

**Town and Country Planning Act 1990 (as amended)**

# **Supplemental Rebuttal Proof of Evidence on Five Year Supply of Housing On behalf of Cherwell District Council**

**In the following appeal:**

*Outline planning application for up to 120 dwellings, vehicular and pedestrian access off Ploughley Road, new pedestrian access to West Hawthorn Road, surface water drainage, foul water drainage, landscaping, public open space, biodiversity and associated infrastructure.*

*Access off Ploughley Road is not reserved for future consideration*  
**Land East of Ploughley Road, Ambrosden, OX25 2AD**

**PINS Reference: APP/C3105/W/23/3327213**

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**March 2024**



**Inspectorate Ref: APP/C3105/W/23/3327213**

**Planning Application Ref: 22/02866/OUT**

**Appeal Site: Land East of Ploughley Road, Ambrosden, OX25 2AD**

**Town and Country Planning Act 1990  
Section 78**

**Supplemental Rebuttal Proof of Evidence on the Five-Year Supply of Housing  
in Respect of Cherwell District Council**

**Prepared on behalf of  
Cherwell District Council**

**Evidence of  
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**March 2024**

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## 1.0 INTRODUCTION AND SCOPE OF SUPPLEMENTAL REBUTTAL EVIDENCE

- 1.1 For the purposes of introducing this Supplemental Rebuttal Proof of Evidence I do not repeat my qualifications and experience that remain as set out within my main Proof of Evidence.
- 1.2 This Supplemental Rebuttal material should also be read alongside previous evidence I have submitted to the Inquiry including:
  - 1) My Supplemental Proof of Evidence dated February 2024 (CD/G.21)
  - 2) Rebuttal Proof of Evidence dated November 2023 (CD/G.15)
  - 3) My original Proof of Evidence dated October 2023 (CD/G.12)
- 1.3 My Supplemental Proof of Evidence provides details of relevant links between the evidence exchanged to-date.
- 1.4 This scope of this Supplemental Rebuttal Proof of Evidence reflects the context of the extent of information exchanged on this case and numerous other Appeals in Cherwell where the assessment of deliverable supply and the requirement against which this is to be assessed. To a large extent this material has also been produced taking account of changes to national policy and guidance since December 2023.
- 1.5 The scope is therefore limited. I consider that extensive material already exists in that exchanged to address all of the following:
  - a. Where relevant, the **housing requirement in adopted strategic policies**;
  - b. The **extent of supply to be demonstrated** i.e., 4-years' or 5-years' worth of provision.
  - c. The **period over which supply is to be assessed** (to be measured over five years against the five-year requirement)
  - d. The **assessment of deliverable supply**
- 1.6 Having reviewed the Appellant's Updated Proof of Evidence (CD/G.19) in respect of the above matters I did not identify any substantive points to be addressed in Supplementary Rebuttal with reference to the above points.
- 1.7 I note, however, that at Section 7 and Paragraphs 7.22 to 7.42 of his Updated Proof of Evidence Mr Pycroft on behalf of the Appellant has set out the case for the **requirement against which supply is to be assessed** having regard to consistency with the NPPF and NPPG including changes to both since December 2023.
- 1.8 My case on behalf of the Council includes a response to the changes to policy and guidance is set out most recently at Paragraphs 4.4 to 4.21 of my Supplemental Proof of Evidence. In the context of the same information considered by the Appellant I conclude that there is no change to the Council's case for the requirement against which supply is to be assessed for the purposes of decision-taking.
- 1.9 I address these changes in the context of Paragraph 77 of the NPPF(Dec)2023 which exists for the purposes of decision-taking in respect of the assessment of housing land supply. In respect of the Council's case, I conclude that it operates in precisely the same way as prior to the changes to national policy and guidance. I have considered the contents of the PPG, to be read as a whole, within this assessment. For example, at Paragraph 4.13 of my Supplemental Proof of Evidence I conclude:

*"Within the relevant 'Maintaining Supply and Delivery' section it is the case that the combined changes between paragraphs 75 and 77 support the Council's case that*


*regard may need to be had to more than one strategic policy and more than one adopted Local Plan. This is consistent with the contents of the PPG, particularly PPG ID: 68-006-20190722.”*

- 1.10 In summary, there is nothing in the Appellant’s Updated Proof of Evidence that changes my position on this point.
- 1.11 I would not otherwise have produced a Rebuttal in isolation in the context of the Appellant’s evidence.
- 1.12 Prior to the deadline for Rebuttals in this case the Decision Letter has been issued for the Appeal in case reference APP/C3105/W/23/3326761 (the ‘Heyford Park’ DL). Relevant conclusions on the **requirement against which supply is to be assessed** are contained at Paragraphs 67 to 75. Paragraph 73 specifically confirms that the changes to national and policy and guidance since December 2023 were taken as determinative to the Inspector’s conclusions. This establishes parallels with the Appellant’s Updated Proof of Evidence in terms of associated references to the NPPF and NPPG.
- 1.13 The changes to national policy and guidance from 19 December 2023 onwards post-date the Inquiry Event for Heyford Park. They could not be addressed in oral evidence. I note also that the issue of deliverable supply and the requirement against which this was to be assessed were considered under the Round Table format. While the Round Table is not referenced, and my details are not included upon the Decision Letter, I confirm that session took place, and I was present for it.
- 1.14 In contrast to the Heyford Park Inquiry there remain other outstanding cases where the Decision is awaited where the Inquiry Event occurred post-December 2023 (Appeal Ref. APP/C3105/W/23/3331122 - Land South of Green Lane, Chesterton). For this case, evidence was subject to formal presentation and cross-Examination.
- 1.15 I note at the outset that the following points are absent from the conclusions in the Heyford Park Decision Letter:
  - a. Any express reference to paragraph 77 of the NPPF(Dec)2023 for the purposes of decision-taking
  - b. Confirmation of any relevant adopted strategic policies (and their application) relevant to the resultant conclusion for the requirement against which supply is assessed for the purposes of the Decision Letter. Specifically, this includes no express reference to Policies PR12a and PR1 of the Cherwell Local Plan Partial Review.
  - c. Confirmation of the specific numerical requirement against which supply is to be assessed for the purposes of NPPF(Dec)2023 paragraph 77 and what this comprises.
- 1.16 The Council will provide further submissions on this point, and I have prepared this Supplemental Rebuttal Proof of Evidence without prejudice to my further input to considering the Decision Letter as an ongoing process. Notwithstanding, I further confirm that ahead of the Inquiry Event for this Appeal there is no change to my evidence, or the case on behalf of the Council, in relation to the **requirement against which supply is to be assessed** as set out in the evidence exchanged previously.
- 1.17 For the purposes of the Decision Letter:
  - a. Paragraph 71 of the Decision Letter refers to Paragraph 67 of the NPPF(Dec)2023, which is also referred to in **Paragraph 7.27 – 7.28** of the Appellant’s Updated Proof of Evidence (CD/G.19). Paragraph 4.7 – 4.11 of my Supplemental Proof of Evidence also deal with this paragraph (CD/G.21).
  - b. Paragraph 72 of the Decision Letter comprises a reference to paragraph NPPG ID:

68-055, which is also referred to in the Appellant's Updated Proof of Evidence at **Paragraph 7.37**

- c. Paragraph 70 of the Decision Letter addresses the contents of the previous 2012 version of the NPPF. This is referred to in **Paragraph 7.28** of the Appellant's Updated Proof of Evidence and Paragraph 4.5 of my own Supplemental Proof of Evidence.

