eventualities I find that a 10% allowance and 66 dwellings reduction would be reasonable." (my emphasis)

6.154 I do acknowledge that there is no specific guidance in the NPPF nor in PPG on the application of a lapse rate. I also acknowledge that the NPPF definition of deliverable confirms that sites with detailed planning permission "...*should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years*" (my emphasis).

6.155 There is clear evidence here that homes from this source of supply will not be delivered in the 5 year period. I provide this, below.

6.156 Cherwell has a significant number of small sites within the supply and there is no information on the deliverability of these. My team did request a detailed breakdown of small sites with planning permission that the Council includes in its supply – this is not provided in the AMR. Unfortunately, a breakdown of sites was not provided. The Council's housing land supply witness did point my team in the direction of a number of tables provided to another inquiry, however, these did not provide a clear list of small sites that the Council includes as deliverable in its current 5-year period that we were able to interrogate.

6.157 Nevertheless, I do note from the information provided (as set out in the extract included at **Appendix JR3**) that it is possible to determine the number of lapsed permissions since the beginning of the plan period in 2022. This shows that (based on the data provided) **433 homes** from permitted small site have lapsed since 2011.

¹⁹ Land at Witney Road, Ducklington (ref. APP/D3125/W/22/3297487) – **Core Document 10.16**

- 6.158 The Council's 2023 AMR (**Core Document 6.9**) sets out at table 17 that 1,634 homes have been completed on sites in the District since 2011. The lapsed consents therefore represent circa 26% of the supply from this source in the plan period. This provides clear evidence that not all small sites will be delivered, and that many of them will lapse. This provides clear evidence that a large percentage of homes from this source of the Council's supply will not be delivered within five year period. I therefore consider it appropriate, based on the historic local evidence, to apply **a lapse rate of 20% to small sites**. This is considered a realistic lapse rate based on the evidence that lapses to date have actually been higher.
- 6.159 Given the above, I consider it reasonable to apply a lapse rate of 20% to the Council's claimed supply from small sites. These reductions are shown in the Tables, below.

Table JRT23 – Banbury Small Sites (1 to 9 dwellings)

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	31	31	0	0	0	62
My Delivery	25	25	0	0	0	50
						-12

Table JRT24 – Bicester Small Sites (1 to 9 dwellings)

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	15	15	15	0	0	45
My Delivery	13	12	12	0	0	37
						-8

Table JRT25 – Other Areas Small Sites (1 to 9 dwellings)

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	70	70	62	0	0	202
My Delivery	56	56	50	0	0	162
						-40

Small Site Windfalls

- 6.160 Paragraph 72 of the NPPF advises that:

“Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.”

- 6.161 So, if an LPA intends to rely on an allowance for windfall sites, the evidence needs to be compelling, and it should look at not just historic delivery rates but also expected future trends.

- 6.162 I would note that the Council has, in its latest supply statement, sought to increase the annual delivery from windfalls in years 4 and 5 of the supply period to 125 homes per annum, despite including 100 per annum for windfalls historically, including in its February 2023 Five Year Supply Report (**Core Document 6.5**).
- 6.163 There is no apparent justification for this change, and both the latest and historic supply statements simply reference ‘past trends’ for the figures included. This is despite the fact that actual permissions on small sites have been declining in recent years as shown by Table JRT26 below.

Table JRT26 Projected Delivery from small sites, historic comparison					
Base Date	Source	Banbury Small Sites	Bicester Small Sites	Other Areas Small Sites	Total with permission
1st April 2018	2018 AMR	216	54	254	524
1st April 2019	2019 AMR	177	34	270	481
1st April 2020	2020 AMR	185	31	262	478
1st April 2021	2021 AMR	106	36	217	359
1st April 2022	2022 5YHLS position statement	99	34	185	318
1st April 2023	2023 AMR	62	45	202	309

- 6.164 In my view, therefore, there is no evidence (let alone compelling) to justify the Council’s higher projected windfall rate of 125 homes per annum. I am happy to accept a windfall allowance of 100 homes per annum (which has been used by the Council previously) but, based on the above evidence, the future trend is likely to one of reduced rates. This does not support the Council’s increase to 125 homes per annum and such an increase would not accord with NPPF paragraph 72 which requires compelling evidence, including evidence on future trends, to support any allowance relied on.
- 6.165 Given the above, I consider it reasonable to reduce the Council’s windfall allowance to 100 homes per annum in years 4 and 5. This reduction is shown in Table JRT27, below.

