

UPDATED STATEMENT OF COMMON GROUND ON HOUSING NEED

SECTION 78 APPEAL BY ROBERT HITCHINS LTD

LAND AT OAKLEY FARM, CHELTENHAM

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004**

LPA REF: 20/01069/OUT
APPELLANT REF: P21-0623
PINS REF: APP/B1605/W/21/3273053
Date: 20th September 2021

Signed:	Signed:
Name: John Rowley	Name: Neil Tiley
On behalf of: Cheltenham Borough Council (the Local Planning Authority)	On behalf of: Pegasus Group (acting on behalf of the Appellant)
Date: 20/09/21	Date: 20/09/21

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1. INTRODUCTION

- 1.1 This Updated Statement of Common Ground (uSoCG) on the need and supply of housing and affordable housing has been prepared by Pegasus Group and Tetlow King Planning, on behalf of Robert Hitchins Limited ("the Appellant") following the evidence presented by the respective parties on these matters.
- 1.2 It has been prepared with Cheltenham Borough Council ("the LPA"). It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in respect of Land at Oakley Farm, Cheltenham ("the Appeal Site").
- 1.3 The purpose of the uSoCG is to identify the areas where the principal parties (the Appellant and the LPA) are now in agreement and to narrow down the issues that remain in dispute.
- 1.4 This uSoCG repeats the SoCG previously agreed on 24th August 2021 but updates this where appropriate. As such this uSoCG replaces the previous SoCG.

2. MATTERS NOT IN DISPUTE

- 2.1 This section sets out the matters that are not in dispute between the Appellant and the LPA.

The Housing Trajectory

- 2.2 It is agreed that when considering the developability and deliverability of sites it is appropriate to take account of the most recent evidence.
- 2.3 It is agreed that the latest trajectory of the Council is contained in the Five Year Housing Land Supply Position Statement 2020 and accompanying spreadsheet. It is agreed that these two documents identify different trajectories.
- 2.4 It is agreed that as the weightings and effects that arise from the housing land supply positions have not been able to be agreed, it may be necessary for the Inspector to conclude upon the broad extent of the plan period and five-year land supply shortfalls.

The record of housing delivery

- 2.5 It is agreed that on average across the plan period there is an objectively assessed need for 546 homes per annum in Cheltenham Borough. It is agreed that there is also a minimum stepped housing requirement for 450 homes per annum in the period 2011-22 and for 663 homes per annum in the period 2022-31.
- 2.6 It is therefore agreed that there was a need for 4,913 homes and a requirement for 4,050 homes in the period 2011-20.
- 2.7 It is agreed that the Five Year Housing Land Supply Position Statement 2020 identifies that there have been 3,555 completions and the accompanying spreadsheet identifies that there have been 3,558 completions in the period 2011-20.
- 2.8 It is therefore agreed that there has been an under-delivery of either 1,355 or 1,358 homes against the objectively assessed need and an under-delivery of either 492 or 495 homes against the minimum stepped housing requirement. It is agreed that on any basis this represents a shortfall.

2.9 It is agreed that, including because of delays to the two JCS Strategic Allocations (A4 and A7), the trajectory shows Cheltenham is no longer able to meet its full housing requirement across the plan period or demonstrate a 5YHLS.

2.10 It is agreed that there is a need for housing to address this under-delivery of housing.

The record of affordable housing delivery

2.11 It is agreed that between 2011/12 and 2020/21, 720 gross new affordable homes were completed in Cheltenham Borough, equating to an average of 72 gross affordable additions to the housing stock per annum. Between 2011/12 and 2020/21, there have been a total of 456 net affordable housing completions in Cheltenham Borough. It is agreed that this equates to 46 net affordable housing additions to the housing stock per annum. This delivery needs to be seen in the context of the net annual need for affordable homes over the same period of 231 homes per annum, as identified in the 2015 SHMA.

2.12 It is agreed that 195 affordable homes were lost through Right to Buy in Cheltenham Borough between 2011/12 and 2020/21. The Council has acquired 75 former Right to Buy homes between 2011/12 and 2020/21 to in part compensate for losses to the Borough's affordable housing stock through Right to Buy.

2.13 It is agreed that between the start of the JCS period in 2011/12 and 2019/20, there have been a total of 337 net overall housing completions in Battledown Ward, of which 44 were affordable, equating to 13% of the net overall housing completions.