- 1.18 In light of the Heyford Park Decision Letter, which the Council does not accept as correct or definitive for the purposes of the requirement against which supply is to be assessed, I have prepared this Supplemental Rebuttal Proof of Evidence. This expands upon my response to the Appellant's case on these points and is relevant to the response to the Heyford Park DL.
- 1.19 As at the time of preparing this Supplemental Rebuttal there remains no completed Topic Statement of Common Ground addressing Housing Land Supply and Requirement matters. I provide very limited updates to the **assessment of specific deliverable sites** likely to be in dispute that were discussed at the Chesterton Inquiry.
- 1.20 Positive discussions are continuing between the Council and Appellant regarding completion of an HLS Topic SoCG following the Heyford Park DL being issued. The Council's position is that this should match the format used in other cases, and that its case will be unchanged ahead of the commencement of the Inquiry Event for this Appeal.
- 1.21 I confirm that this Supplemental Rebuttal evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I also confirm that the opinions expressed are my true and professional opinions.

<b>Signed</b>	
<b>Name</b>	Jon Goodall MA (Cantab) MSc MRTPI
<b>Position</b>	Director
<b>Date</b>	6 March 2024

## **2.0 SUPPLEMENTARY REBUTTAL POINTS – THE RELEVANCE OF CHANGES TO NATIONAL PLANNING POLICY IN THE DECEMBER 2023 NPPF TO THE REQUIREMENT AGAINST WHICH SUPPLY IS TO BE ASSESSED**

2.1 Before expanding upon the response to points covered by my Supplemental Proof of Evidence I reiterate my position that the application of paragraph 77 of the NPPF(Dec)2023 is relevant for decision-taking and identification of the requirement against which supply is to be assessed. Both the Appellant's case, and any acceptance of the conclusions of the Heyford Park Decision Letter, relies upon a change in the interpretation of paragraph 77 of the NPPF(Dec)2023. Within that context:

- a. Paragraph 77 of the NPPF(Dec)2023 is unchanged following the December 2023 NPPF.
- b. The Appellant's case (and Paragraph 71 of the Heyford Park DL) relies upon changes to Paragraph 67 of the Framework, which relates to plan-making. In practice this imports wording already extant in the PPG at 2a-010 and read as a whole paragraph 67 outlines the role of adopted strategic policies (plural) to determine the requirement(s) to assess supply.
- c. The change in circumstances relied upon at Paragraph 72 of the Heyford Park DL and the resultant introduction of PPG ID: 68-055-20240205 stems from a separate issue over the period over which supply is to be assessed in some circumstances from December 2023.

2.2 It is my view that had the Government sought to fundamentally change and restrict the scope of national policy to prescribe how the requirement against which supply is to be assessed using a singular figure, for an individual authority, it would have addressed this through changes to Paragraph 77 of the NPPF(Dec)2023. Any changes to the PPG would have been clear in the role to address this point. My view is that the Government would not seek to import such a fundamental point while clarifying a separate dispute relating to the **period over which supply is to be assessed** following changes to paragraph 226 of the NPPF(Dec)2023.

2.3 It is therefore also relevant to note:

- a. The Heyford Park Decision Letter provides no reasons to indicate that the Council's position was incorrect with respect of the requirement against which supply was to be assessed before December 2023.
- b. The Heyford Park Decision Letter does not indicate that the LPA's approach to preparation of its adopted strategic policies was not a permissive one. There is no conflict identified with how these specific adopted strategic policies are intended to operate on the Council's case, including with respect of the paragraph 11(d) and footnote 8 of the NPPF(Dec)2023. This is important because the Council's case still relies on a position tested at Examination (via the policies of the Partial Review). The conclusions of the Heyford Park DL (while not actually specifying what the requirement is used to assess supply) cannot be stated to be an approach tested as part of plan-making.
- c. The change in circumstances relied upon for the conclusion of the Heyford Park DL draws no support from the Housing Delivery Test.
- d. Paragraph 70 of the Heyford Park DL represents a suggestion that circumstances had already changed following adoption of the Partial Review under the NPPF2012 Framework. This is not relied upon for the actual conclusions based on the NPPF(Dec)2023 and moreover if it was correct it would equally have applied to the



Deddington and Milcombe Decisions that the Inspector distances herself from in paragraph 74. Specifically, the change in circumstances relied upon is the publication of the Revised Framework and associated PPG.

- 2.4 Having set out these points, within the remainder of this Supplemental Rebuttal Proof of Evidence I address:
- a. Changes to Planning Practice Guidance
  - b. The Relevance of Paragraph 67 of the NPPF(Dec)2023
  - c. The Relevance of changes since the 2012 version of the Framework and their relationship with plan-making.
  - d. Relationship of this Rebuttal With Oxford's Unmet Needs and the Partial Review



**a) Changes to Planning Practice Guidance**

2.5 The changes to Chapter 68 of the PPG 'Housing Supply and Delivery' need to be read together and applied consistently with the provisions of the NPPF for decision-taking. While changes were introduced most recently in February 2024 the majority of the chapter was fundamentally unchanged.

2.6 Of principal importance this includes PPG ID: 68-006 set out in full below:

***Which strategic housing policies are used to calculate the 5 year housing land supply where there is more than one strategic housing requirement policy for an area?***

*"Where there is a conflict between adopted strategic housing requirement policies (for example if a new spatial development strategy supersedes an adopted local plan), the most recently adopted policies will need to be used for the purposes of calculating 5 year housing land supply, in accordance with Section 38 (5) of the Planning and Compulsory Purchase Act 2004."*

Paragraph: 006 Reference ID: 68-006-20190722

2.7 This confirms that more than one strategic policy may apply, and more than one housing requirement may be relevant for the assessment of a five year supply calculation. The existence of this element of the PPG is not addressed in the Appellant's Updated Proof of Evidence.

2.8 As I set out in my earlier evidence this is important (see 5.20 of my main Proof of Evidence) this is entirely consistent with the content of the Regulations where separate adopted strategic policies are expected to have separate provisions for monitoring. There is no dispute between the parties that the Partial Review contains separate adopted strategic policies (see CD/H.9).

2.9 This is also relevant because the Appellant's Updated Proof of Evidence also in my view does not grapple with Paragraph 76 of the NPPF(Dec)2023 in terms of whether the development plan for Cherwell is to be considered as a single Local Plan or provides for separate adopted strategic policies across two documents in terms of the management of need and supply. This has implications for potentially applying land supply protections in future and is dealt with in my Supplemental Proof of Evidence at Paragraphs 4.15 to 4.17. The Partial Review is listed separately in terms of Plans containing strategic policies within Planning Inspectorate Guidance (CD/H.9).