Table JRT27 – Small Site Windfalls						
	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	125	125	250
My Delivery	0	0	0	100	100	200
						-50

Sites Identified by the Council in the Partial Review Local Plan to Meet Oxford's Unmet Needs

Land West of Oxford Road, North Oxford

- 6.166 This site is allocated in the Partial Review Plan for development of 670 homes (Policy PR6b). A Development Brief has been prepared for the site and appears to have been finalised in August 2022. However, there is no record of any application for development on this site. The Council also do not make reference to any timescales within which they expect to see any applications come forward.
- 6.167 There is clearly no evidence, let alone clear evidence that any dwellings will come forward on this site within the five year period. As such, no units should be included in the supply.

Table JRT28 – Land West of Oxford Road, North Oxford

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	0	30	30
My Delivery	0	0	0	0	0	0
						-30

Land South East of Kidlington, Kidlington

- 6.168 This site is allocated in the Partial Review Plan (Policy PR7a) for the delivery of 430 homes. There are two applications pending determination currently on the site. An outline application (22/00747/OUT) for up to 370 homes was submitted by Barwood Development Securities Limited and the Trustees of The Philip King Homes Trust in April 2022. The application was considered at committee in October 2023 and received a resolution to grant consent subject to a legal agreement. At the time of writing there is still no decision notice for this application.
- 6.169 Nevertheless, even once the legal agreement is secured and outline permission issued, this will remain a site with outline planning permission only (and so still a limb b) site requiring clear evidence on first completions in order to be considered a 'deliverable site'), and one that will have been secured by a land promoter who will need to sell the site (or parcels) to a housebuilder(s). There is no correspondence contained in the December 2023 AMR to confirm Barwood's intentions. Despite this, it is a site that will need to be marketed and sold (on which we have no evidence of timescales), and it will take time for reserved matters to be prepared, submitted and determined, and for the requisite conditions to be discharged before development can start on the site. There is absolutely no clarity or certainty on any timescales, nor on any details for future reserved matters and a complete absence of any clear evidence.
- 6.170 As a limb b) site under the definition of deliverable in the NPPF, to be included in the Council's Housing Land Supply, there needs to be clear evidence in place that homes will deliver in the five year period. There is no such clear evidence here and no delivery from this application should be relied upon in the Council's current supply.

- 6.171 In addition to the above, a full application is pending determination on the site (22/03883/F). This was submitted by Hill Residential Limited in January 2023 and also received a resolution to grant consent at a committee meeting in December 2023 subject to a legal agreement. No decision has yet been issued on the application and so at present there is no permission in place for this area of the site. This area of the site is also, therefore, a limb b) site where clear evidence is required if homes are to be included in the supply. No such clear evidence has been provided and no homes should be relied on from this site in the five year period.

Table JRT29 – Land South East of Kidlington

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	0	30	30
My Delivery	0	0	0	0	0	0
						-30

Land at Stratfield Farm, Kidlington

- 6.172 This site is allocated in the Partial Review Plan (Policy PR7b) for deliver of 120 homes. A Development Brief for the site was approved in November 2021. An outline application (22/01611/OUT) for 118 homes was submitted by Manor Oak Homes in May 2022, this remains pending determination. The application was considered at committee in October 2023 and received a resolution to grant consent subject to the completion of a s106 agreement.
- 6.173 Even once the legal agreement is secured and outline permission issued, it will remain a limb b) site requiring clear evidence. It will take time for reserved matters to be prepared, submitted and determined, and for the requisite conditions to be discharged before development can start on the site. There is absolutely no clarity or certainty on any timescales and a complete absence of any clear evidence. This element of this site should not be included in the supply at this time.
- 6.174 There is also a minor application on the site (22/01756/F) which was approved in October 2023 and comprises a net gain of 4 units. This element of the supply is not contested.
- 6.175 Aside from the 4 units with detailed consent there is, at present, no permission on this site for development. The units relating to the pending outline application do not meet the definition of deliverable and should not be included in the supply at this time. The reductions are set out in table JRT29 below.

