

Examination of the Harborough Local Plan 2020-2041

MAIN MATTER 1: Consistency with paragraph 234 (a) of the 2024 National Planning Policy Framework

Written Statement by Harborough District Council

Stage 1 Matters, Issues and Questions

Issue:

Should the proposed submission draft Harborough Local Plan (March 2025) [S-NLP1] (the Plan) be examined against the December 2023 or December 2024 version of the National Planning Policy Framework (NPPF)?

The Questions:

- Q1: The Plan's draft housing requirement 2020-2041 includes a contribution to Leicester's unmet need. In so doing, would it accord with NPPF 2023 paragraph 234(a)?
- Q2: Excluding the contribution to Leicester's unmet need, the Plan's draft housing requirement would meet 74% of LHN calculated in accordance with footnote 83 of the NPPF 2024. If the Panel were to agree with this approach to assessing whether the Plan meets the requirements of NPPF 2024 paragraph 234(a), what if any, is the implication of this for the examination?
- Q3: If the Panel were to conclude that the Plan should be examined against the NPPF 2024, what would be the implications for the soundness of the Plan?

The Council's response:

1. Introduction.

- 1.1. Harborough District Council has an excellent track record in plan-making. The Council adopted the Harborough Local Plan (1991-2006) in 2001, the Core Strategy (2006-2028) in 2011 and the Harborough Local Plan (2011-2031) in 2019.
- 1.2. Harborough District Council is proud to be part of the Leicester and Leicestershire Housing Market Area partnership of local authorities with a long and successful history of

collaboration in plan making. The partnership is often held up as a positive example, where difficult issues, such as unmet need, are dealt with rather than deferred. The partnership has successfully prepared and implemented a number of partnership-wide Statements of Common Ground to deal with unmet need. These Statements have informed the preparation of the Harborough Local Plan (2020-2041) as well as those of partner authorities across Leicester and Leicestershire. The Council considers this successful collaborative approach should be recognised and valued for the positive contribution it makes to meeting the Government's objectives.

- 1.3. Preparation of the Harborough Local Plan (2020-2041) began in earnest in 2023 in accordance with NPPF 2023. A Local Development Scheme (LDS) was published in December 2023 [Harborough Local Development Scheme December 2023](#) and an Issues and Options (Regulation 18) consultation undertaken in January 2024.
- 1.4. At the point of publication of NPPF 2024 (December 2024), the Council had already made significant progress in preparing the emerging Plan in accordance with NPPF 2023. The Issues and Options (Regulation 18) consultation had been completed and the responses analysed and used to inform the Emerging Local Plan. The Plan had been drafted and was nearing completion ready for publication (in accordance with Regulation 19) in early 2025 to meet the milestones set out in the LDS. As such, the Plan was at a significantly advanced stage by the time the NPPF was published in December 2024.
- 1.5. The transitional arrangements set out at paras 234 and 235 of NPPF 2024 were included in anticipation of exactly this scenario. They enable plan-making to progress and deliver on the Government's dual objectives of delivering much-needed homes and achieving universal plan-coverage. The written ministerial statement ([UIN HCWS308](#)) by the Minister of State for Housing and Planning accompanying publication of NPPF 2024 explains:
 - *'...The plan-led approach is, and must remain, the cornerstone of our planning system. ...'*
 - *'... We have made clear our commitment to universal local plan coverage – local plans are the best way of engaging communities in decisions about the future of their area, of optimising use of land to deliver for the economy and for the environment, and for giving the certainty businesses need to invest in development. A plan-led system in which fewer than a third of places have up-to-date plans does not work. That is why we are taking a tough but pragmatic approach to imposing new housing numbers on local plans; one which sees new numbers feed through into local plans as quickly as possible, while allowing well-developed plans to be adopted. We are making three changes to the proposals we consulted on, reflecting these twin objectives. First, we will give local*

*authorities an extra two months to progress their plans under the existing framework. . . .
..'*

- *. Similarly, those that reach the final stage of plan preparation will be allowed to progress only where there is no significant shortfall. Second, responding to feedback that we should measure significant shortfall in proportionate rather than absolute terms, we are replacing the 200-home threshold with a requirement that plans provide for at least 80 percent of the new standard method figure '*

1.6. The levels of growth proposed in the Local Plan have remained largely unchanged during the local plan process and through Regulation 18 and 19 consultations. The housing requirement within all drafts of the Local Plan has included the unmet need from Leicester City as agreed between neighbouring authorities in the Leicester and Leicestershire Statements of Common Ground Relating to Housing and Employment Needs (June 2022 [SCG-NLP 3]). This accords with paragraph 61 of the NPPF 2023 which provides that *'To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area..... In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for'*. The policy remains unchanged in NPPF 2024 – see paragraph 62). Further, both paragraphs 67 of the NPPF 2023 and 69 of the NPPF 2024 state - *'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.'*

1.7. The Council has acted in good faith, working with our communities to develop a Local Plan which meets Government policy and objectives. Crucially the plan sets a requirement which provides for at least 80 per cent of the new standard method figure in line with Government policy as is explained in more detail below.

2. Stage 1 Matters, Issues and Questions

2.1. The Local Plan was submitted to the Secretary of State for Housing Communities and Local Government for examination on 17th April 2026. On 15th May 2026, the inspectors requested clarification on how the Harborough Local Plan met the transition arrangements at para 234(a) of the NPPF 2024. The Council provided a response on 20th May 2026, and the inspectors concurred with that response. The Inspectors' Panel Note 2 on 29th May 2026 states *'The Plan was submitted for Examination on 17 April 2026. The extant National Planning Policy Framework (NPPF) at point of submission was the December 2024 version (NPPF24). The Plan is being examined under the transitional arrangements set out in NPPF24, in particular paragraphs 234 to 235. As the Plan reached Regulation 19 (pre-*

*submission stage) before 12 March 2025, and its draft housing requirement meets at least 80% of LHN, NPPF24 at paragraph 235 indicates that it will be examined under the relevant previous version of the NPPF. Therefore, we agree with the Council that **the Plan should be examined against the version of the NPPF published in December 2023 (NPPF23)**.*

- 2.2. On 24th June 2026, the following matters, issues and questions were put forward by the inspectors. The Council has provided a response to each question.

Does the Plan meet the requirements of NPPF 2024 paragraph 234(a)?

Q1: The Plan's draft housing requirement 2020-2041 includes a contribution to Leicester's unmet need. In so doing, would it accord with NPPF 2024 paragraph 234(a)?

3. The Council's response

- 3.1. Yes. The Local Plan was prepared under the 2023 NPPF and the Topic Paper [TPC-NLP7] sets out why the Plan meets the requirements of NPPF 2024 paragraph 234(a) and therefore should be examined against the December 2023 NPPF. Its housing requirement 2020-2041, which includes a contribution to Leicester's unmet need, is wholly in accordance with the requirements of paragraph 234(a) of the NPPF 2024.
- 3.2. The transitional arrangements under paragraph 234 (a) require the Plan's draft housing requirement to meet at least 80% of local housing need calculated using the standard method in the national planning practice guidance published on 12 December 2024 (footnote 83).
- 3.3. The NPPF 2023 standard method of calculation produced an LHN of 534 dpa for the district (11,214 homes 2020-41). The SoCG June 2022 [SCG-NLP3] apportioned an additional 123 dpa of unmet need to the District from Leicester City between 2020 and 2036 (1,968 homes). The SoCG 2022 and associated Housing Distribution Paper (2022) [HSG-NLP3] covers the timescale to 2036 because it aligns with the plan period of Leicester City's Local Plan (adopted June 2026) and associated detailed evidence of their capacity. In accordance with para. 61 of the NPPF 2023, the Harborough Submission Local Plan Policy DS01 therefore identifies a housing requirement of 13,182 (2020-41) which equates to an average of 628 dpa over the 21-year plan period, see Table 1 below.

Table 1: Housing Requirement Calculation – Harborough District (2020–2041)

Column	Component	Dwellings
A	Local Housing Need (534 dpa x 21 years, 2020-2041)	11,214
B	Unmet Need from Leicester City (123 dpa x 16 years, 2020-2036 per SoCG 2022)	1,968
C	Total Housing Requirement (A+B)	13,182
D	Average annual housing requirement (C/21)	628 dpa

3.4. The calculation of Harborough’s local housing need using the standard method in the national planning practice guidance December 2024 is 723 dwellings per annum (dpa). The calculation is provided in Table 2, below.

Table 2: Harborough Local Housing Need Standard Method calculation, 12 December 2024

A:	2024 Dwelling stock (unrounded)	43,856
B:	0.8% of Dwelling stock	350.848
C:	5 Year average affordability ratio	10.59
D:	Adjustment factor $((C-5)/5)*0.95+1$	2.0621
E:	Local Housing Need (B x D)	723

3.5. The inspectors question whether Leicester’s unmet housing need should be included as part of Harborough’s housing requirement in the calculation of whether the plan’s housing requirement exceeds 80% of the local housing need (as calculated using the NPPF 2024 standard method). The suggested alternative is to base the calculation solely on Harborough’s LHN i.e. 534 dpa which consequently would only meet 73.86% of the local housing need calculated using NPPF 2024. It is the Council’s case the former is clearly the correct approach.

3.6. Paragraph 234(a) is concerned with ‘the draft housing requirement’ of the local plan in question. Para.61 of the NPPF 2023 expressly states that any contribution to meeting unmet need must be part of the housing requirement of a relevant plan. The reference to “requirement” in para.234(a) can only mean the requirement as arrived at in accordance with para.61 of NPPF 2023. There is no justification for seeking to attribute a different

meaning to “requirement” in paragraph 234(a). Had it been the Government’s intention that paragraph 234(a) should require the comparison to be between a 2023 LHN and a 2024 LHN alone, it would have been worded very differently.

- 3.7. This is consistent with para 11 (b) of NPPF 2023 and the same wording appears in para 11 (b) of NPPF 2024 in that *‘strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas as established through statements of common grounds’* (footnote 6).
- 3.8. The NPPF 2024 para 62 retains this approach, *‘To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning practice guidance. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for’*
- 3.9. Furthermore, as set out above, the NPPF 2024 continues to require that strategic plan 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 (see para.69).
- 3.10. Consequently, for the question whether a plan’s ‘housing requirement meets at least 80% of local housing need’ (NPPF 2024 para.234(a)), any contribution to meeting unmet need which the plan makes *must* be included. That is part of the housing requirement, on a correct interpretation of the NPPF. It would be contrary to the NPPF to seek to remove unmet need from the housing requirement. The concept of the ‘housing requirement’ has the same meaning in para 234 (a) and paras. 11(b), 62 & 69 of the NPPF 2024 as well as paras. 11b, 61 & 67 of the NPPF 2023 (i.e. it includes any contribution to unmet need).
- 3.11. The principle of the NPPF requiring a single housing requirement was supported in a 2024 appeal decision received by Cherwell Council dated 5 March 2024. (Appendix 1) The Inspector made reference to the NPPF published in December 2023 in reaching the decision (paras. 71-75). It was concluded (para.75) that there *‘should be one housing requirement for the district as a whole’*.
- 3.12. The decision was challenged in the High Court (Appendix 2) but the challenge was dismissed. At paragraph 51 of her judgement, Mrs Justice Lieven stated, *‘Here the development plan as a whole had established Cherwell’s housing requirement as being in two parts – those that arose from Cherwell’s own needs in the CLP [Cherwell Local Plan], and those from Oxford’s unmet needs which had to be met within Cherwell in the PR [Partial Review]. The housing may have been to meet Oxford’s “needs”, but the planning policy requirement was for it to be met within Cherwell. As such, I agree ... that it became part of Cherwell’s needs for the purposes of the planning regime’*. Similarly at paragraph 55

she stated, *'That conclusion is strongly supported by [NPPF 2023] paragraph 67, which the Inspector relied upon, which specifically envisages that housing requirement figures may be higher than identified need, where they take into account a neighbouring area's need'*.

This appeal decision (Appendix 1) and High Court judgment (Appendix 2).

3.13. There is therefore no proper basis for seeking to exclude Harborough's contribution to meeting Leicester's unmet need from the calculation of the Plan's housing requirement. In accordance with para 61 of the NPPF 2023, the housing requirement set out in Policy DS01 comprises local housing need for the district plus a proportionate share of unmet need from neighbouring Leicester City. The total housing requirement for the plan period is set out in Table 1, above.

3.14. NPPF 2024 para 234(a) requires a straightforward comparison to be made between the housing requirement and updated LHN. The requirement is met if the housing requirement is at least 80% of the local housing need. Policy DS01 sets a housing requirement of 13,182 over a 21-year plan period (2020 41) which equates to an average of 628 dpa. This is 87% of the updated LHN of 723 dpa when the NPPF 2024 was published. The calculation is set out below:

$$(628/723) * 100 = 86.86\% \text{ (rounded to 87\%)} \underline{\hspace{1cm}}$$

3.15. For comparison purposes, the calculation may also be set out in relation to total plan period figures. The total housing requirement of 13,182 dwellings is 87% of the total updated LHN of 15,183 over a 21-year period. The calculation is set out below:

$$(13,182/15,183) * 100 = 86.8\% \text{ (rounded to 87\%)} \underline{\hspace{1cm}}$$

3.16. Support for this being the approach intended by Government in its drafting of para.234(a) can be found in the transitional provisions contained in Schedule 1 of the Town & Country Planning (Local Planning) (England) Regulations 2026. Amongst other matters, these set out the circumstances in which a local planning authority with a plan already at examination on 12 March 2025 will be required to commence the preparation of a new plan under the twin tracking arrangements. One of the conditions is that: *" the development plan document, as submitted for examination, established a draft housing requirement for the area that would meet less than 80% of the authority's local housing need figure, calculated using the standard method as published by the Secretary of State on 12th December 2024"* (see para1(3) of the Schedule to the 2026 Regulations).

3.17. The intention of the Regulations is to mirror the requirement in paragraph 234 of the NPPF, so that those authorities whose submitted plans have a housing requirement of less than 80% of their LHN must remedy the situation as soon as practicable. Para. 1(2) of the Schedule defines "Housing Requirement":

‘Housing Requirement means the minimum number of homes that the plan expects to be provided for the area to which the plan relates, during the period of the plan’.

3.18 The Regulations therefore draw a clear distinction between “Housing Requirement” and “the authority’s local housing need figure” for the purposes of the necessary comparison. The Council’s position in terms of the transitional arrangements is entirely consistent with the approach of the Regulations.