2.10 PPG ID: 68-055-20240205 is central to the Appellant's case in respect of changes to policy and guidance and central to the conclusions of the Heyford Park DL at paragraph 72. It is relevant to set this out in full:

***What housing land supply does a local planning authority need to demonstrate for the purposes of decision making?***

***The criteria for housing land supply requirements for decision-making purposes are set out in paragraphs 76, 77 and 226 of the National Planning Policy Framework.***

*Paragraph 76 sets out the criteria under which an authority is not required to annually demonstrate a housing land supply for decision making. If an authority does not meet the criteria in paragraph 76, paragraph 77 sets out the housing land supply of specific deliverable sites that authorities should demonstrate **for decision-making against either their requirement figure or LHN as appropriate.***

*Paragraph 226 sets out criteria where, for a period of two years from the date of publication of the National Planning Policy Framework published on 19 December,*

*an authority only needs, for the purposes of decision-making, 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) **against either its housing requirement figure or LHN as appropriate.***

*The glossary of the National Planning Policy Framework defines what can be counted as a deliverable site for these purposes - those that are available now, offer a suitable location for development now, and those that will be achievable with a realistic prospect that housing will be delivered on the site within five years. Both the 5 year housing land supply and the 4 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, including the appropriate buffer.***

Paragraph: 055 Reference ID: 68-055-20240205 (my emphasis)

- 2.11 For the following reasons PPG 68-055 clearly needs to be read in-full in terms of its application for decision-taking:
- a. Paragraph 77 is referred to as providing relevant criteria for the requirement against which supply is to be assessed.
  - b. The paragraph specifies that decision-taking may be undertaken against **either** their requirement figure **or** LHN as appropriate – this element of the PPG makes no provision for whether the requirement to assess supply could be comprised of components including both local housing need and elements of separate adopted strategic policies.
  - c. The final paragraph deals only with clarification of circumstances where the extent of supply to be demonstrated is to be measured against four years' worth of provision. The final sentence makes no reference to LHN, despite this potentially forming the requirement against which supply is to be assessed. The final sentence, read with 68-055 as a whole (or indeed reading the PPG and NPPF as a whole) cannot in any way be taken as definitive in terms of applying the criteria under paragraph 77 of the Framework and prescribing the particular format for a requirement.
- 2.12 More generally the Appellant points to various other PPG references they claim support a singular requirement. I disagree that these references are determinative or in any way change the application of paragraph 77 for the purposes of decision-taking. For example, PPG ID: 68-002 refers to '**a** housing requirement set out in adopted strategic policies, **or** against a local housing need figure'. The correct interpretation of this language is that more than one housing requirement may apply.
- 2.13 The PPG is replete with references to the role of adopted strategic policies (plural) where relevant to the identification of the requirement against which supply is to be assessed. This definition can only be applied within the context of the criteria provided at paragraph 77 of the NPPF(Dec)2023. This expressly does not require a single requirement to assess supply or for the calculation to be undertaken covering the whole boundary of a strategic policy-making authority.

**b) NPPF(Dec)2023 Paragraph 67**

- 2.14 I do not make detailed Rebuttal submissions on this point and direct the Inspector to my existing evidence including Paragraph 4.7 to 4.11 of my Supplemental Proof of Evidence (CD/G.21). Given the reference to paragraph 67 within the Appellant's Updated Proof of Evidence and Paragraph 71 of the Heyford Park DL it is relevant to set this out in full.

*“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 allocations. 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.”*

- 2.15 Highlighted is the new wording to the NPPF in comparison to the previous 2019 version of the NPPF. At Paragraph 71 of the Heyford Park Decision Letter this sets out the first sentence of Paragraph 67 but does not outline the remainder of the Paragraph, which should be read as whole. This includes the reference to strategic policies (indicating that there may be more than one policy on housing land supply).
- 2.16 I reiterate that these changes relate to the plan-making process, to be considered following the changes to the NPPF in December 2023. I note that the Appellant's Updated Proof of Evidence at Paragraphs 7.29 and 7.30 does note the relationship between Paragraph 67 of the revised Framework and PPG ID: 2a-010.
- 2.17 Chapter 2a of the PPG addresses plan-making and determining the level of need *to be planned for* (ID: 2a-001-20190220). The title of PPG ID: 2a-010 specifically reads “*When might it be appropriate to **plan** for a higher housing need figure than **the standard method** indicates?*”
- 2.18 Two points follow from this:
- a. The relevant component of the PPG incorporated into paragraph 67 specifically relates to *plan-making*.
  - b. The express reference to the standard method illustrates that the provisions of this paragraph are to be considered only in the context of needs identified by the standard method and not an evaluation of existing adopted development plans and the approach to requirements in existing adopted strategic policies.

### c) Relevance of Changes Since the 2012 Framework and Relationship to Plan-Making

- 2.19 This section should be read in the context that the language of paragraph 77 of the NPPF(Dec)2023 has not changed.
- 2.20 I have highlight that in respect of Paragraph 70 of the Heyford Park Decision Letter changes since the 2012 version of the NPPF cannot be relied upon as determinative to the Inspector's reasoning that the requirement against which supply is to be assessed has altered.
- 2.21 It is factually correct that the NPPF2012 and NPPF2018 did lead to changes in wording that reflect how we now read paragraph 77 (as was 74) and paragraph 47 of the NPPF2012.
- 2.22 Paragraph 47 of the (archived) 2012 version of the Framework explained that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their "housing requirements" (plural). Paragraph 77 refers to requirement in the singular (and as suggested by the Appellant this follows the reference to requirement in the singular at the start of paragraph 67).
- 2.23 The Council's case relies upon the wording of paragraph 77 of the NPPF(Dec)2023 and specifically its reference to adopted strategic policies in the plural. This is a point not addressed by the Inspector in the Heyford Park Decision Letter.
- 2.24 In other words, notwithstanding the changes between the 2012 and 2018 versions of the Framework and notwithstanding no further change in 2023 there remains nothing in paragraph 77 that expressly says a single figure, single policy or single requirement for the authority must be used as the requirement to assess supply. The reference remains to adopted strategic policies, in the plural, together with circumstances where local housing need applies.
- 2.25 The Heyford Park Decision Letter also does not address this nor the need for consistency with other Appeal Decisions that were Core Documents for that Inquiry and that are also before this Appeal.
- 2.26 For example, paragraph 42 of PINS Ref: 3289643 (Leigh Sinton) states (CD/M.21):
- "I have been presented with references to the specific wording used of 'local planning authorities', 'authority' and 'their', suggesting that this makes it clear that this indicates that individual authorities are required to monitor their housing land supply. However, I do not read the Framework in this context. It does not specifically refer to 'each individual authority' and therefore I cannot conclude that this was the intention behind the wording in this instance."*
- 2.27 Without any express change to the wording of paragraph 77 of the NPPF(Dec)2023 the Council's case is that this principle remains correct. It is a principle not only of relevance to Cherwell but in the circumstances of other plan-making outcomes where specific approaches to managing need and supply are identified.
- 2.28 For example, there is a separate body of Appeals in West Northamptonshire that have dealt with this point and reached a similar conclusions. I summarise as follows and will expand on these matters as required during the Round Table:
- **Appeal Ref: APP/Z2830/W/21/3269904 Land East of Lower Road, Milton Malsor, Northamptonshire** see DL Paragraphs 36 – 41 (copy at Rebuttal Appendix 1)  
 Specifically, I would highlight DL Paragraph 39 *"There is nothing in paragraph 74 of the NPPF that requires use of a single administrative area in calculating the housing land supply. The NPPF encourages cross boundary working and co-operation and the JCS seeks specifically to address housing delivery in Northampton through the NRDA."*
  - **Appeal Ref: APP/Z2830/W/20/3259839 Land south of Thenford Road, Middleton**