2.14 It is agreed that there has been a substantial shortfall in affordable housing delivery.

2.15 It is agreed that there is an acute need for affordable housing development to address the under-delivery of affordable housing within Cheltenham Borough.

2.16 It is agreed that 40% affordable housing is required in accordance with JCS Policy SD12.

The Developable Supply

2.17 It is agreed that there is an objectively assessed need and a minimum housing requirement for 10,917 homes in Cheltenham Borough from 2011-31.

- 2.18 It is agreed that JCS Table SP2a identified the sources of housing supply for Cheltenham Brough which would provide some 11,092 dwellings exceeding the housing requirement for at least 10,917 new homes as required by Policy SP1 and the objectively assessed need.
- 2.19 It is agreed that the Cheltenham Plan identified a total housing supply between 2011 and 2031 (as of June 2019) of 11,632 dwellings.
- 2.20 It is agreed that the position of the Council as adjusted to reflect their concessions during the presentation of evidence, there is now a supply of between 8,815 and 8,895 homes which provides for a shortfall of between 2,022 and 2,102 homes against the objectively assessed need and against the minimum housing requirement.
- 2.21 It is agreed that this represents a substantial shortfall to which the appeal proposals could contribute to addressing. The LPA consider that this should be afforded significant weight and the Appellant considers that this should be afforded substantial weight.
- 2.22 It is agreed that including as a result of the delay in the delivery of the JCS Strategic Allocations there is a need for additional housing to be brought forward to meet the objectively assessed needs and the minimum housing requirement of Cheltenham Borough.
- 2.23 It is agreed that paragraph 7.1.11 of the JCS states that: 'In the event of the strategic allocations cumulatively delivering less than 75% of their projected housing completions (considered annually), over three consecutive years (based on the trajectories set out in the Housing Implementation Strategy), this will trigger the need for the consideration of a partial or full JCS review'.
- 2.24 It is agreed that paragraph 53 of the Cheltenham Borough Council Cheltenham Plan, Inspectors Report 17 March 2020 states that 'in the event of a failure to deliver the five year housing land requirement arising from the policies of the JCS, it is for the review of the JCS to determine the up to date requirement for housing and how it should be met. In these circumstances it is not a matter for the CP to demonstrate the provision of a five year supply of housing land'.
- 2.25 It is agreed that a full review of the JCS is in progress with an Issues and Options consultation taking place at the beginning of 2019, and a Preferred Options (Regulation 18) consultation expected in spring 2022.

- 2.26 It is agreed that the full review of the JCS will identify its own housing requirement over a different plan period. It is agreed that this will need to be informed by a local housing need assessment conducted using the standard method unless exceptional circumstances justify an alternative approach. It is agreed that the standard method includes an affordability adjustment that takes account of past under-delivery. It is agreed that if an alternative approach to the standard method is used, past under delivery will be taken into account.
- 2.27 It is agreed that no weight can be placed on the policy contents of the full review of the JCS at this time.

The five-year land supply

- 2.28 It is agreed that the LPA is unable to demonstrate a five-year land supply and that as a result the policies which are most important for determining the appeal are to be considered out-of-date.
- 2.29 It is agreed that in the absence of a five-year land supply there is a need for additional housing and the LPA has not been able to identify sufficient scope to meet these needs.
- 2.30 It is agreed that the extent of the five-year land supply shortfall may be material to the weight afforded to the Development Plan policies.
- 2.31 It is agreed that for the purposes of paragraph 74 of the NPPF the five-year land supply should be assessed against the stepped housing requirement of the JCS. It is agreed that this defers meeting the objectively assessed need for housing.
- 2.32 It is agreed that the JCS supported the use of the Liverpool approach which further defers meeting the objectively assessed need for housing. It is agreed that this approach was justified on the basis that it allowed time for the strategic allocations to come forward to meet the previous shortfalls and deliver the ongoing annual requirements.
- 2.33 It is agreed that using the stepped housing requirement and the Liverpool approach, the Council considers that it is able to demonstrate a 2.9 year land supply with a shortfall of 1,360 homes.
- 2.34 It is agreed that notwithstanding the fact that the LPA do not consider this to be relevant, a 2.9 year land supply relative to the stepped housing requirement

equates to a 2.2 year land supply relative to the objectively assessed need with a shortfall of 2,379 homes.

