

**Appeal by Catesby Estates  
Land South of Burford Road, Minster Lovell**

Appeal ref. APP/D3125/W/23/3331279

LPA Ref. 22/03240/OUT

**Statement of Common Ground on Housing  
Delivery and Five Year Housing Land Supply**

2 February 2024

# Contents

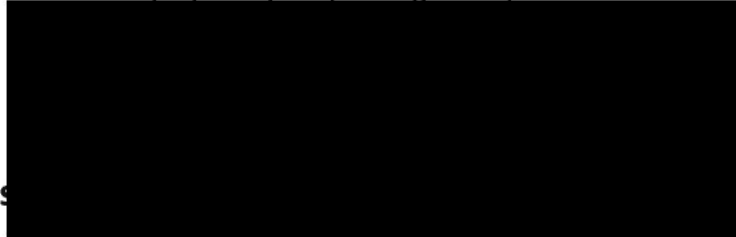
---

1.	Introduction	3
2.	Matters of Agreement	4
3.	Matters of Disagreement	8

---

# 1. Introduction

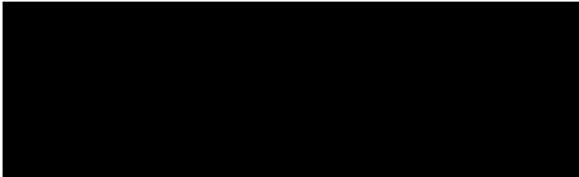
- 1.1 This Statement of Common Ground (SoCG) has been prepared jointly between Catesby Estates (the Appellant) and West Oxfordshire Council as the local planning authority (the LPA), in respect of the appeal ref. APP/D3125/W/23/3331279 at Land South of Burford Road, Minster Lovell.
- 1.2 The purpose of this SoCG is to confirm matters of agreement and remaining areas of disagreement between the Appellant and the LPA in relation to Housing Delivery and Five Year Housing Land Supply (5YHLS) Matters.
- 1.3 This SoCG is prepared jointly and agreed by:



**Date: 2 February 2024**

Jeff Richards, Senior Director, Turley (on behalf of Catesby Estates)

And



**Date: 2 February 2024**

Chris Wood, Senior Planner (on behalf of West Oxfordshire District Council as the LPA)

## 2. Matters of Agreement

2.1 The following matters are agreed between the LPA and the Appellant.

### **The Need to Demonstrate a 5 Year Housing Land Supply**

2.2 Under paragraph 77 and footnote 42 of the current (December 2023) NPPF, it is agreed that the LPA is required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against the local housing need, as calculated using the standard method. This is because:

1. The provisions of paragraph 76 of the NPPF do not apply because the LPA's Local Plan is now over 5 years old; and
2. The provisions of paragraph 226 of the NPPF (allowing some LPAs to demonstrate only a 4 year supply) do not apply because the LPA's emerging Local Plan 2041 has not reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need.

### **The 5YHLS Period for Assessment**

2.3 It is agreed that the correct base date for the calculation of the five year housing land supply is 1 April 2023. The five year period is, therefore, 1 April 2023 to 31 March 2028.

### **The 5YHLS Period Requirement**

#### ***The Local Plan Housing Requirement***

2.4 The West Oxfordshire Local Plan 2031 ("the Local Plan") was adopted in September 2018. Local Plan Policy H1 (Amount and Distribution of Housing) states that provision will be made for at least 15,950 homes in the period 2011 – 2031. This will comprise 13,200 homes in the period 2011 - 2031 to meet West Oxfordshire's identified housing needs and a further 2,750 homes in the period 2021 - 2031 to meet Oxford City's identified housing needs. It is agreed that this is thus expressed as a minimum housing requirement.

2.5 West Oxfordshire District's housing requirement (for its needs only) of 13,200 homes was derived from a midpoint of a range of housing need of 635-685dpa considered in the Oxfordshire Strategic Housing Market Assessment (2014) – see Table 90 of **Core Document CD13**. That range included a consideration of both housing need to support committed economic growth and housing need to meet affordable housing need in full.