**Cheney OX17 2NB** see DL Paragraphs 56-62 (copy at Rebuttal Appendix 2)

Specifically, I would highlight DL Paragraph 61 *“Furthermore, the Framework at paragraph 26 encourages cross boundary working and co-operation. The JCS has been prepared to address, in part, the very specific issue of Northampton being unable to meet its own housing needs within its administrative boundary which has been an ongoing issue for a lengthy period. To then monitor housing supply figures on administrative areas would run counter to the objectives of the JCS.”*

- **Appeal Ref: APP/Z2830/W/21/3270614 Land off Northampton Road, Blisworth, West Northamptonshire** see DL Paragraphs 13 - 24 (copy at Rebuttal Appendix 3)

Specifically, I would highlight DL Paragraph 16 *“Although there are differences between the Council’s approach, the Framework and Guidance its strategic approach forms part of its adopted policy. In contrast the Framework is a material consideration, albeit an important one. However, the Framework does not carry the same weight as the policies included in the WNJCS.”*

- 2.29 These principles remain consistent with the Council’s case for precluding conflating need and supply through the implementation of the separate adopted strategic policies of the Partial Review. The approach to addressing unmet need, and how this is addressed through adopted strategic policies, is fundamentally an outcome of the plan-making process.



#### **d) Relationship of this Rebuttal With Oxford's Unmet Needs and the Partial Review**

- 2.30 With respect of Paragraph 70 of the Heyford Park Decision Letter I consider that it is incorrect that the outcome of the Partial Review can be interpreted as an outcome of plan-making where the approach to and effectiveness of separate strategic policies was considered only against the requirements of the NPPF2012.
- 2.31 While that is strictly correct as a matter of transitional arrangements for the purposes of its Examination the Inspector was clearly aware of the requirements of the 2018 version of the Framework. For example, paragraphs 132 and 158 of the Inspector's Report address the definition of affordable housing under the 'current' (2019) version of the Framework (CD/I.3).
- 2.32 Beyond this the Heyford Park Decision Letter makes no express reference to separate adopted strategic policies PR12a and PR1 of the Partial Review nor more widely the relevance of the process for preparation and adoption of that Plan. This context is also absent from the Appellant's assessment of implementation of the Partial Review, including Paragraph 7.72 of Mr Pycroft's Updated Proof of Evidence (CD/G.19).
- 2.33 The original allocation of the PR sites (as set out in the sustainability appraisal of the Partial Review) was to provide new residential development that included:
1. Proximity to Oxford, the existing availability of public transport and the opportunity to maximise the use of sustainable and affordable transport in accessing Oxford's key employment areas and services and facilities.
  2. Opportunity to achieve an overall, proportionate reduction in reliance on the private motor vehicle in accessing Oxford's key employment areas and services and facilities and to achieve further investment in sustainable transport infrastructure.
  3. Deliverability of sustainable transport improvements in comparison to other Areas of Search.
  4. Relationship of existing communities to Oxford.
  5. Existing economic relationship between the Areas of Search and Oxford
  6. Opportunity to provide affordable homes to meet Oxford's identified need close to the source of that need.
- 2.34 The Inspector at the Heyford appeal makes no assessment of this matter in the decision to amalgamate housing land supply or the exceptional circumstances that were required as part of the Development Plan preparation.
- 2.35 The Partial Review is less than five years old. This matter is also not discussed by the Inspector within the Heyford Park Decision Letter.
- 2.36 In respect of the Partial Review becoming more than five-years old Para 74 of the NPPF(Dec)2023 states –
- "The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns..."*
- 2.37 As set out in Regulations, for dwellings, a large scale major development is one where the number of residential units to be constructed is 200 or more. The Partial Review makes provision as follows:
- PR6a – 690\*
  - PR6b – 670\*
  - PR7a – 466 (by the resolution to grant) – Allocation 430

- PR7b – 123 (by the resolution to grant) – Allocation 120\*.
  - PR8 – 2100 (in the submissions) – Allocation 1950
  - PR9 – 540 (both the application and allocation)
- 2.38 The allocations of PR6a and PR6b together with PR7a and PR7b are considered to have intimate relationships to each other and fall under the same heading and policy justification.
- 2.39 The PR Sites are in and around Kidlington which has a population of c.13723 (2011 Census) so 4,400 houses would be a significant extension to Kidlington as shown on the Adopted Policies Map (Appendix 1 of the Partial Review).
- 2.40 Further Appendix 4 outlines the level of infrastructure expected to be delivered and how it will be secured (funding and s106s). This complies with Para 74 –
- Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way. In doing so, they should:*
- a) consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains.....*
- 2.41 The Partial Review was subject to Challenge, and the County Council wanted to review the Transport Model and therefore did not remove a highways objection until mid-2023, so the resolutions to grant and progress has been made in a quick and efficient manner.
- 2.42 It is noted that Footnote 39 of the NPPF(Dec)2023 follows *“The delivery of large scale developments may need to extend beyond an individual plan period, and the associated infrastructure requirements may not be capable of being identified fully at the outset. Anticipated rates of delivery and infrastructure requirements should, therefore, be kept under review and reflected as policies are updated”*.
- 2.43 Preparation of plans or policies and decision making are common phrases in a number of paras of the NPPF. The NPPF and Government is therefore setting out the expectation of where large-scale developments should be re-assessed.
- 2.44 Therefore, if the point of the non-delivery of the Partial Review sites is an issue, then this would be dealt with through the Local Plan Review and Reg 19 stage for more certainty. The NPPF tells us it is not a matter for any s78 Appeal to address this assessment.



### **3.0 THE ASSESSMENT OF DELIVERABLE SUPPLY**

- 3.1 Table 1 below contains minor updates to the progress with the assessment of deliverable supply likely to be in dispute. This should be read together with Table 17 of my Supplemental Proof of Evidence (CD/G.21).
- 3.2 As an overarching point I understand as part of discussions on the HLS Topic SoCG the Appellant intends to contest 1,224 units of the Council's assessment of deliverable sites (excluding sites identified against the separate adopted strategic Policies of the Partial Review). This would indicate that the Appellant's assessment of deliverable supply would total 2,814 units for the five-year period.
- 3.3 This should be considered in the context of Section 6 of my Supplemental Proof of Evidence, include Table 11 and details of 1,089 units underway on sites where development has already commenced.
- 3.4 The Council's case notes that the Appellant's forecast supply of 2,814 units would correspond to only 45% of supply delivered in Cherwell for the period 2018/19 to 2022/23 (6,346 units). In year five of the five-year period the Appellant's position would correspond to only 263 completions based on my understanding of disputed sites. This would represent only around 20% of the 2018-2023 five-year average of 1,270 units.