Table JRT30 – Land at Stratfield Farm, Kidlington

	23/24	24/25	25/26	26/27	27/28	Total
Council Delivery	0	0	0	0	20	20
My Delivery	0	0	0	0	4	4
						-16

Overall Reductions to the Council's Housing Land Supply

6.176 Having consider all sources of supply included in the Council's latest statement and made reductions where I consider these to be appropriate, my overall reductions in supply are summarised at Table JRT31 below:

Table JRT31 – Summary Overall Reductions

Sites Identified by the Council to Meet Cherwell's Housing Needs

Site	Council's delivery	My delivery	Difference in delivery	Summary for why I have applied reductions
Caravan site, Station Road, Banbury	63	0	-63	An outline application (22/01564/OUT) is pending determination for development on this site. A resolution to grant permission was made in July 2023, however there is still no permission in place. Even when outline permission is issued this will remain a Limb B site requiring clear evidence. The site may need to be marketed and sold, reserved matters will need to be prepared, submitted and determined before development can start on this site. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Bankside Phase 2, Banbury	50	0	-50	An outline application (19/01047/OUT) is pending determination for development on this site. A resolution to grant permission was made in July 2021, however there is still no permission in place some 3 years later. Even when outline permission is issued this will remain a Limb B site requiring clear evidence, reserved matters will need to be prepared, submitted and determined before development can start on this site. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
South of Salt Way – East (Banbury 17)	400	237	-163	This row in the Council's trajectory relates to the residual from outline application (ref. 14/01932/OUT) that isn't already covered by other reserved matters within the trajectory table. The parts of this site that have detailed consent are not disputed (including the reserved matters consent (22/02068/REM for 237 homes) which was approved after the base date (20 April 2023)). However, there is no detailed permission in place for the remaining residual units from the outline and the Council has not provided the necessary clear evidence that completions will be delivered in the five year period.

Land Opposite Hanwell Fields Recreation, Adj To Dukes Meadow Drive, Banbury	78	0	-78	An outline application (21/03426/OUT) is pending determination for development on this site. A resolution to grant permission was made in April 2022, however there is still no permission in place over 2 years later. Even when outline permission is issued this will remain a Limb B site requiring clear evidence, reserved matters will need to be prepared, submitted and determined before development can start on this site. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Land Adjoining Withycombe Farmhouse Stratford Road A422 Drayton	50	0	-50	An outline application (22/02101/OUT) was recently permitted on this site (10 January 2024). A reserved matters application is pending determination for 250 homes (23/03139/REM), however, we are now into the 2024/25 monitoring year (and are over 1 year since the 1 st April 2023 base date), and there are unresolved objections to this (including from the LLFA, the highways team and the archaeology team) and there is no detailed permission in place. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
North West Bicester Phase 2	100	0	-100	Outline permission is in place (for mixed use development including 1,700 homes under ref. 14/02121/OUT), however there is no detailed consent in place for any of the residential units on this site. There is an application for reserved matters (for 123 residential units) currently pending determination (23/01586/REM). This was submitted in June 2023, so nearing a year of determination and there are unresolved objections to this including from the highways team. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Graven Hill - 20/02345/LD O	141	108	-33	The Local Development Order for this site (relating to the delivery of 276 self build plots) expired in December 2023. The Council has confirmed on another appeal ²⁰ that 33 units (that remaining without Certificates of Compliance in place when the LDO expired) should be removed from the supply. I will attempt to agree a position on this site with the Council through the topic specific Statement of Common Ground.

²⁰ Ploughley Road, Ambrosden (Ref. APP/C3105/W/23/3327213, with the inquiry held in March 2024)

South West Bicester Phase 2	60	0	-60	Part of this site (covered by other lines in the trajectory) has detailed consent and is under construction, this element is not disputed. There is no detailed permission in place for the remainder of the units relied on; the residual from outline application ref. 13/00847/OUT. A revised hybrid application for a 82 bed care home and outline permission for 14 dwellings is now pending determination (23/03073/HYBRID). This received a resolution to grant consent in March 2023, however, over 1 year later, there is still no permission in place. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on the remaining part of the allocation.
Bicester Gateway Business Park, Wendlebury Road, Bicester	50	0	-50	This site has outline consent (20/00293/OUT) for a mixed use scheme including 273 dwellings. Since this outline was secured, reserved matters approval has been granted pursuant to an earlier outline on the site, for non residential development (12 Knowledge Economy Units). There is no reserved matters pending for the residential units. There is no clear evidence that residential completions will be delivered on site in the five year period. Indeed, in recent appeal at Ambrosden ²¹ , the Council has accepted that this site should not be considered deliverable. I will attempt to agree a position on this site with the Council through the topic specific Statement of Common Ground.
Former RAF Upper Heyford, Villages 5 – 89 units (15/01357/F)	89	0	-89	A full application was approved on this site for 89 homes in September 2023. However, there is clear evidence that this consent will not be progressed and an alternative scheme, for a wider site, progressed by a different applicant, is now pending determination. The new scheme does not yet have consent (and does not meet the test of being 'deliverable' at this time) and there is clear evidence that the extant consent will not be pursued.
Former RAF Upper Heyford – Villages 5, hybrid consent (18/00825/HY BRID	488	138	-350	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, and this element is not disputed. There are no further reserved matters pending for homes on this site. There is no clear evidence that residential completions, beyond those with detailed consent, will be delivered on site in the five year period.