2.6 However, having been adopted in September 2018, the Local Plan is now over five years old. The LPA has undertaken a Regulation 10A Review (**Core Document CDG2**) and found that the LPA's strategic housing policies need to be reviewed and so, in that context, the need to demonstrate a sufficient 5 year deliverable housing land supply

now needs to be calculated against West Oxfordshire’s Local Housing Need (LHN) calculated using the Government’s standard method (SM).

**Local Housing Need**

- 2.7 It is agreed that the latest LHN calculation for South Oxfordshire is **570 homes per annum**.
- 2.8 It is agreed that this is the appropriate starting point for calculating 5YHLS in West Oxfordshire.
- 2.9 It is agreed that this LHN figure is for West Oxfordshire’s needs only and takes no account of the unmet needs arising from Oxford City.
- 2.10 It is agreed that Local Plan Policy H1 confirms that the indicative distribution for homes in the Eynsham - Woodstock sub-area includes 2,750 homes to provide for Oxford’s unmet housing need. That will be delivered through a strategic urban extension to the west of Eynsham (550 homes of the 1,000 homes allocation were intended to meet Oxford’s unmet needs) and a new Garden Village to the north of the A40 near Eynsham. Those sites and homes (aside from 450 homes on land west of Eynsham), were not allocated to meet West Oxfordshire’s needs but any homes coming forward in these areas will be available for people from any location.

**Delivery to Date**

- 2.11 Whilst it is agreed that 5YHLS should be calculated against local housing need, it is agreed that the West Oxfordshire Local Plan remains part of the statutory development plan for the District and so performance against the LPA’s housing requirement in Policy H1 (and the stepped trajectory) remains a material consideration.
- 2.12 Against the stepped housing requirement, as phased in the Table within Policy H1, the following completions have been achieved in the plan period to date.

Year	Combined Annual Requirement	Actual Delivery	Under Over-delivery	or Cumulative Under Over-delivery
2011 - 12	550	359	-191	-191
2012 - 13	550	278	-272	-463
2013 - 14	550	186	-364	-827
2014 - 15	550	395	-155	-982
2015 - 16	550	246	-304	-1,286

<b>2016 - 17</b>	550	518	-32	-1,318
<b>2017 - 18</b>	550	556	+6	-1,312
<b>2018 – 19</b>	550	813	+263	-1,049
<b>2019 – 20</b>	550	1,086	+536	-513
<b>2020 – 21</b>	550	868	+318	-195
<b>2021 - 22</b>	800	1,002	+202	+7
<b>2022 - 23</b>	800	729	-71	-64
<b>Totals</b>	<b>7,100</b>	<b>7,036</b>	<b>-64</b>	<b>-64</b>

2.13 It is agreed that the LPA has an under-delivery of 64 homes in the plan period to date against its stepped requirement.

2.14 It is agreed that paragraph 31 of section 68 of the PPG makes clear that the standard method takes account of past shortfalls, stating: *Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure.*

#### **The Relevant Buffer**

2.15 The latest Housing Delivery Test (HDT) result for West Oxfordshire is 187%. Past HDT results were: 153% of its target completions in 2019-2020, 114% of target in 2018-2019, 103% in 2017-2018 and 195% in 2020-2021, with no consequences applying in any of these years. Based on the provisions of the December 2023 NPPF, it is agreed that there is no longer any need for a buffer to be applied to the 5YHLS calculation.

#### **The Overall 5YHLS Requirement**

2.16 Overall, it is agreed the LPA's five year supply requirement is **2,850 homes**<sup>1</sup>.

#### **The LPA's latest Five Year Housing Land Supply Position Statement**

2.17 The LPA's latest Five Year Housing Land Supply Position Statement was published in October 2023 (**Core Document CD I1**) and provides the position on supply at the base date of 1st April 2023.

2.18 This Statement sets out a breakdown of the LPA's anticipated supply (as at 1st April 2023) in the site information contained within the Appendices. It confirms that the LPA believed that at the date of publication it had a supply of 3,310 homes.

