

Re: Policies Map
Upper Heyford
Supplemental Advice

1. I have previously advised in this matter on two occasions. I am also representing the Appellants in an appeal at Upper Heyford.
2. Since completing my last advice, further representations have been made, in relation to the Upper Heyford appeal, by Mr. Hutchison (“DH”) on behalf of the Rule 6 party, Dorchester Living. I am asked to advise as to the comments received therein.
3. First, DH comments that he agrees with the advice of Mr. Edwards KC, produced by the LPA. I have already provided my detailed opinion as to why I disagree with Mr. Edwards KC’s advice, and do not repeat it here.
4. Second, DH comments,
“The Inspector will recall that the Appellants placed particular reliance upon the fact that the appeal site was identified as part of a draft allocation at Heyford Park in the emerging Local Plan. They were able to make those submissions because of the map contained within the draft plan. The Appellants can’t have it both ways. Applying the appellants’ argument, if the map is not part of a policies map, then the weight to be afforded to it to must diminish to almost nothing.”
5. With respect, DH’s response appears somewhat confused. All parties accept that the Council’s Regulation 18 consultation plan includes proposed draft allocations to meet housing need, including at Upper Heyford. That is not because there is a policies map showing the same. It is because there are specific proposed draft allocations in the Regulation 18 plan itself.
6. However, to benefit from the requirement to demonstrate a four-year supply in NPPF226, there is a requirement to include,

“both a policies map and proposed allocations towards meeting housing need”.

(Emphasis added)

7. Whilst Cherwell's Regulation 18 consultation plan contains proposed draft allocations to meet housing need, the Council has not produced a policies map, for the reasons previously explained.
8. Further, I cannot see why the question of whether there is a policies map alters the weight that is to be attributed to the emerging allocation in this particular case. This is because there is no dispute between the parties that there is a proposed draft allocation proposed at Upper Heyford in the Regulation 18 Plan, and there is no dispute that this is proposed to include the appeal site.
9. Whether a LPA is required to demonstrate a four or five year housing land supply is to be determined by considering whether the requirements of NPPF226 are met, having regard to the Council's emerging plan and plan making process taken as a whole. It is not a question that is to be determined having regard to facts that are specific to a particular planning appeal/application, including whether illustrative material has been produced in an emerging plan in respect of the particular site. Otherwise, the question as to whether the LPA is required to determine a four or five-year supply could change depending on the facts relevant to a particular site, and how/if it is considered in an emerging plan. That cannot be right.
10. In short, the question of what weight is to be attributed to the emerging allocation is a distinct issue to the question of whether Cherwell DC is required to demonstrate a four- or five-year supply for the purpose of NPPF226.
11. There is nothing in DH's email that alters my opinion in respect of this issue, as previously set out. I advise accordingly.

8th February 2024

Sarah Reid KC

Kings Chambers

Manchester, Leeds, Birmingham