²¹ Ploughley Road, Ambrosden (Ref. APP/C3105/W/23/3327213, with the inquiry held in March 2024)

22/02255/RE M)				
Former RAF Upper Heyford, Villages 5 – 31 units (21/03523/OU T)	31	0	-31	Outline consent was granted for 31 homes on this site in September 2023. There is no record of any reserved matters pending determination pursuant to this consent. There is no clear evidence that residential completions will be delivered on site in the five year period. This scheme is also linked to the 89 unit full permission ((15/01357/F)) considered above and there is a clear evidence that the two consents will not be progressed and an alternative scheme, for the combined site, progressed by a different applicant, is now pending determination. The new scheme does not yet have consent (and does not meet the test of being 'deliverable' at this time) and there is clear evidence that the extant consent will not be pursued.
OS Parcel 2778 Grange Farm North West Of Station Cottage Station Road Launton	65	0	-65	This site has outline consent for 65 homes, however there is no detailed consent in place for any of the residential units on this site. There is an application for reserved matters (for 65 residential units) currently pending determination (23/03433/REM). This was submitted in December 2023, and there are unresolved objections to this application. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Land at Deerfields Farm Canal Lane Bodicote	26	0	-26	Outline consent was granted for 26 homes on this site in November 2022. There is no record of any reserved matters pending determination pursuant to this consent. There is no clear evidence that residential completions will be delivered on site in the five year period.
OS Parcel 3489 Adjoining And South West Of B4011, Ambrosden	60	0	-60	Outline consent was granted for 75 homes on this site in December 2023. There is no record of any reserved matters pending determination pursuant to this consent. There is no clear evidence that residential completions will be delivered on site in the five year period.
Land North Of Railway House, Station Road, Hook Norton	43	0	-43	Outline consent was allowed at appeal for 43 homes on this site in August 2022. A reserved matters application has very recently been submitted in April 2024 (24/01045/REM). As yet, there are no substantive consultation) pending determination pursuant to this consent. There is no clear evidence that residential completions will be delivered on site in the five year period.

Kidlington Garage, 1 Bicester Road, Kidlington	15	0	-15	A detailed application (22/00017/F) is pending determination for development on this site. A resolution to grant permission was made in March 2023, however there is still no permission in place over 1 year later. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Small Sites – Banbury Area	62	50	-12	It is reasonable to apply lapse rate of 20% to the total potential delivery from small sites with planning permission.
Small Sites – Bicester Area	45	37	-8	It is reasonable to apply lapse rate of 20% to the total potential delivery from small sites with planning permission.
Small Sites – Other Areas	202	162	-40	It is reasonable to apply lapse rate of 20% to the total potential delivery from small sites with planning permission.
Small Site Windfalls	250	200	-50	An increase to windfall rates (compared to previous AMRs) is not justified, with future trends indicating a decline rather than an increase in windfall rates.
SUB TOTAL	2,368	932	-1,436	

Sites Identified by the Council in the Partial Review Local Plan to Meet Oxford's Unmet Needs

Site	Council's delivery	My delivery	Difference in delivery	Summary for why I have applied reductions
Land West of Oxford Road, North Oxford	30	0	-30	There is no application pending for development on this site. A Development Brief has been drafted (required ahead of a planning application coming forward), but it does not appear that this has yet been formally adopted. The Council has not provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Land South East of Kidlington, Kidlington	30	0	-30	The Council list two applications in relation to this site, neither of which are determined. An outline (22/00747/OUT) for 370 homes has been pending since March 2022, and received a resolution to grant subject to s106 agreement in October 2023, however there is no permission yet in place. A full application (22/03883/F) for 96 homes is also pending determination, this received a resolution to grant consent in December 2023, however no permission has yet been issued. There are numerous examples (including in the list of sites above) where S106 agreements have taken many years (and counting) to come forward. The Council has not