**Table 1. Potentially Disputed Sites**

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
Land Adjoining Withycombe Farmhouse Stratford Road A422, Drayton *	Land Adjoining Withycombe Farmhouse Stratford Road A422, Drayton	250	50	0	-50	<p>The AMR states:</p> <p>“Outline planning application for a residential development comprising up to 250 dwellings was permitted in February 2023 (22/02102/OUT) subject to the signing of a section 106 agreement which is expected imminently. Developer (Bloor homes) anticipates delivery of homes within the next 5 years and reserve matters application to be submitted imminently. Site is identified in the draft Local Plan Review 2040. Projection is consistent with build rates in Banbury generally in recent years.”</p> <p>Named Housebuilder Bloor Homes</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> <li>S106 agreed and Decision Notice issued 8 January 2024.</li> </ul> <p>Regarding relevant evidence for development timeframes</p> <ul style="list-style-type: none"> <li>Bloor's currently building phase 2 to north from which this site will gain access (see CD/K.20). Intend construction start as early as Q2/Q3 '24, upon completion of 2nd phase.</li> <li>REM application lodged with LPA in October 2023 and validated 8 January 2024 upon issue of Outline PP with cover letter emphasising the developer's objectives of build continuity.</li> <li>3no. Discharge of Conditions Applications submitted January 2024 and pending determination including</li> </ul>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						<p>SW Drainage, Design Code and Phasing Plan (24/00181/DISC, 24/00120/DISC, 24/00121/DISC)</p> <ul style="list-style-type: none"> <li>PPA in place seeking determination by 31 March 2024. due imminently.</li> </ul> <p>Developer submission (Bloor Homes) received on 13 October 2023 (See CD/K.19) confirming delivery within the five years.</p> <p>In their response to the regulation 18 Cherwell Local Plan Review consultation, the developer suggests that the development of the site will commence in the first quarter of 2024 and yield the following completions:</p> <p>2024 – 48 dwellings 2025 – 63 dwellings 2026 – 63 dwellings 2027 – 63 dwellings 2028 – 13 dwellings</p> <p>Local evidence for lead-in timeframes (see Table 15) anticipates first completions October 2026.</p> <p><b><u>The Council updates that the Reserved Matters Application Reference is 23/03139/REM validated 10 January 2024. The Council further confirms that the application is subject to a PPA, with a timetable for determination by end March 2024. Determination of Reserved Matters can be delegated without the need for referral to Planning Committee thus the absence of meetings in the March – June pre-election period is not expected to impact decision-taking. The contents of the OCC consultation response are considered minor in terms of the implications for potential amendments.</u></b></p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
						Table 16 of the Council's AMR confirms the local evidence for build-out rates on the Wretch Hill / Banbury Rise allocated site adjacent to the north.
OS Parcel 3489 Adjoining and South West of B4011, Ambrosden *	OS Parcel 3489 Adjoining and South West of B4011, Ambrosden	75	60	0	-60	<p>The AMR states:</p> <p>"Outline application for 75 homes permitted in February 2023 subject to section 106. With permission granted over 9 months ago, the section 106 is expected to be signed shortly."</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> <li>Decision Notice issued 19 December 2023 granting Outline Planning Permission including provision for Biodiversity Net Gain to be controlled via condition (Condition 23)</li> </ul> <p>Site has been sold to housebuilder (Mulberry Homes) who have contacted the LPA with a view to commencing pre-application discussion on the Reserved Matters.</p> <p><b><u>The Council updates that 24/00066/PREAPP by Mulberry Homes was submitted on 17/1/2024 but was not validated and commenced until 31/1/2024 due to the provision of further information.</u></b></p> <p><b><u>The applicant is Mulberry Homes (who have developed a site in Launton) and the agent has worked on the Kingsmere development so there is a familiarity with the Council's processes and policies. The target response is March 2024 with the expected REM submission in Summer 2024.</u></b></p> <p>Local evidence for lead-in timeframes (see Table 15) anticipates first completions October 2026.</p>

LPA ref:	Address	Capacity (Net)	Council 5YHLS	Appellant 5YHLS	Difference	Indicators of Firm Progress and Clear, Relevant Information in Support of the Council's Assessment
Kidlington Garage, 1 Bicester Road, Kidlington *	Kidlington Garage, 1 Bicester Road, Kidlington	15	15	0	-15	<p>The AMR states:</p> <p>“Application for 15 flats was granted planning permission in March 2023 subject to the signing of a section 106 agreement. Sweetcroft Homes are the developer. This is a full application and expected to be built out well within the five year period.”</p> <p>Progress with completion of S106 planning obligation relevant to the AMR commentary includes:</p> <ul style="list-style-type: none"> <li>Email update provided July 2023 from LPA to Applicant (CD/K.24 refers)</li> <li>The Council received an engrossed version of the s106 agreement on the 3.1.2024 and it is anticipated that planning permission will be granted prior to the end of February 2024 subject to checks via Land Registry</li> <li><b><u>The Council further updates that CDC and the applicant have signed the S106 agreement. Subject to receipt of Land Registry checks and documentation OCC will complete the S106 and the Decision Notice will be issued. This is anticipated imminently.</u></b></li> </ul> <p>Local evidence for lead-in timeframes (see Table 15) anticipates first completions December 2023 (i.e., delivery somewhat beyond typical timescale.</p>

**APPENDIX 1**

**APPEAL REF: APP/Z2830/W/21/3269904 LAND EAST OF LOWER  
ROAD, MILTON MALSOR, NORTHAMPTONSHIRE**



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## Appeal Decision

Inquiry Held on 29 June – 2 July 2021 and 17 - 19 August 2021

Site visit made on 23 August 2021

**by K Ford MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21<sup>st</sup> September 2021**

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**Appeal Ref: APP/Z2830/W/21/3269904**

**Land East of Lower Road, Milton Malsor, Northamptonshire**

- 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 Hollins Strategic Land LLP against the decision of South Northamptonshire District Council, now East Northamptonshire Council.
  - The application Ref S/2020/0599/MAO, dated 9 April 2020, was refused by notice dated 29 October 2020.
  - The development proposed is for the erection of up to 65 no. dwellings with associated works and access at Lower Lane.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development above was taken from the planning application. Whilst it refers to Lower Lane, the access would be located off Lower Road.
3. The planning application was made in outline with all matters reserved for future consideration except for that of access. A Parameters Plan showing indicative landscaping has been submitted for illustrative purposes. I have determined the appeal on this basis.
4. On 1 April 2021 South Northamptonshire Council ceased to exist and became part of West Northamptonshire Council. The administrative changes make no difference to my reasoning or the outcome of this appeal. Where appropriate, I refer to the former South Northamptonshire administrative area to reflect the way in which the evidence to the Inquiry was presented.

### Main Issues

5. The Council confirmed prior to the start of the Inquiry that it no longer planned to defend its third reason for refusal regarding developer contributions towards community services and infrastructure. This was subject to the submission of a signed and executed S106 agreement prior to the end of the Inquiry. This was achieved and so therefore the main issues are:
  - Whether the scale and location of development would be acceptable for housing development, having regard to the spatial strategy in the development plan.