<sup>1</sup> The LHN of 570 homes per annum x 5 years = 2,850 homes

2.19 As confirmed under matters of disagreement, below, the Appellant disputes a number of sites within the LPA's claimed deliverable supply and the LPA's overall ability to demonstrate a 5YHLS.

### 3. Matters of Disagreement

3.1 The following matters are disputed between the Council and Appellant:

#### The respective positions on West Oxfordshire Council's five year housing land supply

- 3.2 The LPA's latest five year supply position statement claims there is a deliverable supply of **3,318 homes**. However, for the purposes of this appeal, the LPA considers that its deliverable HLS is 3,111 homes. As such, it considers that against the 5YHLS requirement of 2,850 homes it can demonstrate a 5YHLS of **5.46 years**, a surplus of **261 homes**.
- 3.3 The Appellant disputes a number of sites within the LPA's claimed deliverable supply and the LPA's overall ability to demonstrate a 5YHLS. The Appellant's position is that the 5-year deliverable HLS is 2,255 homes, which is equivalent to a **3.86 year supply (a shortfall of 651 homes)**.
- 3.4 Appendix 1 to this Statement of Common Ground sets out a table detailing the sites that are disputed by the Appellant. It provides a summary of the position of each party on each of the disputed sites.
- 3.5 The table below summarises the parties' respective positions:

	WODC Published HLS Position	LPA Appeal Position	Appellant Position
<b>Requirement</b>			
<b>Total 5-year Requirement</b> (Standard Method 570 x 5, no buffer)	<b>3,060<sup>2</sup></b>	<b>2,850</b>	<b>2,850</b>
<b>Anticipated Supply</b>			
Large existing commitments of 10 or more dwellings	1,236	1,116	966
Small existing commitments of less than 10 dwellings	459	397	357
Local Plan allocations	1,373	1,348	626
Windfall allowance (2023–2028)	250	250	250
<b>Total deliverable dwellings</b>	<b>3,318</b>	<b>3,111</b>	<b>2,199</b>
<b>5YHLS Position</b>	<b>5.42</b>	<b>5.46</b>	<b>3.86</b>
<b>Surplus/Shortfall</b>	<b>+258</b>	<b>+261</b>	<b>-651</b>

Please note the LPA has updated its figures for the purposes of this appeal but it reserves its position to alter it further if new evidence emerges.

<sup>2</sup> The published position includes a 5% buffer



## Appendix 1 - Disputed Sites Schedule

Site Address	Planning Status	Council (October 2023) Supply Figure	Council Updated Supply	Appellant Supply Figure	Difference in Supply Figure	Council Commentary	Appellant Commentary
Land North Of Witney Road Long Hanborough Oxfordshire	Outline Approval  Conditions being discharged  Category (b)	150	150	0	-150	<p>The approval has an expedited time limit condition; Pre-Application discussions are ongoing; and conditions have been discharged and are being readied for submission. All of this represents progress being made in the terms of the PPG guidance on deliverability.</p> <p>Additionally, the developer in this case is the experienced local developer Blenheim Strategic, which is responsible for numerous sites (past current and future) in the District, with a very good record of delivery.</p>	<p>Outline permission (22/01330/OUT) for up to 150 homes was granted in February 2023. This was progressed by Blenheim Estate Homes. However, there is no record of any application for reserved matters having been submitted.</p> <p>This site does not to meet the definition of deliverable and should be from the Council's housing land supply.</p>
Witney Road, Ducklington, Witney	Outline Approval  Flood map alterations.	120	0	0	-0	Agreed	<p>Outline permission (21/03405/OUT) for up to 120 homes was allowed at appeal in January 2023 – this was an appeal we acted on. This was progressed by Ainscough Strategic Land who intend to sell the site to a developer rather than build it out themselves. However, there is no record of any application for reserved matters having been submitted.</p> <p>Importantly, we are aware that the site has recently be reclassified by the Environment Agency as falling</p>