				provided the necessary clear evidence that completions will be delivered in the five year period on this site.
Land at Stratfield Farm, Kidlington	20	4	-16	An outline application (22/01611/OUT) is pending determination for development on this site. A resolution to grant permission was made in October 2023, however there is still no permission in place. There are numerous examples (including in the list of sites above) where S106 agreements have taken many years (and counting) to come forward. Even when outline permission is issued, this will remain a Limb B site requiring clear evidence and reserved matters will need to be prepared, submitted and determined before development can start on this site. A full application (22/01756/F) for a net increase of 4 homes was permitted on part of the site in October 2023, this element is not disputed. The Council has not provided the necessary clear evidence that completions that the remaining homes will be delivered in the five year period on this site.
SUB TOTAL	80	4	-76	
TOTAL	2,448	936	-1,512	

Calculating the Council's Five Year Housing Land Supply

My Preferred Position

- 6.177 Overall, having carefully analysed all sites that the Council lists as delivering housing in the five-year period, my assessment of delivery at **Appendix JR2** and as detailed above shows that **1,512 homes** should be removed from the Council's deliverable housing supply. This equates to an overall supply in the five-year period (2023-2028) of **2,689 homes**. This results in the following five year supply position:

Table JRT32 – Five Year Supply Calculation

	Step	Calculation
A	Housing requirement (2023-2028)	6,330 homes
B	My assessment of deliverable supply	2,689 homes
C	Five Year Supply	2.12 years
D	Shortall in deliverable supply	-3,641 homes

- 6.178 My evidence shows that the actual supply in Cherwell stands at only **2.12 years, a shortfall of 3,641 homes** against a five year supply requirement. This is clearly a very serious and significant shortfall against a minimum housing requirement. It is this supply calculation that I would invite the Inspector to use in this Appeal.

6.179 Even if the Council's LHN position of using 706 homes per annum were preferred, the position would only marginally improve to a 2.13 year supply.

Alternative Calculations Against Local Housing Need and Oxford's Unmet Needs

6.180 If the Inspector were to disagree with my evidence on the use of a single housing requirement figure and a single housing land supply calculation then, to assist the Inspector, I provide the separate calculations below.

6.181 These calculations are based on the reductions that I have made to the Council's supply (as set out in Table JRT30) to sites intended to meet Cherwell's LHN (**a reduction of 1,436 homes**, which would equate to a deliverable supply against that part of the housing requirement of **2,685 homes**) and to sites intended to meet Oxford's unmet needs, (a reduction of **76 homes**, equating to a deliverable supply against that part of the housing requirement of just **4 homes**).

Cherwell LHN Calculation

Table JRT33 – Five Year Supply Calculation (Cherwell LHN)		
	Step	Calculation
A	Housing requirement (2023-2028)	3,550 homes
B	My assessment of deliverable supply	2,685 homes
C	Five Year Supply	3.78 years
D	Shortfall in deliverable supply	-865 homes

6.182 As can be seen from table JRT33, even if calculated separately, the Council would still fall substantially below the requirement to demonstrate a five year supply requirement. The Council has only a **3.78 year supply** against this part of its overall housing requirement, a **shortfall of 865 homes**. As can be seen, this is also below four years, which the Council argues is all it is required to demonstrate. Furthermore, even if the Council's LHN position of using 706 homes per annum were preferred, the position would only marginally improve to a 3.80 year supply (and so would still be below either a five or a four year supply requirement).

Partial Review Oxford's Unmet Needs Requirement Calculation

Table JRT34 – Five Year Supply Calculation (Partial Review)		
	Step	Calculation
A	Housing requirement (2023-2028)	2,780 homes
B	My assessment of deliverable supply	4 homes
C	Five Year Supply	0.01 years
D	Shortfall in deliverable supply	-2,776 homes

- 6.183 As can be seen from table JRT34, against a separate calculation against the Oxford unmet needs part of its housing requirement, the Council supply is just 0.01 years.
- 6.184 As I have set out earlier in my evidence, even if it were to be concluded that separate housing land supply calculations is the correct approach, there has to be a meaningful policy consequence as a result of this substantial level of undersupply.
- 6.185 The NPPF directs decision takers to apply the presumption in favour of sustainable development at paragraph 11 (and the tilted balance with it) to those authorities who cannot demonstrate a sufficient housing land supply. The Council accepts that it cannot do so against this part of its housing requirement, and I have found the supply to be even lower. As such, if this were found to be the correct approach to calculating housing land supply, then the presumption in favour of sustainable development would still apply and, in the absence of any boundary or ring fence area in the Partial Review Plan, this must apply on a District wide basis.