3.19 Further support for the Council’s position may be found in the consultation on the proposed changes to the NPPF in 2024. At the time of the Proposed Plan being prepared the Government was consulting on the proposed changes (July 2024). The proposed transitional arrangements in the July 2024 draft of the NPPF including the following (see Appendix 3):

‘226. The policies in this Framework (published on [publication date]) will apply for the purpose of preparing local plans⁸² from [publication date+ one month] unless one or more of the following apply:

a) the emerging annual housing requirement⁸³ in a local plan that reaches or has reached Regulation 19⁸⁴ (pre-submission stage) on or before the [publication date + one month] is no more than 200 dwellings below the published relevant Local Housing Need figure⁸⁵

⁸²*Under the Town and Country Planning (Local Planning) (England) Regulations 2012.*

⁸³ *Defined as the total housing requirement, divided by the number of years in the plan period. The housing requirement can include any unmet need arrangements. Where a joint local plan is in preparation, to determine whether a shortfall exists between the emerging annual housing requirement and the relevant Local Housing Need figure, any shortfall should be apportioned to each local authority equally to determine whether a shortfall exceeds 200 dwellings per annum. Where there is an operative Spatial Development Strategy (SDS) that is less than 5 years old, the SDS will continue to provide the housing requirement for relevant emerging plans.*

⁸⁵*As published on [insert date] as [insert web link].’*

3.20 Footnote 83 was removed when the final NPPF was published in December 2024. It is clear from the Government’s December 2024 response to the consultation on the July 2024 draft NPPF that no change was intended by the removal of the express reference to the housing requirement including any unmet need arrangements: (see Appendix 4) the response to Section 12, Questions 103 and 104 which says nothing about this issue and does not suggest that the housing requirement for para. 234a purposes should *exclude* contributions to meeting unmet need. Footnote 83 was evidently considered superfluous given the clear terms of NPPF 2024 paras. 62 and 69 that the housing requirement includes any unmet need arrangements; that did not need to be repeated again in para. 234a.

3.21 Consequently, to exclude the contribution to Leicester City's unmet housing need within Harborough's housing requirement would not be in accordance with a proper interpretation of the NPPF 2024. The definition of a housing requirement in the NPPF is clear in that it should include unmet need, and this definition is no different for the purposes of para 234(a) than it is for the rest of the NPPF. Para 234(a) does not require the housing requirement to be broken down into its component 'needs' and/or an exercise to attempt to work out what percentage of an NPPF 2024 based LHN an NPPF23 based LHN would meet. Such an exercise would be illogical and cannot sensibly be what is intended by para 234(a).

3.22 For these reasons, the Harborough Local Plan was published in accordance with Regulation 19, prior to the transitional arrangement deadline of 12 March 2025. The Plan's housing requirement is above 80% of the updated Local Housing Need. As such, the requirements of NPPF 2024 para 234 (a) are met.

Q2: Excluding the contribution to Leicester's unmet need, the Plan's draft housing requirement would meet 74% of LHN calculated in accordance with footnote 83 of NPPF 2024. If the Panel were to agree with this approach to assessing whether the Plan meets the requirements of the NPPF 2024 paragraph 234(a), what, if any, is the implication of this for the Examination?

4. The Council's response

4.1. For the reasons set out in response to Q1, it is not open to the Inspectors to agree with this approach.

4.2. However, without prejudice to that position, there are no implications for examination. The examination should proceed, with the plan being examined under NPPF 2023.

4.3. The NPPF 2024 and 2026 Regulations' transitional arrangements do not anticipate the submission for examination after 12 March 2025 of a Local Plan which contains a housing requirement which provides for less than 80% of its PPG 2024 LHN. Under paragraph 234 of the NPPF the expectation is that where by 12 March 2025 a plan has reached Regulation 19 stage but provides for less than 80% of the PPG 2024 LHN, it should be revised prior to submission. The NPPF does not therefore provide any policy to govern the situation where a local planning authority has after 12 March 2025 submitted for examination a local plan with a housing requirement less than 80% of its LHN 2024.

4.4. As a matter of law and policy, it is open to the Inspectors to continue to examine a plan under the provisions of NPPF 2023 in these circumstances. The exercise of reasonable planning judgment supports this approach. The objective of the transitional provisions of

both the NPPF and 2026 Regulations is to allow plans which have reached the advanced stage of submission, to continue to be examined under the NPPF 2023. It is in the interests of significantly boosting housing delivery and the delivery of other sustainable development at the earliest opportunity for that to occur. That is particularly the case in Harborough District having regard to the benefits of adopting Harborough's Local Plan. Most notably the Plan will:

- (a) sustainably deliver 13,182 homes, 6,422 homes of which are new land allocations including the Government's Housing Accelerator site of 1,200 homes at land South of Gartree Road and 1,125 new homes at Scraptoft, well as supporting growth for Magna Park by allocating land to accommodate an additional 340,000m² of floorspace, one of the largest logistics hubs in Europe. Thereby providing much needed new homes, jobs and commercial growth opportunities across the district and wider sub-region. The adoption of the Harborough Local Plan and the delivery of the planned homes which meet its housing requirements under the NPPF 2023 would be the best means to assist the Council to achieve the step change in delivery required to meet LHN 2024;
- (b) secure the delivery of the development under the Plan will secure two much needed secondary schools as well additional primary school and early years capacity, along with primary health care provision;
- (c) provide 1,968 homes to meet Leicester City's unmet need, which has been agreed through considerable partnership working with Leicester City and Leicestershire authorities and the relevant Statement of Common Ground between all the partner councils of Leicester and Leicestershire;
- (d) enable the Council to plan for the provision of infrastructure where it is required for example the upgrading of Wastewater Treatment Works, enhancement of surface water drainage and improvements to cycle and pedestrian routes around Market Harborough as well as improved bus route provision at Scraptoft and Thurnby to meet the capacity to support long term growth,

4.5. This approach accords with the Minister's Letter of 4th October 2024 (see Appendix 5) which advises flexibility and pragmatic decisions to assist local plans to proceed towards plan adoption.

Q3: If the Panel were to conclude that the Plan should be examined against the NPPF 2024, what would be the implications for the soundness of the Plan?

The Council's response:

- 5.1 The Harborough Local Plan was prepared under the NPPF 2023 in accordance with the transitional arrangements set out at NPPF 2024 para 234 and 235. On this basis, the Council considers the Plan to meet legal requirements and to be capable of being found sound.
- 5.2 If the Inspectors were to conclude to the contrary of the Council's Case, there are various options which the Council can consider addressing the soundness of the Local Plan including adjusting the plan period or, with the benefit of a short pause, making further allocations. There are currently a number of applications within the development management pipeline which could be taken into consideration including one for 900 dwellings. However, for the reasons set out in response to Q1, the issue does not arise.

List of Appendices

1. Appeal Ref: APP/C3105/W/23/3326761 OS Parcel 1570 Adjoining and West Of Chilgrove Drive, and Adjoining and North Of Camp Road, Heyford Park, OX25 5LX.
2. Dorchester Living Ltd v Secretary of State for Levelling Up, Housing and Communities [2024] EWHC 3223 (Admin).
3. Relevant Extract from the July 2024 Draft NPPF.
4. Relevant extract of the Government's December 2024 response to the consultation on the July 2024 draft NPPF.
5. Written ministerial statement (UIN HCWS308) by the Minister of State for Housing and Planning.

Appendix 1

Appeal Decision

Inquiry held on 5 -7 and 11-15 December 2023

Site visit made on 7 December 2023

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2024

Appeal Ref: APP/C3105/W/23/3326761

OS Parcel 1570 Adjoining and West Of Chilgrove Drive, and Adjoining and North Of Camp Road, Heyford Park, OX25 5LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Richborough Estates, Lone Star Land Ltd, K and S Holford, A and S Dean, NP Giles and A L C Broadberry against the decision of Cherwell District Council. The application Ref 21/04289/OUT, dated 24 December 2021, was refused by notice dated 31 March 2023.
 - The development proposed is outline planning application for the erection of up to 230 dwellings, creation of new vehicular access to Camp Road and all associated works with all matters reserved apart from means of access to Camp Road.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from means of access to Camp Road, at OS Parcel 1570 Adjoining and West Of Chilgrove Drive, and Adjoining and North of Camp Road, Heyford Park, OX25 5LX in accordance with the terms of the application, Ref 21/04289/OUT, dated 24 December 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application seeks outline planning permission with only the matter of access reserved for later approval. The application includes a drawing showing the detail of the proposed access to Camp Road, an illustrative Masterplan and a series of Parameter Plans, one of which is an Access and Movement Parameter Plan. The Town and Country Planning (Development Management Procedure) (England) Order 2015 makes clear that access for the purpose of reserved matters means the accessibility to and within the site in terms of the positioning and treatment of access and circulation routes and how they fit into the surrounding access network. The Rule 6 Party questioned the fact that as the Illustrative Masterplan and Parameter Plans were indicative only, there was insufficient detail to allow the matter of access to be determined.
3. However, layout remains a reserved matter, so that it would not be reasonable to expect detailed plans of internal roads and footways at this stage. To resolve the matter, the appellant proposed a change to the description of development. This was to clarify that whilst access is being applied for, only approval of access to Camp Road is being sought with other means of access reserved for later approval. All parties accepted this change and as the alteration caused no

prejudice to any party, I have amended the description of development above and considered the appeal on this basis.

4. A revised National Planning Policy Framework (the Framework) was published after the close of the Inquiry on 19 December 2023. The references in my decision to the paragraphs in the Framework relate to this new document. I sought the views of the main parties on the implications of the revised national planning policy for their respective cases and have taken these into account in making my decision. In response to these changes, the Council prepared an updated Housing Land Supply Position Statement (January 2024). I also sought views on this document from the parties and have taken them into consideration.
5. A revision to the Housing Supply and Delivery guidance contained in Planning Practice Guidance (PPG), in response to the Framework amendments, was published on 5th February 2024. I again asked for the comments of the parties and have considered these in coming to my decision.
6. During the Inquiry an appeal decision for a site in Milcombe¹ was issued. I allowed the parties time after the event to submit comments in writing.
7. Rule 6 party status was granted to Dorchester Living. Their representatives presented evidence at the event.
8. Within an agreed timeframe after the Inquiry, the appellant submitted a final section 106 agreement. This secures the provision of affordable housing and financial contributions towards a range of matters including indoor and outdoor sports facilities, open space, education, health, highway improvements, a Community Development Worker and a community hall. I discuss this in more detail later in my decision.
9. The Council refused planning permission for two reasons. Reason 1 includes a number of different elements. Amongst other things, it states that the development would have a poor and incongruous relationship with the form and character of Heyford Park, by reason of the sites openness. Essentially this is a landscape and visual impact issue which was debated at length at a Round Table session.
10. During cross examination of the planning issues raised by the case, the Council conceded that based on the evidence, the proposal can reach a point of negligible landscape harm at year 15 subject to mitigation. Moreover, the Council accepted that the scheme does not conflict with the adopted Cherwell Local Plan 2015 (CLP2015) Policy ESD13 which expects development to respect and enhance local landscape character. As this issue is no longer in dispute, I do not address it further in my decision. The Council however maintains conflict with Policy ESD15 which concerns the character of the built and historic environment. I address this issue later in my decision.
11. The Councils' second reason for refusal relates to the lack of a satisfactory unilateral undertaking or section 106 agreement to provide for appropriate infrastructure contributions or transport mitigation necessary to ensure modal shift to sustainable transport modes and to make the development acceptable in planning terms. The Council accepted at the Inquiry that the section 106

¹ APP/C3105/W/23/3325113

provided by the appellant addressed this matter and this reason for refusal was overcome.

12. In regard to transport matters, the appellant and Dorchester Living, the Rule 6 party, narrowed down the areas of dispute before the event. It was agreed that the scheme was acceptable on highway safety grounds and that there was no objection in terms of highway capacity, subject to the proposed mitigation and contributions to off-site highway improvements detailed in the section 106 agreement. I do not therefore deal with these issues any further. Dorchester Living maintain their objection regarding connectivity and integration with Upper Heyford and the Heyford Park allocation. I deal with this under the third main issue.

Main Issues

13. Given the above, the main issues raised in this case are:

- Whether the appeal site forms a suitable location for development having regard to national and local planning policies.
- The effect of the proposed development on heritage assets.
- Whether the development makes appropriate provision for infrastructure and transport mitigation to ensure a sustainable development and make the development acceptable in planning terms.
- Whether the Council can demonstrate a deliverable housing land supply as required by the Framework.

Reasons

Suitable location for development

14. Outline planning permission is being sought for up to 230 dwellings with vehicular access from Camp Road on land to the south of Heyford Park. The site comprises 11.68 hectares of pastoral farmland. It is located outside the defined settlement boundary of Upper Heyford in the open countryside.
15. Land to the west within the RAF Upper Heyford allocation, is currently undeveloped but has the benefit of planning permission for 120 dwellings². This is referred to as the Pye scheme. An alternative proposal is currently before the Council for 126 dwellings³ put forward by another developer. Immediately to the north of the site lies the former RAF/USAF Upper Heyford Airfield which is currently being redeveloped to create a new community, including housing and employment uses as well as the necessary infrastructure. The Airfield is a designated conservation area and contains two Scheduled Monuments and numerous designated and non-designated heritage assets. The eastern boundary of the appeal site runs parallel to Chilgrove Drive, a public bridleway, with farmland beyond to the east and south.
16. The CLP2015 provides the strategic planning policy framework for the District to 2031. Paragraph A11 of the Plan sets out that the spatial strategy directs most growth to Banbury and Bicester and that away from these two towns, the

² Ref 15/01357/F and 21/03523/OUT

³ Ref 22/03063/F

major single location for growth will be at the former RAF Upper Heyford base, now referred to as the Heyford Park development.

17. Upper Heyford forms a sustainable location. The settlement benefits from a community centre, shops, pharmacy, restaurant, school, pub, hotel and bowling alley. Many of these facilities are within walking or cycling distance from the appeal site. Additional facilities are proposed in the Masterplan for Heyford Park, which in the course of time will include a new local centre, leisure and sports facilities and a primary school as well as employment opportunities.
18. It is common ground⁴ that the appeal proposals broadly comply with paragraph 109 of the Framework which directs that significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
19. Policy ESD1 of the CLP2015 seeks to mitigate and adapt to climate change and at the strategic level states that this includes distributing growth to the most sustainable locations as defined in the Local Plan. Heyford Park is one of these locations. Therefore, as the appeal site lies outside this location, it does not accord with this Policy.
20. Policy PV5 of the CLP2015 relates specifically to the former RAF Upper Heyford base. It makes provision for 1600 dwellings and sets out a range of infrastructure requirements as well as design and place shaping principles for the site. As the appeal site lies outside the allocation, Policy PV5 provides no support to the proposal.
21. The appeal site lies outside the settlement in the open countryside. Saved Policies C8 and H18 in the adopted Cherwell Local Plan 1996 are therefore relevant. Policy C8 seeks to prevent sporadic development in the countryside. Policy H18 seeks to control new dwellings in the countryside and states that they will not be granted unless they are essential for agriculture or other existing undertakings, or they meet the criteria of Policy H6 and would not conflict with other policies of the plan. Policy H18 is similar to Policy C8 in that it too seeks to ensure the countryside is protected from sporadic development.
22. There was debate at the Inquiry as to the meaning of sporadic and whether it applied to the appeal site. I accept that until the Pye scheme or its subsequent proposal is implemented to the west, the appeal site would be spatially separated from the settlement. However, it is not necessary to come to any conclusion on this as the intention of both policies is clear. That is to prevent development outside the built-up limits of settlements. The appeal scheme would conflict with both policies.
23. Policies C8 and H18 pre-date the Framework. They are inconsistent with it as the Framework promotes the development of housing where it will enhance or maintain the vitality of rural communities, rather than promoting a blanket protection of the countryside for its own sake. As a result, I give the conflict with these policies limited weight.
24. The Mid Cherwell Neighbourhood Plan adopted in May 2019 supports the policies in the Local Plan to ensure there is minimal and sustainable development outside of settlement areas. It relies on Local Plan policies ESD13,

⁴ E7 Overarching Statement of Common Ground, paragraph 8.12.