- The effect of the proposal on the character and appearance of the area.
- Whether the Council can demonstrate a 5 year housing land supply.

## **Reasons**

### ***Acceptability of Location***

6. The West Northamptonshire Joint Core Strategy (JCS) covering what were the administrative areas of Daventry District Council, Northampton Borough Council and South Northamptonshire Council was adopted in 2014. The JCS identifies an area known as the Northampton Related Development Area (NRDA) to assist the Northampton Borough Council administrative area in meeting its housing needs. As part of this there is a clear spatial strategy to focus housing development in urban areas. This is to encourage sustainable development that minimises the need to travel for environmental and social benefits. Development in rural areas is limited to that required to meet local needs and support local services. There is a tiered approach to development with rural areas located at the bottom of a hierarchy.
7. The strategy of the Plan is reflected in Policy R1 of the JCS. For the rural area of South Northamptonshire, Policy R1 identifies a need for 2,360 dwellings 2011-2029. It identifies that the distribution will be subject to the rural settlement hierarchy of the South Northamptonshire Part 2 Local Plan (LPP2) and that development, amongst other things is required to be within the existing confines of the village. Development outside of existing confines would only be permitted in certain circumstances. Similarly, once the housing requirement for the rural areas has been met further development is only permitted where certain criteria are achieved.
8. Milton Malsor is located in the rural area and the appeal site is outside the settlement confines of the village. Furthermore, it does not meet any of the exceptions identified within the provisions of Policy R1 of the JCS. As the housing requirement for the rural areas has been met, the appellant accepts that the scheme does not accord with Policy R1 of the JCS.
9. There is dispute between the parties as to whether the scheme would conflict with Policy S1 of the JCS. Policy S1 states new development will be concentrated primarily in and adjoining the principal urban area of Northampton (including the NRDA) followed by Daventry and then the rural service centres of Towcester and Brackley with limited development in rural areas. The supporting text confirms that development in the rural areas is limited to providing for local needs and to support local services. This is consistent with Policy R1 of the JCS and so conflict with Policy R1 is also a conflict with Policy S1, irrespective of the absence of any housing numbers in Policy S1.
10. I do not consider that the provisions of Policy S1(a) of the JCS, or Policy LH1(2) of the LPP2 which allows development adjoining the NRDA to contribute towards the growth of the NRDA to undermine the strategy or be inconsistent with the Council's stance on the matter. This is because the circumstances where it would apply are clearly defined. The site may be some 350m from the NRDA and therefore closer than some settlements higher up the settlement hierarchy but this distance is as the crow flies. Proximity to Northampton formed part of the considerations in identifying Milton Malsor's position within

the settlement hierarchy. The appeal site does not meet the criteria to be deemed development that would contribute to the NRDA.

11. With regards LPP2, Policy SS1 identifies that new development will be directed to the most sustainable locations in accordance with their scale, role and function unless otherwise indicated in the Local Plan. Areas outside development confines are classified as open countryside and housing development outside settlement confines is only supported where it would comply with identified policies or is development related to the NRDA.
12. Milton Malsor is a secondary village (b) settlement in the LPP2. As such it is third in the settlement hierarchy overall but within the secondary village category it is lower than settlements categorised secondary village (a) which are considered likely to be more suitable for limited development. As the site is located outside the settlement confines it is located within open countryside in policy terms. The scheme would not comply with any of the scenarios in which development outside of the settlement confines would be acceptable. The proposal would therefore conflict with the relevant parts of Policy SS1 of LPP2. Similarly, Policy LH1 of LPP2 says development outside settlement boundaries will not be acceptable unless it complies with certain exceptions. None of them apply to the appeal site.
13. As a secondary village (b) Milton Malsor is at the lower end of the settlement hierarchy. This is reflected by the limited number of services and facilities I witnessed on my site visit. Within walking distance of the site there is a small convenience store, pub, primary school, 2 churches, village hall, park and playing fields. I accept that there would be a range of day to day facilities as identified in an appeal cited by the appellant in support of their case<sup>1</sup>. However, for the size of development proposed there are a number of notable exceptions that would not fully meet day to day needs such as a nursery, secondary school, post office and GP surgery.
14. During the Inquiry much was made by the appellant of the new Northampton Gateway Strategic Rail Freight Interchange site (SRFI) which will generate a significant number of jobs within walking distance of the site. The site may provide job opportunities for the local workforce but it is by no means guaranteed that they would be the occupants of the proposed scheme. There is nothing that would specifically tie the 2 developments together to ensure this.
15. The proximity of Milton Malsor to employment opportunities is already recognised in the settlement's position within the settlement hierarchy. There is little to indicate that the presence of the SRFI would do anything to address the shortcomings of the services and facilities which generated the settlement's position in the settlement hierarchy and therefore make the location more sustainable. There is therefore little to indicate that the SRFI would necessarily alter the role or function of Milton Malsor.
16. I note the proximity of bus stops to the site but consider their frequency, even following a return to pre-covid timetabling, would discourage some people from using the service, particularly as the service does not run late into the evening. Whilst I do not consider a 17 minute total travel time for secondary school pupils using the bus to be unreasonable, the fact that the bus does not take children directly to the school may also dissuade patronage.

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<sup>1</sup> APP/Z2830/W/20/3264294

17. I do not consider it to be an acceptable route for school children to cycle. The route may be flat but the cycle lane does not run the full length of Towcester Road. The road has a 60mph speed limit and so vehicles will be travelling at speed and the road is unlit. The presence of a footpath may create a character where vehicular and non-vehicular traffic can be expected, as suggested by the appellant. However, I am not convinced that the conditions would moderate motorist behaviour to the extent that either pedestrians or cyclists would feel particularly safe travelling along the route, especially at night. The fact that there are dedicated cycle facilities closer to Northampton providing some expectation of cycle usage does not alter my view. I consider that a significant proportion of inhabitants would choose to travel by car. The appellant says that car ownership in Milton Malsor is lower than elsewhere in South Northamptonshire but no substantive evidence was presented on the reasons for this which limits the weight I attach to it.
18. Irrespective of whether the scheme would constitute major development in planning terms, the scale of the development would be large in the context of Milton Malsor and would not be limited, as proposed by the appellant. The development would be a significant addition to the edge of the settlement in the context of the size of the village and the scale of services and facilities serving it.
19. The appellant says the development would only constitute 2.75% of the requirement for the rural areas and therefore would not prejudice the urban focused strategy. This does not make the development acceptable. Similarly, my view is not altered by the planned SRFI which I do not consider to be part of the settlement. It is a standalone scheme, detached from the settlement edge, unlike the proposal.
20. In summary, there is agreement between the parties that the location of the site outside of the settlement confines and the absence of compliance with any of the identified exceptions means that there is conflict with the development plan strategy and the strategy that underpins it. The proposal would conflict with Policies R1 and S1 of the JCS and Policies SS1 and LH1 of LPP2.