Summary of All Housing Land Supply Calculations

- 6.186 To assist the Inspector, Table JRT35 provides a summary of Council's and my position based on the various housing supply scenarios that I expect to be considered at this Inquiry (using a LHN of 710 dwellings per annum²²).

Table JRT35: Summary of the Council's and My Position on Deliverable Supply

	Supply Calculation Against a Combined Housing Requirement	Supply Calculation Against Cherwell's Needs	Supply Calculation Against Oxford's Unmet Needs
The Council	3.32 years	5.8 years	0.14 years
The Appellant	2.12 years	3.78 years	0.01 years

- 6.187 As can be seen from Table JRT34, against a single housing requirement calculation, both the Council's supply figure, and my supply figure fall below both a four or a five year supply calculation.
- 6.188 Against separate housing land supply calculation, both the Council's and my supply clearly show a very significant shortfall in the required supply against Oxford's unmet needs in the next 5 years.
- 6.189 It is only against Cherwell's LHN that the Council claims it can demonstrate a sufficient housing land supply. However, my evidence shows that when appropriate deductions to the Council's supply are made, the actual deliverable supply against LHN would still fall substantially below a five year supply, and also below a 4 years supply if the requirements of paragraph 226 of the NPPF were found to be met by Cherwell's

²² Whilst the supply position would very marginally change (improve) if a LHN of 706 were used (as opposed to my suggested LHN figure of 710) the overall change is not material.

Regulation 18 Local Plan. My calculations (and the shortfalls against a 5 year requirement) are summarised in Table JRT36, below:

Table JRT36: Summary of My Position on Deliverable Supply			
	Supply Calculation Against a Combined Housing Requirement	Supply Calculation Against Cherwell's Needs	Supply Calculation Against Oxford's Unmet Needs
Supply (Years)	2.12 years	3.78 years	0.01 years
Shortfall	-3,641 homes	-865 homes	-2,776 homes

- 6.190 It is a supply calculation against a single housing land supply requirement that I would invite the Inspector use in this Appeal. Against that requirement, I find the Council's supply to be only **2.12 years**, a **shortfall of 3,641 homes**.
- 6.191 It is clear that sites for more homes need to be permitted in Cherwell, not only to meet shortfalls in supply in the next 5 years, but to make inroads into the substantial shortfall in supply that will accrue by the end of the Plan Period in 2031.
- 6.192 The planning proof of evidence of Mr Murray Cox considers in more detail the weight to be given to out of date policies as a result of the shortfalls in supply and the weight to be given to the benefits of the delivery of homes on the Appeal Site in the context of the Council not being able to demonstrate a five year supply, and based on my evidence on overall plan period shortfalls in delivery.

7. Conclusions

- 7.1 My evidence addresses both housing delivery and housing land supply in Cherwell District.

The Council's Housing Delivery Performance to Date and to the End of the Plan Period

- 7.2 The Council's overall housing requirement in its Development Plan is set out in strategic policies across the two parts of its Part 1 Plan.
- 7.3 The first element of the overall housing requirement in Cherwell is contained in the adopted Cherwell Local Plan 2011 - 2031 Part 1 (July 2015). Policy BSC1 of the Local Plan states that provision will be made for 22,840 homes in the period 2011 to 2031 (this equates to 1,142 homes per annum).
- 7.4 I acknowledge that this Plan is over 5 years old and, for the purposes of NPPF paragraph 77 and calculating five year housing land supply, LHN derived from the standard method calculation is to be used instead of the Local Plan housing requirement (in respect of Cherwell District's needs). Importantly though, the Local Plan remains part of Cherwell's statutory Development Plan (and that figure is not simply replaced by LHN for any other purpose than for five year housing land supply) and so the Council's performance against meeting that housing requirement to date and in the plan period as a whole is an important material consideration in the determination of this Appeal.
- 7.5 The second element of the overall housing requirement in Cherwell is its agreed portion of Oxford's unmet needs as contained in the adopted Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford's Unmet Housing Need (September 2020). This part of the statutory Development Plan, and the strategic policies within it, remains less than 5 years old and so is 'up to date'.
- 7.6 Policy PR1 of the Partial Review confirms that Cherwell will deliver 4,400 homes to 2031 in order to help meet Oxford's unmet housing needs – such delivery was planned to come forward from 2021. In addition, Policy PR12a 'Delivering Sites and Maintaining Housing Supply' confirms a stepped requirement - between 2021 and 2026, the annual requirement towards meeting Oxford's unmet needs is 340 homes and, from 2026 /27, the annual requirement will be 540 homes.
- 7.7 Against the combined housing requirement, my evidence confirms that, at the current base date (1st April 2023) the level of under-delivery against the Part 1 Local Plan (2015) housing requirement stands at **1,392 homes**. Secondly, against the Oxford unmet needs component of its housing requirement, whilst this part of the requirement was to be delivered from 2021, under-delivery already stands at **680 homes** (against the Partial Review Plan's initial, lower, annual requirement). When combined, the Council has an **under-delivery of 2,072 homes** when compared to the total number of homes that it should have delivered by now (against annual requirements). This is a **serious and significant level of under-delivery**.
- 7.8 My evidence confirms that this track record of under-delivery worsens further still when one compares the Council's delivery to date to what it expected to have delivered by