- BSC2 and saved Policy C15, rather than including its own policies for the protection of the countryside.
25. The emerging Cherwell Local Plan has been the subject of consultation at Regulation 18 stage. The appeal site forms a draft allocation in the Plan and is identified with additional land, as being a sustainable and suitable location for growth, subject to infrastructure requirements being met. Whilst the emerging plan is at a very early stage of preparation and attracts very limited weight, it identifies the allocation as a sustainable and suitable location for growth.
26. Policy BSC1 of the Plan seeks to deliver 22,840 dwellings between 2011 and 2031, including 5,392 homes outside Banbury and Bicester, of which 2,361 are allocated to Upper Heyford. The Local Plan is more than 5 years old. The Council has undertaken a recent review of the CLP2015 under regulation 10a of the Town and Country (Local Planning) (England) Regulations 2012. This concluded that the number of dwellings defined in Policy BSC1 was out of date and the policy needed to be reviewed. This will take place through the emerging local plan. Whilst the figures in Policy BSC1 may be out of date, the spatial approach to growth and the distribution of development is still relevant and should attract significant weight.
27. There was much debate that the Inquiry as to whether the delivery of housing at Upper Heyford and throughout the District, was meeting the Local Plan targets as set down in Policy BSC1. The CLP2015⁵ states the expectation for approximately 2,361 homes at RAF Upper Heyford over the plan period. This comprises the target of 1600 dwellings set out in Policy PV5 and 761 permissions already consented. The Council's most recent Authority Monitoring Report December 2023 (AMR) shows an under delivery of 268 dwellings to 2031.
28. The AMR also shows that there is a current shortfall of 1392 dwellings over the District as a whole and this is anticipated to increase to 3,416 by the end of the Plan period. This is a significant deficit. The fundamental issue for Cherwell is that the strategic allocations in Bicester and Banbury and also Upper Heyford are not delivering as anticipated.
29. The figures in Policy BSC1 anticipate delivery of 2350 dwellings in the 'Rest of the District', excluding Banbury and Bicester. This figure derives from 1600 homes at Heyford Park and 750 from allocations under Policy PV2. The AMR shows that 1195 dwellings have been built and consented against the 750 figure of Policy PV2, that represents an excess of 445 dwellings. There is still of course 8 years of the plan left to go, so that delivery in the 'Rest of the District' is likely to exceed the plan requirement. Any shortfall at Heyford Park is likely therefore to be outweighed. In this context, further development in this part of the District, away from the identified sustainable locations for growth, could undermine the Plan's strategic distribution of housing.
30. In summary, I have found that the proposal fails to comply with Policy ESD1, and it also has no support from Policy PV5. I have also found that the scheme fails to comply with saved CLP Policies H18 and C8, albeit for the reasons I have outlined I give the conflict with these policies limited weight.

⁵ Paragraph A11

Heritage matters

31. As I have already stated, the former RAF/USAF Upper Heyford Airbase forms a designated Conservation Area (CA) and contains two Scheduled Monuments and numerous designated and non-designated heritage assets.
32. It was agreed by the parties that the proposed development affects the setting of two non-designated heritage assets within the former airbase, a group of seven Hardened Aircraft Shelters (HAS) and the Southern Bomb Stores. I assess the impact on these two assets below. Other assets within the CA are not affected by the appeal proposals, being at a sufficient distance from the proposed development.

Upper Heyford Conservation Area

33. The history of RAF Upper Heyford is well documented. A detailed Conservation Area Appraisal was prepared at the time the CA was designated in 2006 which was informed by a Conservation Area Plan. In addition, a comprehensive planning brief for the site has been prepared and adopted by the Council as a Supplementary Planning Document (SPD) to inform the wider development of the allocation.
34. An airbase was established at Upper Heyford during the First World War with the airfield opening in late 1918. Following periods of expansion, the site was upgraded and developed as a training base in the Second World War, becoming one of the principal Strategic Air Command Bases for the United States Air Force in the 1950's. It evolved into a Cold War base in the 1970s. Following decommissioning in the 1990s, the site gained initial approval for its redevelopment to create a new community in the early- mid 2000s.
35. It is agreed in the Heritage Statement of Common Ground that the significance of Upper Heyford derives from its historic interest as one of the best preserved Cold War airbases for the deployment of fast jets. This significance is drawn from the structures and landscaping of the CA, including the interconnection between the various structures, landscaping and facilities. The CA also possesses architectural interest, which derives from the particular function and design of the various structures, exhibiting the innovative technology of the time and also their spatial arrangement.
36. The appeal site lies in the setting of the CA. The setting of the CA is open and rural in character, which reflects the open character of the Flying Field. However, it also includes some historic residential development, formed by dwellings occupied by the RAF and USAF as well as more recently constructed residential development.
37. The airbase was chosen as a base for fast jets due to its topography on a plateau, and because there was an existing airfield in this location. Its selection was also due to its location in the country, offering a degree of additional protection. Being next to an existing settlement, it was not chosen because of its rural isolated location and was effectively imposed on the landscape. Understandably it forms an inward looking, secure and enclosed facility. There is a significant difference in character between the open Flying Field, and the surrounding landscape which is broken up by field boundaries, hedgerow, and landscaping. Accordingly, it is my view that the setting of the CA does not strongly contribute to its significance as a Cold War airbase.

38. In terms of views, the Council agreed that there were no significant views out of the CA which would be adversely affected by the proposal. Informed by my site visit, I agree with this position. Views into the CA are limited but can be gained from the northern end of the appeal site, Chilgrove Drive and Camp Road. However, these views form glimpses through gaps in the vegetation and hedgerows. The proposed landscaping to the boundaries of the appeal scheme would not in my view further obstruct views into the CA and given their scale, the HAS would still be likely to be visible though heavily filtered. It is also relevant that the Council's SPD for the site, promotes planting on the site boundaries to replace the existing fencing.
39. The Conservation Area Appraisal identifies key views into and out of the CA, however none of these would be adversely affected by the proposal. The Council agreed that there is therefore no conflict with Policy PD4 or Saved Policy C33, which seek to protect recognised views of historical value.
40. The CA must also be considered in the context of the consented development proposals for the airbase. Significant changes will take place which will inevitably affect its character and setting. In particular commercial development is proposed to the south of the Flying Field in the area currently occupied by the HAS, with the existing structures retained and reused. New development here is anticipated to reach a height of 18 metres and a new access road for HGV's running parallel to Chilgrove Drive is proposed. The proposals also include a new heat and power plant south of the shelters with an exhaust stack anticipated to be of 24 metres in height.
41. Given the lack of harm to protected views, the provision of landscaping and the sites relationship to proposed new development, I am not persuaded that development of the appeal site would harm the setting of the CA or its significance as a Cold War airbase.

Non designated Heritage Assets

Hardened Aircraft Shelters

42. The HAS form a group of seven shelters that date from the hardening programme undertaken in the 1970's being evidence of the Cold War and the military strategy of the time. They are located within the Flying Field to the south of the runway. Their group value and relationship with each other is important. No more than three shelters are constructed in a direct line over 500 metres, to avoid the risk of all or most shelters being destroyed in a single bombing run. Their significance relates to their historical interest as surviving examples of the hardened phase of Upper Heyford's development. They are also of architectural interest with their form being related to their function and an illustration of the construction methods employed. Their setting comprises residential and commercial development associated with the airfield, modern residential development both within and outside the Conservation Area and the surrounding landscape.
43. I have already discussed above the limited views of the HAS from the appeal site, Camp Road and Chilgrove Drive as well as the significant changes which are to take place in their vicinity through the redevelopment proposals for the airbase. Whilst views of the shelters from the north and the west may be reduced by planting and landscaping on the site boundary, the structures would still be evident.

44. I therefore conclude that the appeal scheme will not cause harm to the setting of the shelters or their significance.

Southern Bomb Stores

45. The Southern Bomb Stores were constructed in the 1950's and were then altered as part of the hardening strategy in the 1970's. They are sited at the southeast end of the airfield, distant from other buildings. They form a series of similar structures largely covered in earth and grassed to provide a degree of camouflage. Their significance derives from their historic interest, their form and function as well as their relationship with the wider airbase. Their setting is restricted to the immediate surroundings within the base. They are not highly visible due to their scale and not visible from the appeal site.
46. The appeal proposals do not affect views to the Bomb Stores or how they are experienced and appreciated. The proposed development would therefore cause no harm to their setting or significance.

Overall conclusion

47. Given the above I find that the appeal scheme would cause no harm to the setting of the Upper Heyford CA or to the affected non designated heritage assets, the HAS and Southern Bomb Stores. Accordingly, the scheme would comply with section 16 of the Framework and Policy ESD15 of the CLP2015 which seeks to conserve and enhance the historic environment.

Infrastructure and transport mitigation to provide a sustainable development.

48. As the appeal scheme lies outside the Heyford Park allocation, Policy PV5 is not applicable. However, it is common ground in this appeal, that as the site represents an extension of this allocation, it is reasonable that the design principles and place shaping of this policy should be applied to the appeal scheme.
49. Policy PV5 sets out that the settlement should be designed to encourage walking, cycling and the use of public transport with provision for footpath and cycle links to existing networks. Development should also include a layout maximising the potential for walkable neighbourhoods with a legible hierarchy of routes. It should also have a high degree of integration with development areas within the PV5 allocation, with connectivity between new and existing communities. Additionally, there should be integration of the new community into the surrounding network of settlements by reopening historic routes and encouraging travel by means other than the private car.
50. As stated above that Policy PV5 seeks to maximise the potential for walkable neighbourhoods. Manual for Streets states that a walkable neighbourhood is typically characterised by having a range of facilities within 10 minutes (800m) walking distance of a residential area. I note however that Manual for Streets goes on to state that there is no upper limit, with walking offering the potential to replace short car trips under 2 kilometres. The National Design Guide, referenced in paragraph 114c) of the Framework, also promotes a walkable neighbourhood.
51. Turning to the appeal site, it is only the school in Upper Heyford that would be within 800m, though other facilities would be very close to it. For example, the

supermarket would be around 850 metres away, the restaurant about 830 metres and the leisure facilities within 805 metres.

52. The Rule 6 party witness accepted that a distance of 1.6km, or a 20 minute walk, was a threshold within which a modal shift could occur. Within 1.6km of the appeal site is the bike service and repair café (900m) and the dentist (900m) the Innovation centre and community workshop (1200m) and the Chapel (1250m). I take the view that these are located at a reasonable walking/cycling distance from the appeal site. I accept that some facilities will be further away such as the gym and nursery but it not unacceptable to expect that some facilities may be further afield. Guidance does not indicate that all facilities should be within the 800m distance, but rather a range. This is achieved in the appeal case.
53. Additional facilities will of course become available within walking and cycling distance as the local centre within the Heyford Park development comes on stream. It is notable that parts of the PV5 allocation are currently more than a 10 minute walk from the facilities in the village. However, this will improve and when the local centre is completed.
54. In terms of public transport, the No 25 bus runs along Camp Road. A financial contribution to support the service forms part of the section 106 obligations. This will improve the frequency of the service from one bus an hour to four buses an hour. This service provides access to Bicester village rail station from where there are half hourly trains to Oxford and London Marylebone. The appeal site is therefore accessible in terms of public transport.
55. The scheme proposes a new 3 metre wide off road shared cycle/pedestrian route to the north of Camp Road to the Chilgrove Drive junction. This enables access to the northern part of the allocation ensuring integration and connectivity between the two sites. Chilgrove Drive is a historic route which in the Heyford Masterplan is to link to a wider heritage trail. Residents of the appeal site would have access to this. New footways along Camp Road are also proposed to tie the appeal site into the consented Pye scheme.
56. The development also proposes a link to the northern boundary, requested by the local highway authority, to provide the potential for a link to the proposed pedestrian/cycle route running east-west to the southern boundary of the Heyford Park allocation. The part of the allocation north of the appeal site has yet to receive reserved matters approval and the Council have confirmed the intention to seek a connection point at this location. I have no evidence before me to suggest that this cannot be achieved. The key pedestrian and cycle routes shown on the Heyford Park Masterplan are to the north, south and east of the appeal site and connections into these can be made.
57. A further connection is proposed to the western site boundary to link into the adjacent Pye site, the subject of a further planning application by another housebuilder. The appellant has provided a letter from this developer⁶ confirming that agreement is in place to achieve this, though it has yet to be formalised.
58. The Rule 6 Party have questioned the usefulness of the above connection, as it will only provide a route through to the adjacent development and link back to

⁶ Cd \appendix Parker Transport Supplementary proof

Camp Road. This route would be by a hoggin path and through a shared driveway. It is argued that a route through the adjacent site to Larsen Road would provide a more meaningful off-road connection for pedestrians and cyclists. It would also improve the connectivity of the appeal proposal and maximise the potential for walkable neighbourhoods, as required by Policy PV5. A Grampian condition is suggested to achieve this. I have been made aware that to secure such a route to the west of the Pye site, land owned by the Rule 6 Party and another third party would need to be crossed.

59. A condition was imposed on the permission for the Pye scheme⁷ preventing the commencement of development, until details of a proposed access for pedestrians and cyclist to the western edge of the site boundary to facilitate a scheme of access to Larsen Road had been submitted.
60. The wording of the condition is to my mind ambiguous and imprecise, failing the Framework tests. There was discussion at the event as to the meaning of the word 'facilitate'. In my view it does not require the developer to negotiate with third party landowners to secure a through route to Larsen Road. Rather it requires the scheme to provide a connection to the western boundary only. The Council and the Highway Authority have confirmed that they would not require a scheme that was dependent on third party land if that might affect delivery and they would only require a connection to the site boundary. I also note the condition had no implementation clause. It is likely that the flaws in the wording will be resolved when the alternative scheme is determined by the Council.
61. The question is whether it is necessary for the appeal scheme to provide this link in order to maximise the potential for a walkable neighbourhood in line with Policy PV5. It is notable that an east west link is not proposed by the Masterplan for Heyford Park.
62. I accept that a link through to Larsen Road would ensure increased connectivity and integration and enable links to pedestrian routes in the wider allocation. However, whilst it may provide a quieter more attractive route, in terms of distance it would be only marginally shorter than going along Camp Road. The appellant's Technical Note 4 itemises the difference in walking times from the most northerly part of the appeal site. It would be around 1 minute 20 seconds quicker to walk to the local centre using an east west route and two minutes thirty seconds quicker to the school. Of course, the distances and times would be more marginal from the central and southern parts of the appeal site. Accordingly, the east-west route whilst it may be desirable, is not critical to the overall accessibility of the appeal site.
63. In my view the appeal scheme has made all reasonable steps to maximise its connectivity to the wider allocation. The local highway authority and the Council have raised no objection. It is not reasonable or necessary to expect the appeal scheme to provide an east west route which would connect through another development site and require access across third party land to maximise its accessibility.
64. The Rule 6 party argues the appellant could have done more in terms of accessibility. As an example, reference is made to the cycle path provision along Camp Road. It is suggested that the short length to be provided would

⁷ N11, Ref 21/03523/OUT Condition 4

not provide any betterment for these road users. However, the appellant has done what was required by the highway authority within the confines of the adopted highway and the appeal site itself. The appellant has done all that they could reasonably have been expected to do, providing links from each of its boundaries to connect to adjoining development.