### ***Character and Appearance***

21. The approximately 5.1ha rectilinear appeal site is located on the edge of Milton Malsor, off Lower Road. Largely featureless, the site rises slightly above Lower Road due to its gently sloping topography. Opposite the site and separated by Lower Road is residential development. To the south the site abuts the rear gardens of residential properties on Stockwell Road. The eastern boundary is marked by a railway line beyond which are agricultural fields and to the north there are also fields. The absence of development on the site means that it shares the characteristics of the fields to the north and east beyond the railway line rather than the built form of the settlement to the south and west. The openness of the site and the land beyond it to the north and east means that I do not share the view of the appellant that the site is characterised by a sense of containment.
22. Residential development may be visible in some views of the site but it is distinct from it rather than part of it. Much of the urbanising features along Lower Road are contained to the side of the road where there is built development. The location of the site adjacent to the main road into the settlement and close to the crossroads between Lower Road, Stockwell Road

and High Street means it is prominent in views into and out of the settlement even if those views are not long distance.

23. The site is notable in marking the transition between the built form of the settlement and countryside beyond, forming part of the countryside setting of Milton Malsor. It is therefore significant in a local context. Indeed, the Inspector found the settlement confines defined in LPP2 to be grounded on a clear and compelling rationale and are therefore justified.
24. The site lies outside Milton Malsor Conservation Area. There has been no suggestion that the development would harm the setting of the Conservation Area or its heritage significance. From my observations on site I have no reason to take a different view given the distance of the site from the Conservation Area boundary.
25. In the Current Landscape Character Assessment (LCA) the site falls within Landscape Character 13: Undulating Hills and Valleys and more specifically LCT13b: Bugbrook and Daventry. The site does not demonstrate all of the features of the LCA type but nevertheless is part of, and contributes to an extensive wider undulating and productive landscape which has mixed farming characteristics where there is a predominance of improved pastures surrounding settlements. In this case the site is adjacent to the clustered settlement of Milton Malsor.
26. The current landscape value of the site may not be considered important at a district level or above. However, it still makes a contribution to the rural character of the village and as such has some significance in a local context irrespective of it not being designated as a valued landscape. The site is not identified in the Conservation Area Appraisal and therefore not considered to be of special architectural or historic interest in the same way as green spaces in Collingtree Road and Rectory Road. This does not mean it has no significance in a local context.
27. It is common ground between the parties that the proposed development would cause landscape and visual harm. However, there is dispute regarding the extent of the harm.
28. Whilst I acknowledge that the site has medium sensitivity given its location, features and surroundings, I disagree with the findings of the Landscape Visual Impact Assessment (LVIA) that the impact on landscape character would be slight 15 years after the development. I do not consider that the scheme would lead to little change in the key characteristics of the landscape character, as suggested by the LVIA.
29. The scheme would lead to housing development in what is currently open countryside, extending the built form in Milton Malsor in a north east direction. The development would have an urbanising effect from the built form, supporting infrastructure and associated domestic paraphernalia. Restricting building heights to match existing dwellings on Stockwell Road and Lower Road and not extending the building line beyond Stockwell Road to the east would do little to minimise the impact.
30. Similarly, the proposed landscaping and open space would only go some way to mitigating the impact. Over 50% of the site may be dedicated to green space but there would still be a net loss of open space and the character of the

existing site would be harmed as a result. Reference was made to an increase of trees on the site of around 65%. Whilst this and the proposed hedgerow planting would soften the edge of the settlement this could be achieved irrespective of development. In any event, the existing boundary made of gardens, fencing and mature trees of properties on Stockwell Road are clear and defensible.

31. The visual effects of the scheme cannot be considered minor, even after allowing time for the vegetation to mature. Views from along the length of Lower Road would be prominent, even if localised given the size and scale of the development in that locality. The full breath of the scheme would be visible in viewpoints on Lower Road. I am of the view that the impact on the landscape character and appearance would be moderate as a consequence.
32. Irrespective of the differing opinions and dispute between the parties regarding what was said in cross examination, based on the evidence before me and my observations on my site visit, I am of the view that the scheme would harm the character and appearance of the area. It would therefore conflict with Policy R1 of the JCS which among other things requires residential development in rural areas to not affect open land that is of particular significance to the form and character of the village. It would also conflict with Policy SS2 of the LPP2 which requires new development to maintain the individual identity of villages and their distinct parts and does not result in the unacceptable loss of undeveloped land and locally important views of particular significance to the form and character of a settlement. There would also be conflict with the National Planning Policy Framework (NPPF) which recognises the intrinsic character and beauty of the countryside and seeks to ensure development contributes to and enhances the natural environment.

### ***5 Year Housing Land Supply***

33. The JCS covers the former 3 administrative areas of Northampton, Daventry and South Northamptonshire. It sets out a scale and distribution of housing development across the 3 areas, including an area identified as the NRDA. The NRDA covers all of Northampton Borough Council area and part of Daventry District Council and South Northamptonshire Council areas.
34. The JCS takes a plan area approach which underpins the strategy. It directs development to the most sustainable location of Northampton, supported by Daventry, Towcester and Brackley in their role as rural service centres. Development in rural areas is limited to providing for local needs and supporting local services. The same strategy is adopted in the LPP2 which covers the previous administrative area of South Northamptonshire, including that within the NRDA.
35. The NRDA is monitored separately to South Northamptonshire with housing land supply falling notably short of the 5 year housing land supply requirement at 2.75 years. The Council claim a housing land supply of 6.32 years within the South Northamptonshire area, excluding the NRDA. The appellant disputes this figure and the way the Council has calculated the 5 year housing land supply, suggesting that there is a 2.31-2.32 year housing land supply.



### *Requirement*

36. The JCS was adopted in 2014 and therefore is more than 5 years old. However, a review has been undertaken of the policies in accordance with paragraph 33 of the NPPF. The review identified that Policies S1, S3, S4 and S6 were up to date and that in the interim, whilst a review of the JCS takes place, the figures in S3 should continue to be used for the purpose of calculating the 5 year housing supply rather than the LHN figure which would otherwise be required under the provisions of the NPPF. This is because the residual housing requirement in the JCS was higher than the LHN figure and therefore aligns with the NPPF objective of boosting housing supply. The JCS requires updating to extend its timescale, to plan for more growth during that extended timeframe and to address under delivery in the NRDA. In the interim though Policy S3 is deemed fit for purpose.
37. Taking a plan area approach the Council is of the view that the South Northamptonshire figure should exclude the NRDA. The appellant disagrees stating that there is nothing in the JCS to indicate that this is the approach that should be taken. There is nothing that 'sets out' a figure of 7,170 and so they argue that to be consistent with paragraph 74 of the NPPF a figure of 11,020 should be used which is based on administrative boundaries. I disagree.
38. The JCS sets out a clear spatial strategy for development. Reading the Plan as a whole, it is evident that Policies S3 and S4 set a requirement with reference to plan areas. As such the requirement for South Northamptonshire excluding the NRDA is 7,170 comprising Brackley 2,160, Towcester 2,650 and the rural areas 2,360. The appellant says the Policy review did not contemplate the 7,170 figure. However, the review was done in the context of an under delivery in the NRDA and this did not change the outcome.
39. The Plan has a clear spatial strategy for development that is set out in the strategic policies. There is nothing in paragraph 74 of the NPPF that requires use of a single administrative area in calculating the housing land supply. The NPPF encourages cross boundary working and co-operation and the JCS seeks specifically to address housing delivery in Northampton through the NRDA. The JCS Inspector identified that 'it is considered desirable and acceptable in principle that the NRDA is taken as one joint area for the assessment of new housing delivery'. There has been no change in the way housing land supply is calculated since the JCS was adopted. In the intervening period whilst a review of the JCS is undertaken the approach has been deemed fit for purpose.
40. The appellant says the Council's case is undermined by the fact that the housing delivery test (HDT) cannot be assessed on a plan area basis. However, the HDT is distinct from the calculation for housing land supply with the housing delivery test looking backwards and housing land supply looking forward. I therefore give this argument little weight. In any event, it was agreed between the parties that all 3 Councils which now comprise West Northamptonshire passed the Housing Delivery Test and so a 5% buffer is applied.
41. My attention has been drawn to a number of appeal decisions, one of which takes a different stance to the one I have taken on whether the NRDA should be included. In the Rothersthorpe case<sup>2</sup> there is little detailed discussion on the