now, by reference housing trajectories provided for the two parts of the Part 1 Local Plan. It confirms that the Council's cumulative under-delivery against the Part 1 Local Plan (2015) housing trajectory expectation of delivery by the 1st April 2023 base date stands at **4,531 homes**. Combined with the level of delivery the Council has expected towards Oxford's unmet needs, then the cumulative position is a **shortfall of 4,891 homes**.

- 7.9 This level of under-delivery is expected to lead to serious consequences for the delivery of the Council's minimum housing requirement and for its overall housing delivery strategy. Using the Council's own claimed deliverable supply in the next 5 years and also its delivery figures for sites to the end of the Plan period in 2031, my evidence confirms that the Council is expected to under-deliver against its Local Plan requirement of 1,142 homes in every year from now to the end of the plan period in 2031. The Council's cumulative under-delivery (using its own figures) will be by some **3,326 homes by 2031** against that part of its housing requirement.
- 7.10 Against the Oxford unmet needs part of its housing requirements (in the Partial Review Plan), my evidence shows that the Council will also under-deliver by some **2,995 homes by 2031**.
- 7.11 Combined, the **total level of under-delivery will be 6,321 homes**. That is a truly astonishing level of under-delivery by the end of the plan period.
- 7.12 I conclude that the Council's housing delivery strategy has failed. It has failed to deliver the planned homes to date and will fail, substantially, to deliver the necessary homes by the end of the plan period. It will result in serious consequences for the delivery of not just market homes, but desperately needed affordable homes. It will also stifle the district's (and the wider area's) economic potential.
- 7.13 The only remedy to seek to make inroads into this shortfall is to grant consents for sites now which can deliver before the end of the Plan period (in 2031).

The Council's Five Year Housing Land Supply

The Requirement for a Five or Four Year Housing Land Supply

- 7.14 Starting with the NPPF paragraph 77 and 226 and whether the Council is required to demonstrate a five or a four year housing land supply, I conclude that the Council's Regulation 18 Local Plan does not meet the two requirements of paragraph 226 in order for a four year supply to be required.
- 7.15 Whilst the plan did include for some draft housing allocations, and that there were various plans identifying the sites embedded in the Regulation 18 Plan itself, there was no single policies map published that meets the requirements of The Town and Country Planning (Local Planning) (England) Regulations 2012.
- 7.16 In that respect, it also fails to meet the NPPF paragraph 226 expectations for a policies map to have been published. I conclude that Cherwell Council is, therefore, required to demonstrate a five year housing land supply.

The Appropriate Housing Requirement Against Which to Calculate Five Year Housing Land Supply

- 7.17 A key area of dispute in this Appeal is whether the Council's five year housing land supply should be calculated against a single housing requirement (being a combination of Cherwell's needs (using LHN) plus Cherwell's part of Oxford's unmet needs as contained in the Partial Review Local Plan) (the Appellant's position), or whether there should be separate calculations for Cherwell's needs and one for Oxford's unmet housing need (the Council's position and current approach in its AMR).
- 7.18 My evidence draws support from the Heyford Park appeal (**Core Document 10.1**) in which the Inspector identified the publication of the December 2024 NPPF and changes to the PPG to be an important factor in reaching her finding that housing land supply should be considered against a single housing requirement. It also draws support from the approach taken in the Vale of White Horse where the latest Housing Land Supply Statement (December 2023) confirms that the Council's five year supply requirement is made up from the Vale's Local Housing Need plus the Vale's agreed portion towards meeting Oxford's housing needs – it is against this combine (single) requirement that five year housing land supply is judged. Further support for my position can be taken from the Housing Delivery Test (HDT) where I conclude that there is clear planning logic in applying the buffer, derived from the HDT (which is based on delivery against a single, combined housing requirement) to a similarly single combined housing land supply calculation.
- 7.19 Overall, my evidence concludes that a single housing requirement should be used in Cherwell for the purposes of calculating the Council's housing land supply. That would result in an overall requirement figure in the five year period of **6,330 homes**.