65. In summary, I conclude that the appeal scheme is in an accessible location and would be integrated with the surrounding location. It provides links to the north, west and east in order to meet with future proposed routes. I therefore consider the proposal meets the objectives of Policy PV5 and the Heyford Park Masterplan.

Housing land supply

66. There are two areas of dispute between the Council and the appellant in regard to housing land supply. Firstly, whether there should be separate calculations for Cherwell's needs and one for Oxford's unmet housing need. Secondly whether the Council can demonstrate a deliverable housing land supply as required by the Framework.

Housing Land Supply Calculation

67. The CLP2015 in Policy BSC1 sets out that the Plan will deliver 22,840 additional homes between 2011 and 2031 and sets out the distribution of housing development in the District.
68. The Cherwell Local Plan 2011-2031 (Part 1) Partial Review adopted in 2020 seeks to meet Oxford's unmet need and makes provision for 4400 homes. The Plan adopts a spatial strategy complementing that of the adopted CLP. In releasing land from the Green Belt, it seeks to provide new homes immediately north of Oxford in areas of the District with good connections to the city such as Kidlington, Yarnton and Begbroke along the A44 corridor. In so doing the Partial Review aims to avoid undermining the strategy of the CLP2015, promoting growth at Bicester, Banbury and Upper Heyford.
69. The Partial Review goes on to explain in paragraph 5.160 that it is appropriate and necessary that the monitoring of housing supply for Oxford's needs is undertaken separately from that of Cherwell. The justification for this is that the Partial Review is a focused Plan to help meet Oxford's unmet need. It is a specific strategy to achieve a defined vision that does not undermine the delivery of the separate strategy for meeting Cherwell's needs.
70. Accordingly, the Council argues that the five year housing land supply for Cherwell should exclude that of Oxford. However, the Partial Review was adopted under the 2012 Framework. This has been superseded.
71. The revised Framework published in December 2023 states in paragraph 67 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 authorities) 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. (*my emphasis*)
72. The updated PPG also refers to a singular housing requirement. For example, in paragraph 68-002 it refers to a '**housing requirement** set out in strategic

policies'. In paragraph 68-055 it states that 'Both the 5-year housing land supply and the four year housing land supply that authorities should demonstrate for decision making should consist of deliverable housing sites demonstrated against the authority's five year **housing land supply requirement**. (*again my emphasis*).

73. These changes are significant and indicate that the expectation is for one single housing requirement which includes the unmet need from a neighbouring authority.
74. The Council relies on several appeal decisions to support its case. The two most recent at Deddington⁸ and Milcombe⁹ endorse their position for separate calculations. The Inspector in the Milcombe decision referred to the fact that at that time, there had been no change in circumstances since the adoption of the Partial Review to justify a different approach. With the recent publication of the revised Framework, this is no longer the case. It is notable that the emerging Local Plan proposes to dispense with the separate calculation and have one single housing requirement.
75. Given the above, I conclude that there should be one housing requirement for the District as a whole.

Deliverable supply of sites

76. It is common ground that the base date for any assessment should be 1 April 2023 with the five-year period running to 31 March 2028. It is also agreed that the Local Housing Need for Cherwell (LHN) is 710 dwellings per annum and that no buffer applies following the recent changes to the Framework.
77. The appellant has submitted that certain sites in the five-year supply are not deliverable and should therefore be removed reducing the number of dwellings in the overall supply. 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.
78. After the close of the Inquiry in December 2023, a revision to the Framework was published and in February 2024 an update was made to the PPG. I sought the views of the parties on these updated documents and have taken them into account.
79. Paragraph 226 of the Framework sets out that for decision making, local planning authorities which have an emerging local plan at Regulation 18 or 19 stage including both a policies map and proposed allocations towards meeting housing needs, will only be required to identify and update annually a supply of specific deliverable site sufficient to provide a minimum of four year worth of housing, (with a buffer if applicable) against the housing requirements set out in adopted strategic policies or against local housing need where the strategic policies are more than five years old.
80. With regard to Cherwell, the emerging plan is at Regulation 18 stage. it proposes allocations towards meeting housing need. The document includes a Key Diagram and a series of plans which show in geographic terms, the extent

⁸ APP/C3105/W/23/3324704

⁹ APP/C3105/W/23/3325113

of some of the policies and policy allocations within it including strategy maps for Banbury, Bicester, Kidlington and the Heyford area as well as appendices which include a range of other maps setting out amongst other things indicative changes to Green Belt boundaries and indicative site development templates.

81. The appellant has argued that the Council's Regulation 18 consultation does not include a policies map as defined in the Regulations and therefore the Council must demonstrate a 5-year supply of housing land. Both main parties provided copies of legal advice they had received on this matter.
82. However, as I have stated above, the Council has less than a four-year supply irrespective of whether this is assessed on their own supply figures or that of the appellant. It is therefore unnecessary for me to determine whether paragraph 226 of the Framework is applicable, ie. whether a five year or a four-year supply should be demonstrated. It is also not necessary for me to assess each of the disputed sites.
83. Accordingly, I conclude that the Council has less than a four year supply of deliverable housing land and this shortfall is significant.

Other Matters

84. The Rule 6 party have expressed concern that should the appeal scheme be permitted, it would cannibalise the delivery of houses within the allocation. This is because drainage works and water supply upgrades required to be undertaken within Camp Road would cause serious disruption which Thames Water estimate could take between 18 months to 3 years to resolve. It is argued that this disruption would impact the delivery of homes on Heyford Park. Future phases would need to be reviewed, and if they are delayed there could be implications for the funding and the delivery of infrastructure.
85. Whilst I understand the concerns expressed, I have not been provided with a revised phasing and delivery schedule to demonstrate the possible impact. The length of time these works would take is an estimate only and it is very unlikely that the road would be completely closed. The Highway Authority would manage the works to ensure the minimum disruption to the network. Indeed, the implementation of the Pye scheme would also be likely to cause some disruption to the highway as the necessary infrastructure connections are provided.
86. I recognise the appeal site is located at the junction of Camp Road and Chilgrove Drive and close to the consented dwellings on Parcel 23. I have no evidence to suggest that market forces would not accommodate both proposals coming forward together. Issues of profitability and competition are not material planning matters.

Planning Obligation

87. The section 106 agreement includes a range of obligations that would be provided were the appeal to be allowed including various monetary contributions.
88. It includes the provision of 35% affordable housing, an indoor sports contribution towards the provision of new planned facilities in the locality, an outdoor sports contribution towards provision and maintenance of new facilities

at Heyford Park and the provision and maintenance of public open space within the site. The agreement also includes contributions towards the work of a Community Development Worker and Community Development Fund to integrate residents into the community and wider area as well as a community hall contribution towards the development of a new community centre at Heyford Park. In order to enhance the character of the area and enrich the environment, particularly within the proposed open space corridor, the obligation includes a public art contribution.

89. Further obligations include contributions towards health facilities to maintain, equipment and staff at Bicester GP practices, towards effective policing, for education facilities at nursery, primary, secondary and SEND level, as well as a household waste recycling contribution to expand existing facilities and a contribution to Bicester library book stock. In terms of highway works, the agreement includes contribution towards cycle route provision, public transport improvements, village traffic calming, primary pupil transport, the imposition of a local weight restriction as well as various specified highway capacity and safety improvements including works to M40 junction 10A and at Middleton Stoney. The agreement also includes the payment of monitoring fees that would be used by the Borough Council and County Council to monitor compliance with the agreement and to monitor the implementation of the Travel Plan.
90. Both the District Council and County Council have provided evidence within their submissions that justifies the above requirements and the amounts sought. It is clear from the information provided that these contributions are necessary to make the development acceptable in planning terms, that they are directly related to the development, and are fairly and reasonably related in scale and kind to the development proposed, which satisfies the tests in the Framework and Regulation 122 of the Community Infrastructure Levy 2010 (CIL). I therefore take the above planning obligations into consideration within my decision.

Planning Balance

91. The duty in section 38(6) of the Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the development plan. As an essential component of the 'plan-led' system, it is also reiterated in the Framework.
92. I have found that the Council can demonstrate less than a four-year housing land supply. Accordingly, development plan policies which are most important for determining this appeal are out-of-date and paragraph 11 d) of the Framework applies. This presumption in favour of sustainable development states that permission should be granted unless one of the circumstances listed in sub sections i) or ii) of the paragraph is met.
93. Section d) i) states that the presumption should not be applied if specific policies in the Framework indicate development should be restricted. None apply in this case.
94. Paragraph 11 d) ii) requires a balance to be undertaken whereby permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

95. I have found that as the site lies in the countryside outside of the RAF Upper Heyford allocation, it fails to comply with Policy ESD1 and it also has no support from Policy PV5. I have also found that the scheme fails to comply with saved CLP Policies H18 and C8, albeit for the reasons I have outlined I give the conflict with these policies limited weight. The proposal does not therefore accord with the development plan taken as a whole.
96. In terms of benefits, the proposal would contribute towards the supply of market and affordable housing. 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. In terms of affordable housing, there has also been a failure to deliver the homes needed. In cross examination the Council agreed the situation to be acute. The shortfall against the 2014 SHMA figure is 1,149 affordable homes. Accordingly, I give both these benefits significant weight.
97. I recognise that the proposal would also be likely to boost the local economy by providing construction jobs and supporting local building trades, albeit that this would be for a temporary period. I also acknowledge that the future occupants of the development would be likely to support local businesses and facilities. Environmentally, the scheme would be designed to retain and enhance existing vegetation and wetland within the site. Together with the provision of new green infrastructure, a biodiversity net gain of around 12.37% would be achieved. I consider overall that these benefits would weigh moderately in support of the appeal.
98. In terms of heritage matters, I have determined that the proposal would cause no harm to the setting of the Upper Heyford CA and the non-designated heritage assets near the site. This matter is neutral in the overall planning balance.
99. I have given careful consideration to other matters, but I have found, based on the evidence before me, that there would be no material harm arising from the proposal in these regards.
100. The site is located immediately adjacent to the RAF Upper Heyford base, identified as a strategic location for growth in the CLP. It lies within an area undergoing change, with substantial new development under construction to the north and west. The site is in an edge of settlement location with significant employment and residential development and transport infrastructure within close proximity. Everyday local facilities and services including schools and shops, as well as employment areas, would therefore be readily accessible to future occupiers of the proposed development by sustainable modes of travel. The appeal scheme has broad compliance with paragraph 109 of the Framework, and this forms a material consideration giving further support to the proposal.
101. Given the above, I conclude that the harm I have identified does not significantly and demonstrably outweigh the benefits of the proposal. Therefore, overall, subject to the provision of the section 106 planning obligations that meet the statutory tests and the conditions set out in the attached schedule, the appeal scheme would be compliant with the Framework when read as a whole and would therefore form sustainable development.

Conditions

102. The Council and appellant have submitted an agreed list of suggested conditions that they consider would be appropriate if planning permission was granted.
103. I have considered the conditions in light of the advice given in PPG. As such, I impose these largely unaltered, only amending wording where necessary in the interests of precision and to ensure compliance with the tests.
104. In addition to the required conditions identifying the reserved matters and timescales for the submission of subsequent applications (conditions 1-3), I have specified the approved plans in the interest of certainty (condition 4).
105. Condition 5 requires a Construction Traffic Management Plan mitigating the impact of construction vehicles on the highway, in the interest of highway safety.
106. Conditions regarding surface water drainage and their management are necessary to ensure the development does not increase the risk of flooding elsewhere, (conditions 5 and 6). Condition 22 is required to ensure a sustainable surface water drainage scheme is implemented. Condition 23 is necessary to ensure an adequate foul drainage scheme is implemented. Additionally, to ensure a supply of potable water is available to the site, I impose condition 25.
107. I also impose conditions requiring a Construction Environmental Management Plan, an Arboricultural Method Statement and a Landscape and Ecology Management Plan to ensure the protection and enhancement of biodiversity (conditions 8,10,17). Condition 9 requires a phasing plan to ensure appropriate phasing and the provision of infrastructure.
108. To safeguard the living conditions of future residents, conditions 11,12,13 and 14 require investigation of on-site contamination and any necessary remediation. In the interests of the character and appearance of the area and to achieve a high-quality design, conditions regarding finished floor levels and the submission of a Design Code are required (conditions 15,18,19). I impose condition 15 to require an archaeological assessment and recording to be undertaken.
109. A renewable energy strategy is necessary to ensure a sustainable development (Condition 20) as well as a Travel Plan to promote sustainable travel choices (condition 21). In order to maximise connectivity between the appeal site and surrounding development, a condition is necessary to require pedestrian and cycle links to the northern and western site boundaries in accordance with a timetable to be agreed (condition 24).
110. A further condition was suggested by the Council following comments from Thames Water to prevent construction works within 5 metres of the strategic water main on the site. The developer has confirmed that this main is not within the appeal site and therefore the condition is unnecessary.
111. The Rule 6 party suggested three Grampian conditions should the appeal be allowed to control the phasing of the scheme in relation to the Heyford Park development, to secure an east-west pedestrian/cycle link and to prevent

occupation of any dwellings until all the site access and the footway and cycle way improvement and crossing point on Camp Road have been completed.

112. Based on the evidence before me, I do not consider that that a condition preventing the implementation of the appeal scheme until the Heyford Park permission have been completed meets the test of necessity or reasonableness. I have already discussed the need for the east west link in the main issues and determined it is not required to maximise the connectivity of the site. A condition requiring its provision is therefore not required.
113. A condition regarding the implementation of the site access and other works along Camp Road was requested as there was uncertainty as to whether the works outlined above could be delivered in the adopted highway. Highways Technical Note 6 submitted by the appellant after the Inquiry, concludes that this would be possible. It would require some narrowing of the adopted highway in places resulting in a carriageway width of around 6 metres. This would be adequate to accommodate two-way traffic movements including two large HGV's passing each other. I am advised that a slight narrowing of the carriageway has been consented for the Pye development and is also proposed in the Heyford Park wider scheme. I conclude that the scheme referenced in the section 106 agreement can be accommodated in the public highway. A Grampian condition is there not necessary.