							<p>within Flood Zone 3, which may hinder the progression of reserved matters.</p> <p>This site does not to meet the definition of deliverable and should be from the Council's housing land supply.</p>
CA1 -REEMA North, Carterton	<p>Allocated Site</p> <p>Detailed (RMs) Approval 2013</p> <p>Some Conditions discharged</p> <p>Category (a) (disputed in respect of implementation of 2013 RM)</p> <p>Alternative scheme coming forward but no application yet submitted</p>	200	200	0	-200	<p>The 2013 RMs approval is extant and ultimately remains capable of implementation; so this is clearly a category (a) site where the appellant requires evidence to show housing will not come forward in the next 5 years.</p> <p>Even though it now appears unlikely that the extant consent will be built out, this is because an alternative development that will deliver a larger number of homes is being advanced.</p> <p>Even if seen as a category (b) allocated site on this basis, the MoD (the landowner) has combined with a major UK housebuilder in Taylor Wimpey and TW has provided clear evidence to indicate that they are on track to build 217 dwellings in the period 2023-2028, making 200 dws slightly conservative.</p>	<p>Part of this site has detailed consent and the latest supply statement confirms this element is now complete. On the remainder of the site, there was previously an outline permission (ref. 04/2358/P/OP) which was followed, firstly, by a reserved matters application for 225 homes (ref. 11/0490/P/RM – permitted in July 2011) and, secondly, a further reserved matters permission ref. 13/0399/P/RM for 200 homes (which amended the earlier 2011 consent), however, neither permission has been progressed.</p> <p>The latest Housing land Supply Statement confirms that the DIO has confirmed that pre-application discussions are in progress with Taylor Wimpey and that a detailed application is expected in 2024. It is not clear when (or indeed if) a revised submission might come forward, whether it might acceptable to the Council and consultees and, if an application were submitted, when it might be determined.</p> <p>The Council relies on an email itself from Taylor Wimpey stating that a fresh permission is to be applied for, and so this is clear evidence that the previous consent (lapsed or not) is no longer intended to come forward.</p>

							<p>Whilst the Council relies on an email from Taylor Wimpey in respect of its future intentions as was made clear in an appeal at Little Sparrows, Sonning Common (ref. APP/Q3115/W/20/3265861) “clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered”. A realistic consideration of the site’s status demonstrates that there is currently no planning application submitted and that Taylor Wimpey’s suggestion that this site will deliver 217 homes in the period 2023-28 is wholly unrealistic and lacks the necessary clear evidence that is required for a site of this nature.</p> <p>There is no clear evidence for deliverability of the 200 homes claimed by the Council is available, and so this site delivery should be removed from the Council’s deliverable supply. The Ducklington appeal decision (CDO2) considered this site and found that on the basis that a revised scheme is yet to be submitted this site would not meet the test of deliverable and should be removed from the supply. There has been no material change in circumstances on this site since this decision.</p>
EW2 - West Eynsham SDA (Phase 1: Land west of Derrymerrye Farm)	Allocated Site as part of the West Eynsham Strategic	256 (180)	256 (180)	76 (0)	-180 (-180)	The LPA and the owner/ developer remain keen to deliver this site as the gateway to the WESDA, which has an agreed masterplan that identifies this as phase 1.	550 of the 1,000 homes allocated on Land West of Eynsham were allocated by the Local Plan to meet Oxford’s unmet needs – see Policy H1 of the Local Plan and paragraph 5.29. Given that LHN for West Oxfordshire does not include for Oxford’s unmet