The Consequences on Housing Land Supply if Single Requirement is Used

- 7.20 If the Inspector agrees with my evidence on the use of a single housing requirement and calculation (and also agrees with the findings of Inspector Hockenhull in the Heyford Park appeal) then, even on the Council's own claimed deliverable supply, the Council would fall below a four year supply. My evidence shows that the Council's supply would be 3.32 years.

The Alternative Position if Separate Calculations are Found to be the Correct Approach

- 7.21 If the Inspector disagrees with my evidence on the need to calculate supply against a single housing requirement for the District and instead concludes that the Council's position on separate calculations is the correct approach, then the fact that the Council acknowledges that it is not able to demonstrate a sufficient housing land supply against part of its overall requirement (indeed the supply against Oxford's unmet needs is only 0.1 years even on the Council's own figures), must have some policy consequence as a result and it must have some meaning for the determination of applications for homes in the District.
- 7.22 The Partial Review Plan does not provide any boundary or 'ring fence' area within which it suggests the presumption in favour of sustainable development would apply as a consequence of only having a 0.1 year supply against Oxford's unmet needs. Logically,

therefore, I conclude that the policy consequences must be that the presumption in favour of sustainable development at NPPF paragraph 11 is applied on a District wide basis.

The Council's Deliverable Housing Land Supply

- 7.23 My evidence finds that there are several sites which should not be included in the Council's deliverable supply (when considered against the NPPF definition of 'deliverable') or where other reductions in supply should be made.
- 7.24 My evidence shows that **1,512 homes** should be removed from the Council's deliverable housing supply, which equates to an overall supply in the five-year period (2023-2028) of **2,689 homes**. Against the requirement of 6,330 homes, this equates to a supply of only **2.12 years**, a **shortfall of 3,641 homes** against a five year supply requirement. This is clearly a very serious and significant shortfall against a minimum housing requirement.
- 7.25 Nevertheless, If the Inspector were to disagree with my evidence on the use of a single housing requirement figure and a single housing land supply calculation, then my evidence also concludes that the Council would fall considerably short of demonstrating a five year housing land supply when separate calculations are used.
- 7.26 Against Cherwell's LHN, my evidence concludes that the Council has only a **3.78 year supply**, a **shortfall of 865 homes** against a five year requirement. This is also below four years, if the Council is found to meet the requirements of NPPF paragraph 226.
- 7.27 Against Oxford's unmet needs, my evidence shows that the Council supply is just **0.01 years**, a **shortfall of 2,776 homes** and so, even if it were to be concluded that separate housing land supply calculations is the correct approach, there has to be a meaningful policy consequence as a result of this substantial level of undersupply. That consequence has to be the application of the presumption in favour of sustainable development (and apply the tilted balance to decisions) on a District wide basis.
- 7.28 Confirmation of my assessment of supply against the various scenarios tested is provided in Table JRT37, below.

Table JRT37: Summary of My Position on Deliverable Supply

	Supply Calculation Against a Combined Housing Requirement	Supply Calculation Against Cherwell's Needs	Supply Calculation Against Oxford's Unmet Needs
Supply (Years)	2.12 years	3.78 years	0.01 years
Shortfall	-3,641 homes	-865 homes	-2,776 homes

Overall Conclusion

- 7.29 It is clear from my evidence that Cherwell District Council cannot demonstrate a five year housing land supply in accordance with paragraph 77 of the NPPF. The shortfalls in

supply in the District are serious and significant. Furthermore, there will be significant shortfalls in plan period delivery that the Appeal Proposal can also help to address.

- 7.30 The planning proof of evidence of Mr Murray Cox considers in more detail the weight to be given to out of date policies as a result of the shortfalls in supply and the weight to be given to the benefits of the delivery of homes on the Appeal Site in the context of the Council not being able to demonstrate a five year supply, and based on my evidence on overall plan period shortfalls in delivery.

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