- 2.35 It is agreed that on either basis this represents a substantial shortfall to which the appeal proposals could contribute to addressing. The LPA consider this should be afforded significant weight and the Appellant considers this should be afforded substantial weight.

3. MATTERS IN DISPUTE

Backlog of affordable housing

- 3.1 The Appellant considers that the 2015 SHMA Update was robustly tested as part of the JCS examination and that it provides the only assessment of affordable housing need against which the previous record of delivery can be compared. The Appellant notes that the 2015 SHMA Update identifies a need for 231 affordable homes per annum in Cheltenham which equates to 1,386 affordable dwellings over the period 2015-21. The Appellant considers that as the LPA has overseen the delivery of 226 net affordable homes, there has been a shortfall of 1,160 affordable homes in the six-year period.
- 3.2 The LPA considers that the record of delivery of affordable housing should be compared with the latest assessment of affordable housing needs which is contained in the 2020 LHNA, and which covers the period 2021-41. The LPA notes that the 2020 LHNA Update identifies a need for 194 affordable homes per annum in Cheltenham between 2021 and 2041. The LPA considers that this need can be retrospectively applied to the period 2015-21 such that there was a need for 1,164 affordable homes which would provide for a shortfall of 938 affordable homes in the six-year period.

Weight afforded to affordable housing

- 3.3 The Appellant considers that the provision of 100 affordable homes will make a substantial contribution to the annual affordable housing need which warrants substantial weight in the planning balance.
- 3.4 The LPA considers that the provision of 100 affordable homes will make a significant contribution to the annual affordable housing need which warrants significant weight in the planning balance.

The extent of the shortfalls

- 3.5 The Appellant considers that there is a shortfall of between 3,493 and 3,576 homes against the minimum housing requirement and objectively assessed need over the plan period.
- 3.6 The LPA considers that there is a shortfall of between 2,022 and 2,102 homes against the minimum housing requirement and objectively assessed need over the plan period.

3.7 The Appellant considers that based on the available evidence the Council is able to demonstrate a 1.6 year land supply with a shortfall of 2,224 homes against the stepped housing requirement or a 1.2 year land supply with a shortfall of 3,244 homes against the objectively assessed need.

3.8 The LPA considers that based on the available evidence it is able to demonstrate a 2.9 year land supply with a shortfall of 1,360 homes against the stepped housing requirement.

Weight afforded to policies

3.9 The Appellant considers that in the absence of a five-year land supply, the policies of the Development Plan have not been effective in maintaining the minimum supply required by national policy such that it may be appropriate to reduce the weight afforded to these policies.

3.10 The LPA disagrees.

The JCS Review

3.11 The Appellant considers that the shortfall against the objectively assessed need and minimum housing requirement is a relevant consideration for the purposes of paragraph 177 of the NPPF. The Appellant considers that the adopted Development Plan does not provide scope to address this shortfall and the JCS Review does not currently provide scope to address this shortfall given that its contents can be afforded no weight.

3.12 The LPA considers that it is for the full review of the JCS Review to determine how the housing requirement shortfall arising from the delay in delivery of the Strategic Allocations must be met in accordance with the requirement of paragraph 7.1.11 of the JCS.

Consistency with national policy

3.13 The Appellant considers that as a result of the plan period shortfall, the adopted Development Plan does not:

- as a minimum provide for objectively assessed needs as required by paragraph 11b of the NPPF,

- provide a framework for addressing housing needs as required by paragraph 15 of the NPPF,
- provide a clear strategy for bringing sufficient land forward and as a sufficient rate to address objectively assessed needs over the plan period as required by paragraph 23 of the NPPF,
- identify a sufficient supply and mix of sites as required by paragraph 68 of the NPPF, or
- provide any scope to meet the objectively assessed housing needs of Cheltenham Borough.

3.14 The LPA disagrees.

The trajectory

3.15 The Appellant considers that the trajectories of the LPA for North West Cheltenham, West Cheltenham, Leckhampton (MD5), Christ College Site B (HD1) and the Former Monkscroft Primary School (HD2) are unrealistic and that additionally there is no clear evidence to demonstrate that completions will be achieved as envisaged by the Council on any allocated site.

3.16 The LPA disagrees and considers that the trajectories for these sites are realistic and that there is clear evidence that completions will be achieved.