	<p>Development Area (WESDA)</p> <p>No current application</p> <p>Category (b)</p>					<p>The appeal has addressed a number of the issues in relation to the requested infrastructure list; which represents clear progress towards an approval and the single clear outstanding issue is the extent and timing of the A40 improvements, which OCC expect to be clarified in early 2024.</p>	<p>needs, any parts of the site coming forward which are meant to meet Oxford's unmet needs should not be counted against the LHN for West Oxfordshire. However, it is not clear whether the claimed delivery in the 5 year period is meant to meet West Oxfordshire's needs or Oxford's unmet needs.</p> <p>Notwithstanding this, Part of this site (160 units) has already been completed. Of the residual 840 homes, a further 76 have full permission and are currently under construction by Thomas Homes on the former Eynsham Nursery and Plant Centre site (15/00761/FUL). We have accepted those homes notwithstanding the lack of clarity on what needs these homes (delivered) and these homes (to be completed) are intended to meet.</p> <p>The Council's position statement explains that the units relied on are the residual 76 homes cited above plus 180 units which are the subject of a current outline planning application at Land west of Derrymerrye Farm (20/03379/OUT) which was the subject of a non-determination planning appeal due to be heard in December 2023. However, as of October 2023 the appeal has been withdrawn, the letter from the agents for the Appellant explains there is uncertainty regarding Housing Infrastructure Fund (HIF)2 for the A40 Programme Revised Strategy and also citing viability issues with the scheme.</p>
--	---	--	--	--	--	---	---

							At present there is no permission in place for this development, and no application or appeal pending determination. The Council has not provided the clear evidence necessary to include this site in the supply.
EW4 - Land north of Hill Rise, Woodstock	Hybrid Approval Conditions being discharged Category (b)	180	180	48	-132	<p>This approval arises to the experienced local developer Blenheim Strategic, which is responsible for numerous sites (past current and future) in the District, giving their projections greater weight.</p> <p>It was assessed as a category (b) site at the base date; and was included as a result of evidence provided in September 2022, specifically a trajectory from the developer, which has proved to be reliable/conservative given the subsequent appeal decision, supported by evidence provided to the appeal inquiry on deliverability, which was subject to cross examination; and indicated that expected build out rates had increased. Delivery is also assisted because the detailed part of the approval can be built straight away.</p>	A hybrid application (by the Blenheim Estate) (Ref. 21/00189/FUL) was submitted in January 2021 allowed at appeal (3315391) October 2023. This consent included detailed permission for 48 units which we do not contest are deliverable. The remainder of the units are only subject to outline consent and there is no record of any reserved matters submission for these units. The Council has not provided the clear evidence necessary to include the units from this site with outline permission in the supply.
EW5 - Land north of Banbury Road, Woodstock	Allocated Site Outline Approval subject to S.106 Category (b)	235	210	0	-210	<p>This is also a Blenheim Strategic site.</p> <p>It was the subject of a resolution to approve subject to a S.106 agreement in December 2022, giving the developer Blenheim Strategic certainty to proceed with preparing conditions and RMS proposal. The</p>	The site does not have detailed permission. Outline planning permission for the erection of up to 235 dwellings is pending determination and has been subject to a resolution to grant consent subject to a S106 agreement (21/00217/OUT). This resolution was made at committee in December 2022 and since

						<p>necessary S.106 agreement is ready to be signed (it was held up by detailed points relating to community support contributions that have now been resolved). Trajectory provided previously in September 2022 is still relied on given that the pattern of events required in the accompanying email has been met but subject to delivery rates now expected to be higher based on Hill Rise evidence, this now gives expected 210 dws.</p>	<p>then there has been no activity on the application page, and no decision notice has materialised. This site does not to meet the definition of deliverable and should be from the Council's housing land supply.</p>
Small Sites	Detailed Approval Category (a)	459	397	357	-40	<p>The Council disagrees regarding lapse rates – small sites should be included in the deliverable supply, as the NPPF definition of deliverability is written clearly and states that all small sites with detailed planning permission should be included as deliverable. The government, when defining deliverability was aware that some small cases lapse and chose not to require application of (or even to refer to) average lapse rates. Lapsed permissions will fall out of the HLS naturally; and if lapse rates are included this should be done using data specific to the District.</p> <p>NB as a separate matter, the LPA has been made aware of errors in the small sites list that together result in a reduction of 46 homes</p>	<p>Reasonable to apply lapse rate of 10% to total potential delivery from the remaining small sites with planning permission. The Inspector at Ducklington (CDO2) agreed with the evidence of Turley on lapse rates at that appeal (para 93)</p>

Total		1600	1,393	481	--912		
-------	--	------	-------	-----	-------	--	--