Conclusion

114. For the reasons given above, and having had regard to all other matters raised, I allow this appeal.

Helen Hockenhull

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sarah Reid KC
and Constanze Bell

Counsel Kings Chambers

She called

Wendy Lancaster PGDipLA PGDipUD
CMLI FRSA

Director , Tyler Grange

Thomas Copp BA(Hons) MA AssocIHBC

Director, RPS

James Parker BSc (Hons),MSc (Eng)
MCIHT MILT

Director Hub Transport Planning

Bem Pycroft BA (Hons) Dip TP MRTPI

Director, Emery Planning

David Bainbridge MA (Hons) MRTPI

Planning Director Savills

Samantha Amphlett
(attended Round Table discussion on
Conditions and planning obligation)

Lodders Solicitors

FOR THE LOCAL PLANNING AUTHORITY:

Gary Grant

Counsel

He called

Andy Bateson BSc (Hons) MRTPI

DM Team Leader Major
Developments

Dr Nicholas Doggett BA Ph.D.,
Cert. Archaeol, FSA, MCIfA, IHBC

Managing Director Asset Heritage
Consulting

Joy White
(Attended Round table Discussion on
highway matters)

Oxfordshire County Council Highways
Officer

FOR THE RULE 6 PARTY DORCHESTER LIVING

Paul Tucker KC
and Philip Robson

Counsel, Kings Chambers

He Called

David Frisby BEng CEng, FCIHT

Director Mode Transport Planning

David Hutchison BSc MRTPI

Executive Director Pegasus Group

Paul Silver

Chartered Accountant
Sponsor All Parliamentary Housing
and Growth Committee, CEO
Dorchester Living

INTERESTED PARTIES:

Martin Lipson

Chair Mid Cherwell Neighbourhood
Plan Forum

INQUIRY DOCUMENTS

1. Opening Submissions on Behalf of the Appellant.
2. Opening Statement on Behalf of LPA.
3. Opening Submissions on Behalf of Dorchester Living.
4. Existing and Proposed Pedestrian & Cycle Connectivity With Facilities in Heyford Park Centre – plan submitted by Rule 6 Party on 5 December 2023.
5. Lists of Appearances – submitted by each of LPA, Appellant and Rule 6 Party.
6. Cherwell District Council Regulation 122 Compliance Statement – submitted as hardcopy by the LPA on 6 December 2023.
7. Suggested Walking Routes – Chilgrove Drive / Camp Road, Heyford Park – plan submitted by the LPA.
8. Inquiry Site Visit Itinerary – plan by Tyler Grange submitted by the Appellant
9. Cherwell District Council Annual Monitoring Report 2023 Report to Executive, 4 December 2023.
10. Appendix 1 Annual Monitoring Report 2023 (01/04/2022-31/03/2023) Draft for Executive.
11. Appendix 2 – Brownfield Land Register 2023, Draft for Executive.
12. Note for Executive 4 December 2023 Schedule of Proposed Amendments and Revised Land Supply Table.
13. Appendix 1 – Five Year Land Supply Position Statement (Excluding Sites Completed at 31 March 2022).
14. Summary of the decisions taken at the meeting of the Executive on Monday 4 December 2023.
15. Supplementary Proof of Evidence of Ben Pycroft BA(Hons), Dip TP, MRTPI in relation to Housing Land Supply and Appendix EP9 – Schedule of disputed sites.
16. Draft Statement of Common Ground Housing Land Supply submitted by the Appellant.
17. Draft Statement of Common Ground Housing Land Supply submitted by the LPA.
18. Access & Movement Parameter Plan, drawing number: P02 – submitted by the Appellant on 8 December 2023.
19. Description of Development (Tracked Changes Version) – As Agreed between LPA and Appellant, submitted by the Appellant on 8 December 2023.
20. Technical Note 4 Walking Distances Comparison – submitted by the Appellant on 8 December 2023.
21. Updated Planning Conditions – As Agreed between LPA and Appellant,

- submitted by the Appellant on 8 December 2023.
22. Additional Planning Conditions from Dorchester Living – submitted by the Rule 6 Party on 8 December 2023.
 23. Planning Appeal Decision dated 8 December 2023 - Hempton Road, part of OS parcel 8752 east of Combe Cottage and south of St Johns Way, Deddington, Oxfordshire OX15 0QR – submitted by the LPA on 11 December 2023.
 24. Levelling-Up and Regeneration Act 2023 c.55 s.93 Role of development plan and national policy in England – hardcopy submitted by the LPA on 12 December 2023.
 25. Proposed Camp Road Improvements Along Pye/BDW Frontage With OCC Adopted Highway Boundary – drawing submitted by the Appellant on 12 December 2023.
 26. Mid Cherwell Neighbourhood Plan Forum Statement, dated 13th December
 27. Email from Joy White Oxfordshire County Council Highway Authority dated 15 December 2023 concerning extent of adopted highway- submitted by the Council.

DOCUMENTS SUBMITTED AFTER THE EVENT

1. Highways Technical Note 6 submitted by the appellant dated 20 December 2023
2. Comments from the Council in relation to Highways Technical Note 6 dated 21 December 2023
3. Comments from the Rule 6 in relation to Highways Technical Note 6 dated 22 December 2023.
4. Certified Copy of section 106 agreement dated 21 December 2023 with completed Deeds of Covenant and Indemnity.
4. Appellants note regarding Milcombe Appeal dated 22 December 2023
5. Council's note regarding Milcombe Appeal dated 22 December 2023
6. Comments on revised NPPF from the appellant dated 12 January 2024 including Legal advice on the implications for the appeal.
7. Comments on revised Framework from the Rule 6 party dated 12 January 2024.
8. Comments in the revised NPPF form the Council dated 12 January 2024 including Housing Land Supply Position Statement Update January 2024.
9. Email from the Council dated 15 January 2024 enclosing suggested conditions regarding potable water.
10. Email from the appellant dated 22 January 2024 commenting on suggested additional conditions.
11. Email from the Council dated 31 January 2024 enclosing Legal Advice regarding the implications of the revised Framework.
12. Email from the appellant dated 8 February 2024 with further comments regarding the revised Framework.
13. Email dated 14 February from the appellant commenting on the updated PPG.
14. Email dated 14 February 2024 from the Council commenting on the updated PPG.

SCHEDULE OF CONDITIONS

- 1) Details of the access, with the exception of the means of access to Camp Road, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, drawing number: L01, Site Access Junction with Visibility Splays and Crossing, drawing number: 001 revision C.
- 5) No development shall commence until a Construction Method Statement, incorporating a construction traffic management plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority.
The CTMP will need to incorporate the following in detail and throughout the development the approved plan must be adhered to:
 - a) The CTMP must be appropriately titled, include the site and planning permission number.
 - b) Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
 - c) Details of and approval of any road closures needed during construction.
 - d) Details of and approval of any traffic management needed during construction.
 - e) Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
 - f) Measures to control the emission of dust and dirt during construction as detailed in paragraph 6.1.2 of the Air Quality Management Plan;
 - g) Details of appropriate signing to accord with standards/requirements, for pedestrians during construction works, including any footpath diversions.
 - h) The erection and maintenance of security hoarding / scaffolding if required.
 - i) A regime to inspect and maintain all signing, barriers etc.
 - j) Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
 - k) The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.

- l) No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will park, and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
 - m) Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
 - n) Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
 - o) Any temporary access arrangements to be agreed with and approved by Highways Depot.
 - p) Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.
 - q) Delivery, demolition and construction working hours.
- 6) No development shall commence until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. The scheme shall include:
- a) A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire";
 - b) Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
 - c) A Flood Exceedance Conveyance Plan;
 - d) Comprehensive infiltration testing across the site to BRE DG 365 (if applicable);
 - e) Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
 - f) Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element;
 - g) Details of how water quality will be managed during construction and post development in perpetuity;
 - h) Confirmation of any outfall details; and
 - i) Consent for any connections into third party drainage systems.
- 7) Prior to the approval of any related reserved matters, a detailed Surface Water Management Scheme for each phase or sub-phase of development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the details approved under planning condition no. 6 and implemented in accordance with the approved details and timetable.
- 8) No development shall take place on any phase (including demolition, ground works, vegetation clearance) until a Construction Environmental

Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- a) Arrangements for a site walkover survey undertaken by a suitably qualified Ecologist to ensure that no protected species, which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of mitigation measures to prevent their harm shall be required to be submitted;
- b) Risk assessment of potentially damaging construction activities;
- c) Identification of 'Biodiversity Protection Zones';
- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- e) The location and timing of sensitive works to avoid harm to biodiversity features;
- f) The times during construction when specialist ecologists need to be present on site to oversee works;
- g) Responsible persons and lines of communication;
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- i) Best practice with regard to wildlife including use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 9) Prior to the commencement of development hereby approved, a phasing plan covering the entire application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) it relates to as set out in the approved phasing plan.
- 10) Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.
- 11) Prior to the commencement of the development, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' shall be submitted to and approved in writing by

the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

- 12) If contamination is found by undertaking the work carried out under condition number 11, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.
- 13) If remedial works have been identified in condition number 12, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.
- 14) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.
- 15) No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.
- 16) No development shall take place until the applicant (or their agents or successors in title) has submitted to and had approved in writing by the Local Planning Authority, a programme of archaeological work consisting of a written scheme of investigation and a timetable for that work. The development shall thereafter proceed in accordance with the approved written scheme of investigation and timetable.
- 17) No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP), which shall also cover the construction phase of the development, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed other than in accordance with the approved LEMP.
- 18) No reserved matters applications shall be submitted, or development commenced until a Design Code for the site has been produced in accordance with Condition number 19 and following consultation with the Local Planning Authority and other stakeholders and has been submitted

to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Design Code.

19) The Design Code shall include:

- a) the character, mix of uses and density of each character area identified, to include the layout of blocks and the structure of public spaces;
- b) the character and treatment of the structure planting to the development areas;
- c) guidance of surface water control including design standards and methodology for sustainable drainage systems, detail of specific features and constraints, including appropriate options for SUDs features, considerations for implementing during construction, and adoption requirements;
- d) the building height, scale, form, design features and means of enclosure that will form the basis of the character of each phase, sub-phase or parcel;
- e) the street form and hierarchy and the features that will be used to restrict traffic speeds and create legibility and requirements for street furniture;
- f) the approach to car parking and cycle parking within the phases, sub-phases and parcels and the level of car and cycle parking within each phase to be provided to serve the proposed uses;
- g) the materials to be used within each character area;
- h) the treatment of any hedge or footpath corridors and retained trees and woodlands and local areas of play within each phase, sub phase or parcel;
- i) the measures to be incorporated to protect the amenities of the occupiers of existing properties adjacent to the site
- j) the measures to be incorporated into the development to ensure all properties have convenient locations for individual waste and recycling bins;
- k) lighting proposals.

20) As part of any submission for reserved matters, full details of a renewable energy strategy for the site in accordance with Policy ESD5 of the Cherwell Local Plan, shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of any building the renewable energy serves.

21) Prior to first occupation on site an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This plan should be produced in accordance with the Oxfordshire County Council guidance document Transport for New Developments, Transport Assessments and Travel Plans (March 2014) and implemented as per the agreed plan.

- 22) Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
 - a) As built plans in both .pdf and .shp file format;
 - b) Photographs to document each key stage of the drainage system when installed on site;
 - c) Photographs to document the completed installation of the drainage structures on site;
 - d) The name and contact details of any appointed management company
- 23) No development shall commence until a detailed foul water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied.
- 24) As part of any submission for reserved matters, details of a pedestrian and cycle link to the western boundary of the site and details of a pedestrian and cycle link to the northern boundary of the site including a timetable for their implementation, shall be submitted and approved in writing by the Local Planning Authority. The pedestrian and cycle links to these boundaries of the site shall be created and made available for use in accordance with the agreed timetable and thereafter kept available for the use of pedestrians and cyclists.
- 25) No development may be occupied until written confirmation has been provided to the Local Planning Authorities satisfaction, that either: all water network upgrades required to accommodate the additional demand to serve the development have been completed; or a development and infrastructure phasing plan has been agreed with Thames Water to allow the development to be occupied. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Appendix 2



Neutral Citation Number: [2024] EWHC 3223 (Admin)

Case No: AC-2024-LON-001206

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 13/12/2024

Before :

MRS JUSTICE LIEVEN

Between :

DORCHESTER LIVING LIMITED

Claimant

and

**SECRETARY OF STATE FOR LEVELLING UP,
HOUSING AND COMMUNITIES**

Defendant

and

- (1) RICHBOROUGH ESTATES
- (2) LONE STAR LAND LIMITED
- (3) K AND S HOLFORD
- (4) A AND S DEAN
- (5) NP GILES
- (6) A L C BROADBERRY
- (7) CHERWELL DISTRICT COUNCIL

Interested Parties

**Mr Paul Tucker KC and Mr Philip Robson (instructed by Eversheds Sutherland
(International)) for the Claimant**
**Mr Josef Cannon KC and Mr Ryan Kohli (instructed by Government Legal Department)
for the Defendant**
**Ms Sarah Reid KC and Ms Stephanie Hall (instructed by Ladders Solicitors LLP) for the
First and Second Interested Parties**
The Third to Seventh Interested Parties were not represented

Hearing dates: 27 November 2024

Approved Judgment

This judgment was handed down remotely at 10.30am on 13 December 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....
MRS JUSTICE LIEVEN

Mrs Justice Lieven DBE :

1. This claim is made under s.288 Town and Country Planning Act 1990 (“TCPA”) against the decision of the Secretary of State (“SoS”) to grant planning permission to the First and Second Interested Parties (“Richborough”) for the following development (“the Development”) at Heyford Park in Cherwell District Council’s administrative area: “Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access to Camp Road and all associated works with all matters reserved apart from means of access to Camp Road.”
2. The Claimant is the developer and promoter of the redevelopment of the former RAF Upper Heyford allocation for 1600 houses in policy PV5 in the Local Planning Authority’s (“LPA”) development plan, which is now known as Heyford Park. The Development sits next to, but outside the boundary of, the Upper Heyford allocated site.
3. The Claimant was represented by Paul Tucker KC and Philip Robson. The Defendant was represented by Josef Cannon KC and Ryan Kohli. The First and Second Interested Parties were represented by Sarah Reid KC and Stephanie Hall.
4. Permission to bring the challenge was granted by Mould J on Ground 4 only: *“misinterpretation and misapplication of NPPF para 67 in determining the Housing Requirement”*. In summary, the issue is whether the Inspector was correct to include a figure from the Cherwell Partial Review 2020 (“PR”), which provided for Cherwell to meet some of Oxford’s unmet housing needs, in the Housing Requirement figure in paragraphs 67 and 77 of the National Planning Policy Framework (“NPPF”).
5. Both the Claimant and the LPA originally challenged the decision. The LPA withdrew its challenge shortly before the hearing. To a significant degree the Claimant’s case at the inquiry simply followed that of the LPA. Although neither the SoS nor Richborough take a locus point against the Claimant, it is relevant in understanding the Decision Letter (“DL”) that the relevant arguments at the inquiry were being advanced by the LPA.

The Background

6. The unusual complication in this case is that Cherwell’s housing need figures are set out in two Development Plan documents. The Cherwell Local Plan 2015 (“CLP”) sought to deliver 22,840 homes between 2011 and 2031 through policy BSC1. This figure was arrived at to meet Cherwell’s own needs.
7. However, in 2020 the PR was adopted. This was a review of the CLP expressly to meet a share of Oxford’s unmet housing needs, and made provision for an additional 4400 dwellings in Cherwell. As is well known, Oxford has a tightly drawn urban boundary and as such Oxford City Council has been found to be unable to meet its housing needs within its own boundaries. Although the PR and most of the documentation speak of meeting Oxford’s needs, in terms of Development Plan policies and how they are approached, this additional 4400 is now part of Cherwell’s housing needs.

The Partial Review

8. The terms of the PR policies are important. PR12a states as follows:

“Policy PR12a - Delivering Sites and Maintaining Housing Supply

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.

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.

For the period 2026-2031, the Council will maintain a land supply equivalent to the number of remaining years of that period taking into account any delivery surplus or shortfall and a 5% additional requirement. If there has been a record of persistent under delivery of housing in meeting Oxford’s needs, the Council will increase the buffer to 20%.

Permission will only be granted for any of the allocated sites if it can be demonstrated at application stage that they will contribute in delivering a continuous five year housing land supply (i.e. measured against the local plan housing trajectory). This will be achieved via the Delivery Plans required for each strategic development site.

In the interest of securing delivery, planning conditions will be used to place time restrictions on the unimplemented ‘life’ of planning permissions.

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

Should the 4400 homes not be fully delivered by 2031, they will continue to be developed but will not contribute in meeting Cherwell’s housing need in the next Local Plan review.”

9. A number of sites are specifically allocated in the PR in locations which were considered to be suitable to meet Oxford’s needs. However, as is clear from Policy 12a the requirement to construct 4400 homes in Cherwell is not limited to only applying to those allocated sites, or to a specific part of Cherwell. It is not a geographically limited policy within the area of Cherwell.
10. Policy 12b states that applications for planning permission for the development of sites to meet Oxford’s needs that are not allocated in the PR will not be supported unless various criteria are met. The first criterion is that the Council has taken a formal decision that additional land beyond the allocated sites is required to meet “the requisite housing supply”.
11. I was told that no such formal decision by the LPA has been made. This is despite the fact that 0 dwellings within the allocated sites have been constructed and the LPA’s

position at the inquiry was that its 5 Year Housing Land Supply (“5YLS”) figure on the allocated sites within the PR (of deliverable homes) is only 80, a point to which I will return.

12. Policy PR13, upon which Mr Tucker relies, deals with monitoring and securing delivery of the PR. It is apparent from this policy that monitoring of the delivery of the 4400 dwellings in the PR will be done separately from the monitoring of the delivery of the dwellings in the CLP.

13. Paragraphs 5.159 and 5.160 of the supporting text to the PR13 state:

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

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

14. In order to understand how the Inspector addressed issues in the DL it is necessary to consider how the cases were put to her at the Inquiry. The LPA argued that the 5YLS assessment should be measured against the Local Housing Need (“LHN”) figure for Cherwell alone. The CLP was more than 5 years old, and therefore pursuant to NPPF paragraph 77 and footnote 42, it was appropriate to take the LHN figure and not the CLP figure. The LHN figure, by the time of the Inquiry, was agreed to be 710pa using the “standard method” set out in national policy.
15. The LPA were arguing for Oxford’s unmet need to be assessed “separately”, but it is unclear to me, and Ms Reid says unclear at the Inquiry, as to what the LPA said the Inspector should do with that element of policy based housing requirement.
16. Richborough argued that the 5YLS requirement should be the aggregate of the LHN (710) and the housing requirement in the PR. It was agreed at the Inquiry that the annual figure from the PR was 420 dwellings per annum.
17. The LPA’s position was that if the housing requirement is only 710 then pursuant to paragraph 11(d) of the NPPF the LPA has a 5YLS and the “tilted balance” in that paragraph does not apply. However, it was agreed that if the 710 is added to the requirement from the PR (420) then there is no 5YLS and the tilted balance does apply. This was the position of the Inspector in the DL.

The Decision Letter

18. At DL4 the Inspector noted that a revised NPPF was published after the close of the Inquiry, on 19 December 2023, and a revised PPG on 5 February 2024 and she had invited written views upon these documents.

19. At DL13 she set out the main issues, the fourth one being *“Whether the Council can demonstrate a deliverable housing land supply as required by the Framework”*.
20. At DL30 she found that the proposal did not comply with policy ESD1 of the CLP in relation to the location of the site and also failed to comply with policies H18 and C8 of the Saved Local Plan 1996.
21. The key paragraphs for the purpose of this case are DL66-83 which deal with housing land supply. At DL66 she set out the two areas of dispute, *“Firstly, whether there should be separate calculations for Cherwell’s needs and one for Oxford’s unmet housing need.”* The second was the calculation of deliverable housing land supply, which in itself is not now challenged.
22. In DL67 she refers to the CLP figure of 22,840 across the Plan period. In DL68 she refers to the PR figure of 4400, and to the allocations in Kidlington, Yarnton and Begbroke on the A44 corridor. In DL69 she refers to the PR paragraph 5.160 and the separate monitoring of housing supply, to support the strategy in a way that does not undermine the delivery of the separate strategy of meeting Cherwell’s needs.
23. DL70 states:

“70. Accordingly, the Council argues that the five year housing land supply for Cherwell should exclude that of Oxford. However, the Partial Review was adopted under the 2012 Framework. This has been superseded.”
24. These paragraphs entirely reflect the way the LPA were putting the case for excluding the PR, Oxford unmet need figures, from the 5YLS calculation.
25. The Inspector then sets out her reasoning at DL71-75:

*“71. The revised Framework published in December 2023 states in paragraph 67 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 authorities) 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. (Inspector’s emphasis)*

*72. The updated PPG also refers to a singular **housing requirement**. For example, in paragraph 68-002 it refers to a ‘housing requirement set out in strategic policies’. In paragraph 68-055 it states that ‘Both the 5-year housing land supply and the four year housing land supply that authorities should demonstrate for decision making should consist of deliverable housing site demonstrated against the authority’s five year **housing land supply requirement**. (Inspector’s emphasis).*

73. These changes are significant and indicate that the expectation is for one single housing requirement which includes the unmet need from a neighbouring authority.

74. The Council relies on several appeal decisions to support its case. The two most recent at Deddington and Milcombe endorse their position for separate calculations. The Inspector in the Milcombe decision referred to the fact that at that time, there had been no change in circumstances since the adoption of the Partial Review to justify a different approach. With the recent publication of the revised Framework, this is no longer the case. It is notable that the emerging Local Plan proposes to dispense with the separate calculation and have one single housing requirement.

75. Given the above, I conclude that there should be one housing requirement for the District as a whole.”

26. Having concluded that there should be one housing requirement, including both elements, she then turns to deliverable supply in DL76-83. She concludes that whether the LPA or Richborough’s supply figures are taken, there would be a less than 5YLS, see DL77. The supply side of the analysis is not challenged in this case. Because of the wording in NPPF paragraph 226 (as revised in December 2023) the LPA argued they only needed to show a 4YLS. However, this was irrelevant to the ultimate determination because the Inspector had found that the LPA did not even achieve a 4YLS, given her approach to the requirement figure.
27. In the planning balance section at DL91-101, the Inspector holds that because there was no 4YLS (or necessarily 5YLS), NPPF paragraph 11(d) applies and there is a “*tilted balance*”. The development does not accord with the DP (DL95), but the harm does not “*significantly and demonstrably outweigh the benefits*” (DL101) applying paragraph 11(d)(ii) and permission should be granted.
28. It can therefore be seen that the housing land requirement was a key element to the ultimate decision in the DL.

The National Planning Policy Framework

29. The relevant version of the NPPF for the decision was that promulgated in December 2023. Paragraph 11(d) together with footnote 8 states:

“11. Plans and decisions should apply a presumption in favour of sustainable development.

For plan-making this means that:

...

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (footnote 8), granting permission unless:

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

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

(footnote 8: This includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.)”

30. Paragraph 67 states:

“67. Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment. Within this overall requirement, strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations³³. Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan examination, unless there has been a significant change in circumstances that affects the requirement.”

31. It is important to note that the sentence which is underlined was added in the December 2023 version of the NPPF and was not in earlier versions. The equivalent paragraph in the September 2023 version was at paragraph 66 and did not have this sentence. It is this change that the Inspector is referring to, and emphasising, at DL71.

32. Paragraph 77 of the NPPF states:

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

33. Mr Tucker places particular emphasis on the underlined sentence which he says gives the LPA and the Inspector a binary choice, either use the adopted policies if they are up to date; or the LHN if they are more than five years old.
34. The PPG was revised on 5 February 2024 to cover the new 4YLS provisions. Nothing turns on this revision.

Submissions

35. Mr Tucker's submission is that the Inspector misinterpreted the NPPF by adopting a "mixed approach" to the housing requirement. Although the Claim Form focused on paragraph 67 it was clear from his submissions that his real focus was on the interpretation of paragraph 77 of the NPPF. He stated that he was not arguing the Inspector's approach was irrational, but that she had misinterpreted the NPPF and thus erred in law.
36. He submits that the CLP and the PR were two distinct strategies, which were intended to be distinct. He focused on the fact that the PR had a separate monitoring regime, suggesting that the housing to meet Oxford's needs should not be aggregated with that for Cherwell itself.
37. He says the Inspector erred by relying on paragraph 67, which is intended to guide plan making, whereas paragraph 77 is about decision taking, which should be treated differently. Paragraph 77 gives decision makers a binary choice, either apply the policies if they are up to date, or apply the LHN. To do otherwise, as the Inspector did, is to misinterpret the policy. She could have said that she was not following paragraph 77 and taken an entirely different route, but she could not apply paragraph 77 in the way she did. I have to say this came perilously close to being a reasons challenge, but Mr Tucker expressly said that he was not arguing the reasons were defective, doubtless because he would have faced a "no difference" submission.
38. He submits that the Inspector could have taken the PR figure for Oxford's unmet needs into account as "another material consideration", but she could not use it to find no 5YLS and thus apply the tilted balance.
39. It is argued that if the PR had been out of date, which it will be next year, then the LHN under the standard method would only be the 710 figure, and it therefore makes no sense that the housing requirement is higher now than it would be if the PR was out of date.
40. Mr Cannon refers to the well-known principles set out in *Tesco Stores v Dundee City Council* [2012] PTSR at [18] that the interpretation of development plan policies should not be undertaken as if they were a statute and should be read in their proper context, including the wider planning objectives.
41. The courts should respect the expertise of planning inspectors, and start from the presumption that they have understood the policy correctly, see Lord Carnwath in *SSCLG v Hopkins Homes* [2017] 1 WLR 1865 at [25].
42. In a case about how decision makers should treat an oversupply of housing in the calculation of 5YLS, where (as here) the NPPF and PPG are silent as to the correct

approach, Dove J held in *R (on the application of Tewkesbury BC) v Secretary of State for Communities, Housing and Local Government* [2022] PTSR 340 that it was a matter for the planning judgement of decision makers. He held at paragraphs 42-43:

“42. ...Whilst it is clear that the intention of the Framework is that planning authorities should meet the housing requirements set out in adopted strategic policies, that does not necessarily mean that any oversupply in earlier years as in the present case will automatically be counted within the five-year supply calculation. The text of the Framework is silent, or alternatively does not deal, with what account if any should be taken of oversupply achieved in earlier years when calculating the five-year supply.

43. In the absence of any specific provision within the Framework there is no text falling for interpretation, and it is not the task of the court to seek to fill in gaps in the policy of the Framework. It is far from uncommon for there to be gaps in the coverage of relevant planning policies: they will seldom be able to be designed to cover every conceivable situation which may arise for consideration. Again, that is perhaps unsurprising given the breadth of the potential scenarios which may arise in the context of a planning application on any particular topic, especially where it is a high level policy with a broad scope like the Framework which is being considered. When it arises that there is no policy covering the situation under consideration then it calls for the exercise of planning judgment by the decision-maker to make the necessary assessment of the issue to determine the weight to be placed within the planning balance in respect of it. In the absence of policy within the Framework on the question of whether or not to take account of oversupply of housing prior to the five-year period being assessed in the calculation of the five-year housing land supply the question of whether or not to do so will be a matter of planning judgment for the decision-maker, bearing in mind the particular circumstances of the case being considered.”

43. He submits that the DL has to be read as by an informed reader, see *South Buckinghamshire DC v Porter* [2004] UKHL 33. The parties were well aware that the Inspector was accepting the case as put to her by Richborough, as opposed to that of the LPA, and the DL is structured to set out the LPA's case, and then in DL71-74 why the Inspector did not accept it. The reference to paragraph 67 of the NPPF does not suggest that the Inspector was simply applying that to the decision making, but that she was considering the policy as a whole.
44. Ms Reid's case largely accorded with that of Mr Cannon. She said that the LPA at the Inquiry were wholly unclear as to how the failure to meet the terms of the PR played into the housing requirement figures and the tilted balance in paragraph 11 of the NPPF. The LPA had focused on the distinction between the two Plans, and the separate monitoring, but had no policy answer to the consequences in terms of housing requirement.
45. The Inspector had clearly rejected the LPA's case and thus stated at DL77 that there was only one single requirement figure.

46. Ms Reid submits that it is necessary to read paragraph 77 of the NPPF as a whole, and what it is trying to do is to take the most up to date assessment of need figures, whether from an up to date policy or LHN. Here, to achieve the most up to date assessment of need the Inspector was plainly right to aggregate the figures. Further, it would be incoherent for the supply side calculation to be assessed on a different basis from the need.

Conclusions

47. The NPPF should be interpreted by considering the proper context and the planning objectives it seeks to achieve, see *Hopkins Homes* at [81]. Further the NPPF is not a statute and interpretation should not be undertaken as if it was, see Lord Reed in *Tesco v Dundee CC* [2012] PTSR 983 at [18].
48. As Dove J said in *Tewkesbury* there will inevitably be situations that the NPPF does not specifically cover, where a decision maker will have to consider the planning objectives of the policy and then exercise planning judgement as to how the policy should be applied in that particular context.
49. Here the situation of an LPA having housing requirements set out in the two development plan documents, one of which was more than 5 years old (the CLP 2015) and one less than 5 years old (the PR), was not one expressly dealt with in the NPPF at paragraph 77. The Inspector was therefore necessarily in a situation where she had to exercise planning judgement as to how to apply the policy to a situation which was not precisely covered. In my view this was an issue of the application of the policy rather than its interpretation, but it might be viewed as an example of a situation where they are very closely related.
50. Looking at the wider context and objectives of the NPPF, those objectives are clearly that where an LPA is not meeting the development needs of its area then policy consequences follow in order to achieve “sustainable development”, see paragraph 11 of the NPPF.
51. Here the development plan as a whole had established Cherwell’s housing requirement as being in two parts – those that arose from Cherwell’s own needs in the CLP, and those from Oxford’s unmet needs which had to be met within Cherwell in the PR. The housing may have been to meet Oxford’s “needs”, but the planning policy requirement was for it to be met within Cherwell. As such, I agree with Ms Reid that it became part of Cherwell’s needs for the purposes of the planning regime.
52. It is manifest that the LPA was not meeting those needs, i.e. the ones that related to Oxford’s unmet needs. There is no sensible planning reason why those needs, as set out within the PR, should not fall within Cherwell’s housing requirement for the purposes of paragraph 77 and paragraph 11 of the NPPF. They are a policy requirement on Cherwell, see Policy 12a of the PR. The delivery so far has been 0, and the total SYLS was calculated as being around 0.1 (the 80 houses in 5 years). On Mr Tucker’s case the LPA would avoid the effect of this lack of supply on paragraph 11 of the NPPF because the CLP was more than 5 years old and they could therefore rely on the LHN not the strategic policies. In planning terms this outcome makes no sense and is contrary to the planning objectives of the NPPF.

53. Mr Tucker submits that this conclusion can be avoided by the failure to meet the PR requirements coming back into the planning balance as “another material consideration”, rather than through the mechanism of the “tilted balance” in paragraph 11 of the NPPF. However, firstly, this ignores dicta of Dove J in *Tewkesbury* that where the NPPF is silent on a situation it is open to an Inspector to exercise her planning judgement as here, subject only to a rationality argument. Secondly, this argument would involve turning the Inspector’s task into an ever more complicated obstacle race, by which she erred in law by bringing in the unmet need under paragraph 11, but could have brought it in later in the analysis to achieve the same planning decision. I note that nobody at the Inquiry argued that she should have dealt with the matter this way.
54. There is nothing in paragraph 77 which forces a decision maker into a binary choice in a situation such as this. If the sensible solution, on the facts of the case, is to take LHN where one set of strategic policies are out of date, and the development plan policies where they are up to date, and aggregate the two, then there is no reason why the Inspector cannot do that.
55. That conclusion is strongly supported by paragraph 67, which the Inspector relied upon, which specifically envisages that housing requirement figures may be higher than identified need, where they take into account a neighbouring area’s need.
56. It would not be reading the NPPF as a whole to have reference to “the requirement” in these terms in paragraph 67, but when applying paragraph 77 to accept the LPA’s case that there were two requirements which could not be aggregated.
57. Further, the Claimant’s reliance on the monitoring policy, Policy 13 in the PR, is in my view wrong. It may make good planning sense to monitor the two requirements separately, because of the geography of Cherwell and the role of the allocated sites in the PR. But the policy requirement in the PR is not limited to allocated sites or particular parts of the District. The requirement to deliver 420 dwellings per annum falls on the District as a whole. Therefore a failure to meet that delivery should be part of the housing requirement of the LPA in paragraph 77. Otherwise paragraph 11 of the NPPF is robbed of its true effect, because it is not taking into account the true level of failure to deliver the development needed.
58. For these reasons I dismiss the Claimant’s application.

Appendix 3



Ministry of Housing,
Communities &
Local Government

National Planning Policy Framework



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Contents

1. Introduction	4
2. Achieving sustainable development	5
3. Plan-making	8
4. Decision-making	13
5. Delivering a sufficient supply of homes	17
6. Building a strong, competitive economy	24
7. Ensuring the vitality of town centres	26
8. Promoting healthy and safe communities	28
9. Promoting sustainable transport	31
10. Supporting high quality communications	34
11. Making effective use of land	36
12. Achieving well-designed and beautiful places	39
13. Protecting Green Belt land	42
14. Meeting the challenge of climate change, flooding and coastal change	46
15. Conserving and enhancing the natural environment	52
16. Conserving and enhancing the historic environment	57
17. Facilitating the sustainable use of minerals	61
Annex 1: Implementation	65
Annex 2: Glossary	67
Annex 3: Flood risk vulnerability classification	77
<u>Annex 4: Viability in relation to Green Belt release</u>	<u>84</u>

1. Introduction

1. The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied¹. It provides a framework within which locally-prepared plans can provide for ~~sufficient~~ housing and other development in a sustainable manner. Preparing and maintaining up-to-date plans should be seen as a priority in meeting this objective.
2. Planning law requires that applications for planning permission be determined in accordance with the development plan², unless material considerations indicate otherwise³. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.
3. The Framework should be read as a whole (including its footnotes and annexes). General references to planning policies in the Framework should be applied in a way that is appropriate to the type of plan being produced, taking into account policy on plan-making in chapter 3.
4. The Framework should be read in conjunction with the Government's planning policy for traveller sites, and its planning policy for waste. When preparing plans or making decisions on applications for these types of development, regard should also be had to the policies in this Framework, where relevant.
5. The Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework). National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications.
6. Other statements of government policy may be material when preparing plans or deciding applications, such as relevant Written Ministerial Statements and endorsed recommendations of the National Infrastructure Commission. ~~This includes the Written Ministerial Statement on Affordable Homes Update (24 May 2021) which contains policy on First Homes.~~

¹ This document replaces the previous version of the National Planning Policy Framework published in ~~September~~ December 2023.

² This includes local and neighbourhood plans that have been brought into force and any spatial development strategies produced by combined authorities or elected Mayors (see Glossary).

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

Annex 1: Implementation

For the purposes of decision-making

224. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication⁸⁰. Plans may also need to be revised to reflect policy changes which this Framework has made.
225. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

~~226. From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old⁸¹, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.~~

For the purposes of plan-making

226. The policies in this Framework (published on [publication date]) will apply for the purpose of preparing local plans⁸² from [publication date + one month] unless one or more of the following apply:

⁸⁰ ~~As an exception to this, the policy contained in paragraph 76 and the related reference in footnote 8 of this Framework should only be taken into account as a material consideration when dealing with applications made on or after the date of publication of this version of the Framework.~~

⁸¹ ~~Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a four year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance.~~

⁸² Under the Town and Country Planning (Local Planning) (England) Regulations 2012.

- a. the emerging annual housing requirement⁸³ in a local plan that reaches or has reached Regulation 19⁸⁴ (pre-submission stage) on or before [publication date + one month] is no more than 200 dwellings below the published relevant Local Housing Need figure⁸⁵;
- b. the local plan is a Part 2 plan that does not introduce new strategic policies setting the housing requirement unless the relevant Local Plan Part 1 has been prepared applying the policies in this version of the Framework;
- c. the local plan is or has been submitted for examination under Regulation 22⁸⁶ on or before [publication date + one month].

Where a, b or c applies, the plan will be examined under the relevant previous version of the Framework⁸⁷

227. Where paragraph 226 c) applies, local plans that reach adoption with an annual housing requirement⁸⁴ that is more than 200 dwellings lower than the relevant published Local Housing Need figure⁸⁶ will be expected to commence plan-making in the new plan-making system at the earliest opportunity to address the shortfall in housing need.

228. After applying the policies of this version of the Framework, local plans that have reached Regulation 19 (pre-submission stage) on or before [publication date + one month] with an emerging⁸⁸ annual housing requirement⁸⁴ that is more than 200 dwellings lower than the relevant Local Housing Need⁸⁶ figure should proceed to examination⁸⁹ within a maximum of 18 months from [publication date].

229. For Spatial Development Strategies, this Framework applies to strategies that reach consultation under section 335(2) of the Greater London Authority Act 1999 on or after [publication date + one month]. Strategies that reach this stage on or before this date will be examined under the relevant previous version of the Framework.

~~229. For the purposes of the policy on renewable and low carbon energy and heat in plans in paragraph 160 apply to plans that have reached Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage, or that reach this stage within three months, of the publication~~

⁸³ Defined as the total housing requirement, divided by the number of years in the plan period. The housing requirement can include any unmet need arrangements. Where a joint local plan is in preparation, to determine whether a shortfall exists between the emerging annual housing requirement and the relevant Local Housing Need figure, any shortfall should be apportioned to each local authority equally to determine whether a shortfall exceeds 200 dwellings per annum. Where there is an operative Spatial Development Strategy (SDS) that is less than 5 years old, the SDS will continue to provide the housing requirement for relevant emerging local plans.

⁸⁴ Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012

⁸⁵ As published on [insert date] at [insert web link].

⁸⁶ Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012

⁸⁷ The policies in the version of this Framework (published on 19 December 2023) may apply for the purpose of preparing plans that reach or reached Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage between 19 March 2024 and [publication date plus one month].

⁸⁸ Set out in the most recent Regulation 19 (pre-submission stage) consultation.

⁸⁹ Meaning the plan has reached Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

of the previous version. For Spatial Development Strategies, paragraph to strategies that have reached consultation under section 335(2) of the Greater London Authority Act 1999, or that within three months of the date of publication of the previous version of this Framework published on 5 September 2023.

a.

~~226-230.~~ For the purposes of the policy on larger-scale development in paragraph 22, this applies only to plans that have not reached Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage at the point the previous version of this Framework was published on 20 July 2021 (for Spatial Development Strategies this would refer to consultation under section 335(2) of the Greater London Authority Act 1999).

~~230.~~ The policies in this Framework (published on 19 December 2023) will apply for the purpose of examining plans, where those plans reach regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage after 19 March 2024. Plans that reach pre-submission consultation on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements. For Spatial Development Strategies, this Framework applies to strategies that have reached consultation under section 335(2) of the Greater London Authority Act 1999 after 19 March 2024. Strategies that reach this stage on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements. Where plans or strategies are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan or strategy produced for the area concerned.

~~227-231.~~ The policies in the original National Planning Policy Framework published in March 2012 will apply for the purpose of examining plans, where those plans were submitted on or before 24 January 2019, unless such plans are withdrawn or otherwise do not proceed to become part of the development plan.

~~228-232.~~ Where plans or strategies are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan or strategy produced for the area concerned.

~~229-233.~~ The Government will continue to explore with individual areas the potential for planning freedoms and flexibilities, for example where this would facilitate an increase in the amount of housing that can be delivered.

Appendix 4



Consultation outcome

Government response to the proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation

Updated 27 February 2025

Introduction

1. This government has committed to rebuilding Britain, delivering 1.5m new homes along with the critical infrastructure that underpins economic growth. As we set out in our Plan for Change last week, we will deliver housing of every tenure in the right places, supporting our towns and cities to grow, and providing the homes people want near to businesses and employment opportunities. We will make it easier to build the vital infrastructure such as roads, railways, broadband connections and laboratories needed for a modern economy to thrive.
2. Delivering this scale of change means doing things differently, including reform of the planning system. A central part of this is creating a pro-growth National Planning Policy Framework. That is why, within 3 weeks of entering office, the government published a consultation inviting views on an ambitious set of reforms, covering policy relating to housing supply and provision of wider economic, energy and public services infrastructure. As part of this consultation, we included proposals outside the scope of the National Planning Policy Framework relating to plan intervention criteria, planning fees, and thresholds for inclusion in the Nationally Significant Infrastructure Project regime. This document sets out the government response to that consultation and has been published alongside an updated National Planning Policy Framework.
3. The final set of policy changes set out below reflect this government's commitment to radically boosting the supply of housing, while delivering homes and places that are high-quality and genuinely affordable. The plan-led approach is, and must remain, the cornerstone of the planning system. The imperative of rapidly driving up planning consents in the context of a system with inadequate local plan coverage will increase the number of permissions secured outside of plan allocations, but we are clear that there can be no trade-off between supply and quality – indeed, as we act to allocate more land for development, we expect it to be delivered quickly and to a higher quality.

Overview of consultation responses

4. The consultation was open for 8 weeks from 30 July 2024 to 24 September 2024. It was published on GOV.UK. Responses were accepted via online survey, via email and via written letter.

5. The consultation received 10,981 responses, including campaign responses. 'Campaign responses' refer to responses prepared by particular campaign groups on specific issues, to which respondents attach their names. For the purpose of the statistical summaries for each question, campaign responses have only been counted once, regardless of how many individuals submitted campaign responses.

6. The tables below provide a breakdown of the general consultation responses by type of respondent (Table 1), and a breakdown of the campaign responses received (Table 2).

Table 1. Types of consultation respondent

Types of respondents	Number of responses
Private individuals	1,597
Local authorities	387
Neighbourhood planning groups/town or parish councils	424
Developers	237
Private sector organisations	299
Professional bodies	139
Interest groups/voluntary organisations	535
Other	999
Total	4,617

Table 2. Campaign responses

Campaigns	Number of responses
Acorn Union	36
Regulation 18/19 threshold	61
Billericay Action Group	95
Coal Action Network	1,867
Community Planning Alliance	175
Data Centres	1,427
Green Energy Transition	8
Housing crisis/affordable homes	100
Multi-factor, complex algorithm	83
Priced Out	49
Promotion of brownfield passports	8
Increased housing numbers in rural areas	8
SafeTech International	143
Shelter	1,480
Support 370k/1.5 million	104
Wildlife Trusts	681

Campaigns	Number of responses
Wirral residents	39
Total	6,364

7. This document provides a summary of the consultation responses received. It does not attempt to capture every point made, nor does it cover comments on aspects of policy that fall outside the scope of the consultation. This document sets out the changes the government has made in response to the main points raised in the consultation and where the government has not made changes, the reasons are explained.

8. We have provided a statistical summary of respondents for each question where relevant, however responses to some questions have been consolidated where there are significant similarities in responses to avoid repetition. We have indicated throughout this document where responses to questions have been grouped.

9. A number of respondents chose not to answer some questions. For the purposes of the statistical summary of responses to each question we have excluded those respondents that did not answer the question.

10. For some yes or no questions there was the option of adding an accompanying qualitative response. Qualitative responses have been reviewed, regardless of respondents answering the yes/no question.

11. The government has had regard to its responsibilities under the Equality Act 2010 in considering the changes that it has made to the National Planning Policy Framework and planning policy for traveller sites in light of the consultation responses received.

12. The future of planning policy and plan making

Transitional arrangements for emerging plans in preparation

Question 103 – Do you agree with the proposed transitional arrangements? Are there any alternatives you think we should consider?

Question 104 – Do you agree with the proposed transitional arrangements?

Question 103 and 104 – response

- A total of 957 respondents answered question 103. Of those, 461 (48%) agreed with the proposal, 496 (52%) did not agree.

- A total of 835 respondents answered question 104. Of those 457 (55%) agreed with the proposal, 378 (45%) did not agree.

Key points:

- There was strong support from public sector organisations and interest groups/voluntary organisations for emerging plans to be allowed to continue to adoption without additional work being undertaken to bring them in line with the revised National Planning Policy Framework.
- Developers and other private sector organisations considered that to achieve the government's ambitions for housing, all plans should be considered against the revised National Planning Policy Framework/ new local housing need on publication of the National Planning Policy Framework or that the timescale covered by the different transitional provisions should be as short as possible.
- A key concern from individuals and public sector organisations was about the need for plan protections to ensure that recently adopted plans did not fall within the presumption in favour of sustainable development.
- A key concern from developers and other private sector organisations was the risk of authorities fast-tracking plans to submission to avoid the need to plan for increased numbers for a number of years. It was considered that government should make it a requirement for a plan to be reviewed within a specific timescale.
- A strong recurring concern across all categories of respondents was the 200dpa threshold. A percentage figure was considered more appropriate and fairer to authorities with different housing needs.
- A further recurring theme, predominantly from local authorities, was that implementing the transitional arrangements one month after publication of the National Planning Policy Framework did not provide sufficient notice, with 3 months being preferable.
- Some London local authorities shared concerns around the implementation of the transitional arrangements under the existing Spatial Development Strategy (the London Plan).
- All categories of respondents supported funding for authorities to undertake additional work to deliver increased housing numbers.
- Some respondents also called for transitional arrangements for neighbourhood plans.

Government response

The government's proposed transitional arrangement for local plans seek to maintain the progress of plans at more advanced stages of preparation, while maximising proactive planning for the homes our communities need.

The government has considered the range of responses to the consultation and wider sector engagement and has concluded that further changes should be made to the transitional elements in light of those. The changes have sought to balance the views of those respondents who considered that the new National Planning Policy Framework should take effect immediately and those who considered the transitional arrangements should be more lenient and allow local authorities more time to get plans in place.

We had considered a 200 dwellings per annum threshold struck the right balance between allowing plans to continue or requiring them to be reworked to meet the government's housing aspirations. However, given the strength of support for a percentage-based threshold we have decided to take this forward, to enable a more nuanced and locally specific application of the threshold. In order to strike a similar balance to the previous 200dpa threshold in terms of which plans continue and which need to be revised we have decided that for plans at Regulation 19, if the draft housing requirement meets less than 80% of local housing need, authorities will be required to update their plan to reflect the revised local housing need figure and the revised National Planning Policy Framework prior to submission. For authorities with plans at examination, where the draft housing requirement meets less than 80% of local housing need the authority will be expected to begin a plan in the new plan-making system as soon as it is brought into force in 2025.

We will also make some changes to the proposed timings. Firstly, the changes to the National Planning Policy Framework for plan-making will take effect 3 months after the National Planning Policy Framework is published, with the exceptions as set out in the transitional arrangements. This is because there was a strong view from some consultees that one month did not allow local authorities sufficient time to respond to the changes. In addition, where plans at reg 19 need to be revised to account for the revised National Planning Policy Framework and local housing need, the expectation for plans to be submitted in 18 months will be extended to December 2026 where LPAs have to do significant additional work (defined as returning to the regulation 18 consultation). All earlier stage plans progressing under this version of the National Planning Policy Framework will be expected to be submitted for examination under the existing 2004 Act system no later than December 2026.

Worked examples of these points are set out below:

Worked example 1

Local plan reaches Regulation 19 stage in January 2025

Local plan emerging annual housing requirement (a): 500 dwellings

Local housing need figure (b): 700 dwellings

$$a/b = 500/700 = 0.71 = 71\%$$

The draft housing requirement is **less than 80%** of the local housing need figure and so the planning authority should:

- apply this (2024) version of the National Planning Policy Framework; and
- proceed to examination within a maximum of 18 months from 12 December 2024, or 24 months if the plan has to return to Regulation 18 stage.

Worked example 2

Local plan reached Regulation 19 stage in October 2024

Local plan emerging annual housing requirement (a): 750 dwellings

Local housing need figure (b): 900 dwellings

$$a/b = 750/900 = 0.83 = 83\%$$

The draft housing requirement is **at least 80%** of the local housing need figure and so the planning authority should:

- apply the relevant previous version of the National Planning Policy Framework.

Worked example 3

Local plan submitted for examination in February 2025

Local plan emerging annual housing requirement (a): 400 dwellings

Local housing need figure (b): 600 dwellings

$$a/b = 400/600 = 0.67 = 67\%$$

As the local plan has already been submitted for examination, it should be examined under the relevant previous version of the National Planning Policy Framework.

The annual housing requirement in the local plan once it is adopted will be **less than 80%** of the local housing need figure, and so the planning authority should:

- begin a plan in the new plan-making system as soon as it is brought into force to address the shortfall in housing need.

To ensure that local authorities are supported to implement the changes in the National Planning Policy Framework, the government has announced funding to support local plan delivery. This will provide a direct financial contribution to local authorities that are at an advanced stage of the local plan making process (Regulation 19 stage), and that

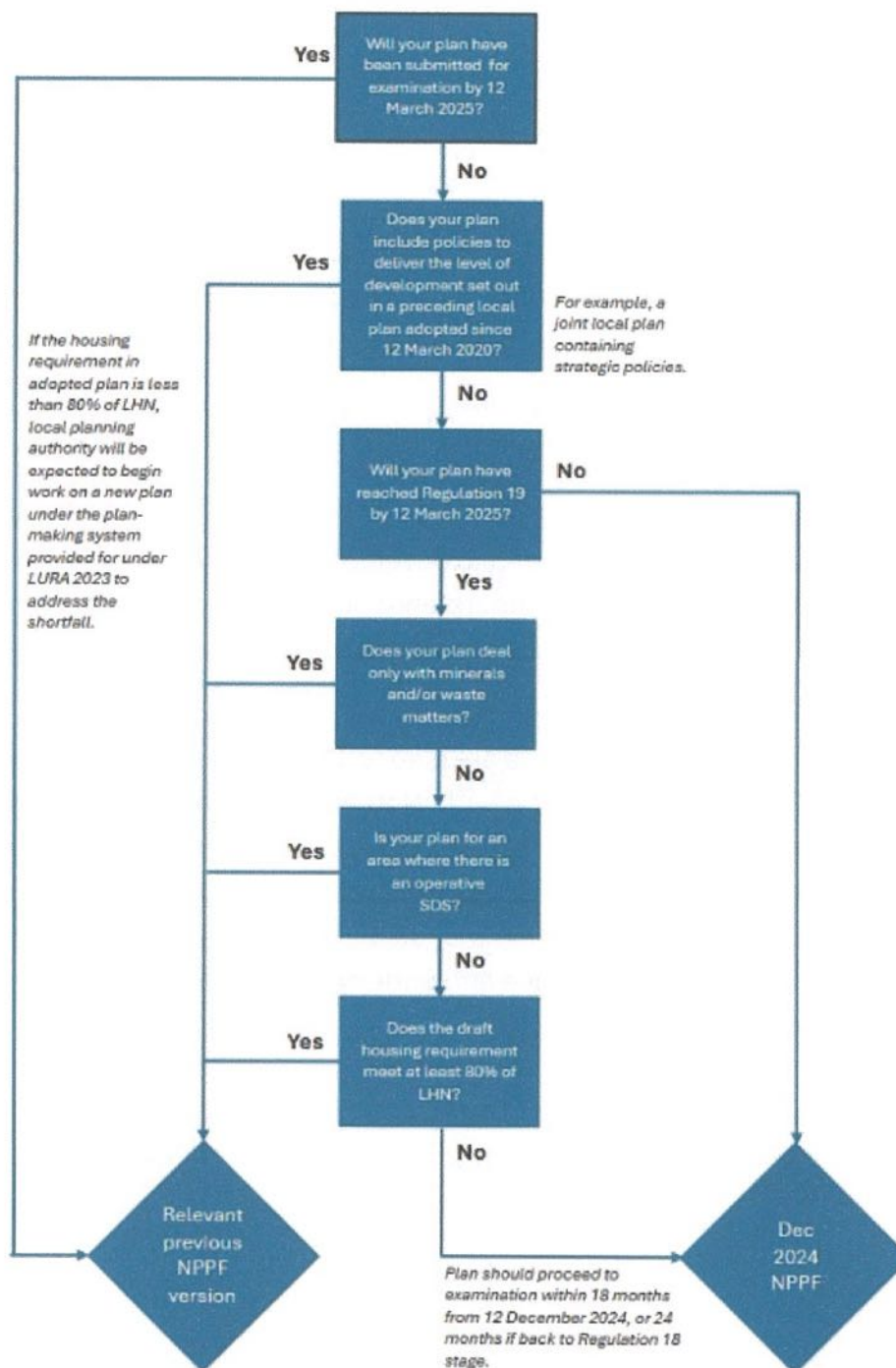
will need to revise their draft plans to accommodate the increase in their Local Housing Need figures as a result of changes in the revised National Planning Policy Framework. Local authorities that meet our eligibility criteria will be able to submit an Expression of Interest (Eoi) to receive a share of this funding.

We also recognise that emerging neighbourhood plans may need to be amended to take account of the revised National Planning Policy Framework. To help limit any disruption to neighbourhood plans at an advanced stage, we will set out that neighbourhood plans which have been submitted for examination by the National Planning Policy Framework implementation date will be examined against the current version of the National Planning Policy Framework. Neighbourhood plans submitted after this date will be examined against the revised version of the National Planning Policy Framework.

A number of other technical drafting changes have also been made to improve clarity, including confirmation that Spatial Development Strategies will continue to provide housing requirements for relevant emerging local plans. In response to comments made over Part 1 and Part 2 plans we have amended the text to provide clarification that plans brought forward to implement policies to deliver housing and other development set out in a preceding plan, (for example a joint local plan containing strategic policies) will not be required to be updated to reflect the policies in this Framework. The intention behind this is to allow plans that have been brought forward subsequent to strategic plan policies to continue to be prepared under the same Framework.

The government remains committed to its ambition of achieving universal plan coverage and boosting housing supply. Making these changes strikes the right balance between allowing authorities a reasonable period of time to respond to the changes whilst increasing housing numbers as soon as possible.

Transitional arrangements for local plans flow chart



To minimise disruption and ensure that communities can benefit as soon as possible from up-to-date plans and new protections from speculative development, we have set out new transitional arrangements at Annex 1 of the National Planning Policy Framework.

Future changes to the National Planning Policy Framework

Question 105 – Do you have any other suggestions relating to the proposals in this chapter?

Question 105 – response

A total of 706 respondents answered to this question.

Key points:

- Respondents frequently mentioned adequate infrastructure, made reference to future policy changes including National Development Management Policies, and commented on transitional arrangement and the use of evidence. Others mentioned policy related to waste, minerals and character as well as adequate funding for local authorities.

Government response

The government acknowledges the range of topics covered by respondents answering this question. The government is committed to developing a truly plan-led system with a policy framework that is accessible and understandable to all, to that end we intend to consult on future policy changes, including a set of national policies for decision making in Spring 2025.

As set out throughout this document, there are also further changes we intend to make outside the National Planning Policy Framework. Notably, publishing Green Belt planning practice guidance to ensure a more consistent approach to assessing Green Belt land, taking further steps to increase build out rates on housing sites, publishing further planning practice guidance to clarify the role of Local Nature Recovery Strategies, reviewing the Viability Guidance and undertaking a review of the Planning Policy for Traveller Sites.

[Government response to the proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation - GOV.UK](#)

Appendix 5



Ministry of Housing,
Communities &
Local Government

Matthew Pennycook MP
Minister of State for Housing and Planning
2 Marsham Street
London
SW1P 4DF

Graham Stallwood
Interim Chief Executive
The Planning Inspectorate

15 July 2026

Dear Graham,

Local Plan examinations: deliverability and viability

The plan-led approach is, and must remain, the cornerstone of our planning system. This government remains determined to drive local plans to adoption as quickly as possible in order to achieve our ambition of universal plan coverage and to ensure that plans contribute positively to increasing rates of housebuilding and infrastructure delivery.

In light of the December 2026 submission deadline for legacy system local plans, you will be acutely aware that we are approaching a period of higher demand for local plan examination services. That forthcoming rise in demand obviously takes place against a backdrop of volatile economic conditions, largely owing to current geopolitical tensions, which is likely to impact on local plan preparation.

My letters to your predecessor of 8 October and 27 November 2025 concerning examination flexibilities, green belt reviews and the duty to co-operate, focussed on ensuring that the Planning Inspectorate could better support the government's objective of achieving universal plan coverage. I am writing further to those letters to emphasise the importance of taking an appropriately pragmatic and proportionate approach in respect of deliverability and viability when examining local plans.

As you know, the benefits of an up-to-date local plan are significant. Local plans are the best way for communities to shape decisions about how to deliver the housing and wider development their areas need. They enable local areas to set their strategy for future growth and their approach to protecting and enhancing the environment, and they provide the certainty and confidence required to bring development forward across the country. In the absence of an up-to-date plan, there is a high likelihood that development will come forward on a piecemeal and speculative basis, with reduced public engagement and fewer guarantees that it will make the most of an area's potential.

While deliverability and viability must remain important considerations in plan making, substantial economic volatility can generate uncertainty which may not reflect the longer-term prospects for delivery over the life of plan. With the benefits of up-to-date local plans firmly in mind, it is important that local plan deliverability and viability challenges be considered in a broad context, especially

when economic conditions are volatile and are causing fluctuations to market conditions and heightening development risk and associated costs. As such, allocations should generally be assessed against their prospects of delivery over the plan period as a whole, rather than solely against current market conditions.

For these reasons, where a robust evidence base exists and there is a reasonable basis for concluding that allocations are capable of delivery over the plan period as a whole, I expect concerns regarding deliverability and viability to be approached pragmatically.

In considering the significance of any individual deliverability or viability concern, Inspectors may have regard to the wider consequences for communities and decision-making of delaying or preventing the adoption of an otherwise sound plan. In other words, Inspectors should carefully consider whether identified deliverability and viability issues are of such significance that they genuinely undermine the soundness of the plan, or whether they represent matters that could reasonably be expected to evolve over time as market conditions change. In doing so, Inspectors should distinguish between uncertainty arising from prevailing market conditions and evidence indicating a fundamental obstacle to delivery. Assessing the viability of plans does not require individual testing of every site or assurance that individual sites are viable. Plan makers can use site typologies to determine viability at the plan making stage.

Nothing in this letter alters the statutory local plan preparation or examination requirements, nor does it diminish the importance of proportionate evidence supporting plan allocations and policies.

I would be grateful if you would share this letter with Inspectors examining local plans. I respect the Planning Inspectorate's independent role in conducting examinations and reaching conclusions on the evidence before it, and I know that the Planning Inspectorate shares the government's determination to ensure that every area is covered by an up-to-date local plan. I look forward to continuing to work with you to achieve that objective.

Best wishes,



MATTHEW PENNYCOOK MP
Minister of State for Housing and Planning