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<sup>2</sup> APP/Z2830/W/18/3206346

matter. Whilst I agree that brevity does not undermine quality I have little evidence to enable direct comparisons between that case and the one before me, and little to substantiate the appellant's claim that the evidence presented at Rothersthorpe was consistent with the evidence in this case. Irrespective of the consistency of my findings with other appeals, as things stand I am of the view that the NRDA should not be included in the requirement figure based on the evidence before me.

#### *Stepped v Annualised Approach*

42. In line with the Middleton Cheney appeals<sup>3</sup> the Council say in this case the delivery figures in Policy S3 should be used to calculate the housing requirement. In doing so the Council argue that an annualised rather than a stepped approach should be used in the housing trajectory.
43. The Council say there is no policy support for using a stepped trajectory in the case of South Northamptonshire. However, my reading of the JCS does not support this. The JCS adopts a stepped trajectory and this is illustrated in appendix 3 of the Plan. I see no compelling reason why the 5 year supply should not be measured against that trajectory. The Council say that the delivery trajectory is very steep in places. Nevertheless, this was considered deliverable and therefore found sound at examination and so is not a reason to take a different approach in calculating the 5 year housing land supply.
44. In any event, as identified in the Housing Land Supply Statement of Common Ground, an excess of 5 year housing land supply exists whether a stepped or annualised approach is taken to the delivery figures where the 5 year requirement is calculated on the basis of the plan area approach excluding the NRDA.

#### *Oversupply*

45. The Council identify that in South Northamptonshire, excluding the NRDA, there has been an oversupply against the trajectory. Under the annualised approach this leads to a reduction from the requirement of 438 dwellings. Using the trajectory approach it equates to 401 dwellings. The Council has dealt with oversupply by applying it equally over the remaining plan period. There is little before me to indicate it should be dealt with differently.

#### *Conclusion on 5 year Housing Land Requirement*

46. I conclude for the reasons identified above that the figure for the 5 year housing land requirement should be derived from the JCS of 7,173. The 5 year requirement of 2,140 for the period 1 April 2021 - 31 March 2026 should be adjusted by an oversupply of 401 and a buffer of 5% generating a final figure of 1,739 dwellings.

#### *Housing Land Supply*

47. There is dispute between the parties regarding the supply figures associated with sites that make up the 5 year housing land supply. However, all the sites in dispute fall within the NRDA. As I have concluded that the NRDA should not be included in the considerations of this appeal I have not considered the supply issues raised in relation to the sites.

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<sup>3</sup> APP/Z2830/W/20/3261483 and APP/Z2830/W/20/3259839



### *Windfall Allowance*

48. Paragraph 71 of the NPPF enables windfalls to be included as part of the anticipated supply where there is compelling evidence that they will provide a reliable source of supply. The NPPF requires that any allowance to be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.
49. The Council take a robust approach focused on existing commitments in years one and 2 and a net windfall allowance of 212 for years 3, 4 and 5. In the context of past trends the allowance is not over exaggerated. There is little in terms of reasoning to corroborate the simplified alternative approach adopted by the appellant.
50. Overall, I am satisfied that the windfall allowance proposed by the Council is justified through the evidence of historical delivery rates and there is little to substantiate any divergence from the evidence on future delivery trends.

### *Conclusion on 5 year Housing Land Supply*

51. When adding the housing supply figure to the Council's suggested windfall allocation this generates a supply figure of 2,062. Based on a requirement of 1,739 this creates a housing land supply figure of 5.65 years. Accordingly paragraph 11(d) of the NPPF is not engaged.

### **Other Matters**

52. The submitted S106 agreement covers a number of planning obligations that are required by Policies RC2, INF1, INF2, S10, C5 and R3 of the JCS and Policies SPD2, GS1, LH8, INF1 and SS2 of the LPP2 to ensure the facilities and services that are essential for development to take place or to mitigate the impact of development.
53. The S106 would secure 50% affordable housing on site in line with adopted policy. Onsite open space would be secured as part of the development and there would also be a financial contribution towards outdoor sport in the vicinity of the site. The financial contribution towards the No 88 bus service and provision of travel card to each dwelling would contribute towards the retention and/ or enhancement of the existing bus service depending on provision at the time the contribution is payable.
54. The financial contribution for refuse bins to ensure provision to each new dwelling and the financial contribution towards libraries is to address additional demand for the service by residents of the development. The financial contribution towards NHS primary healthcare is to address the need for additional healthcare services as a result of the development. The monitoring fee is to fund the cost of monitoring compliance and associated administrative tasks generated by the agreement.
55. Given the policy requirements and infrastructure needs arising from the development I am satisfied that all of the above obligations are necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably related in scale and kind to the development. They would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Consequently, I can take all of the S106 obligations into account as part of my decision.

## Planning Balance

56. I have found that the Council can demonstrate a 5 year housing land supply. I also consider that the proposal would conflict with Policies R1 and S1 of the JCS and Policies SS1, LH1 and SS2 of the LPP2 which bring the scheme into conflict with the development plan as a whole. The appeal should be determined in accordance with the development plan unless material considerations indicate otherwise.
57. The proposal would deliver 33 affordable homes. It is agreed between the parties that the most up to date Housing Needs Survey, dated 2011 is out of date. Whilst the appellant has attempted to provide a more up to date assessment it is not a local housing needs survey. The weight attached to the evidence is reduced by the absence of primary data and the age of the secondary data it relies upon. The indicative model used by the appellant is also not based on local data.
58. The most up to date credible evidence for the purpose of considering the proposal is that provided by the Council's Housing Officer, accepting the fact that the housing register from which the evidence is taken does not reflect all tenures. The evidence identifies 34 people in affordable housing need willing to live in Milton Malsor, 3 of which have a local connection.
59. Factoring in the limitations of the evidence before me, but mindful of the shortfall in the delivery of affordable housing across South Northamptonshire, I give the provision of affordable housing significant weight in the planning balance.
60. I have found that the Council can demonstrate a 5 year housing land supply but am mindful that this does not mean a cap on development. Whilst reference has been made to the appreciable weight given to the delivery of market housing in the Middleton Cheney appeals referred to by the appellant, I consider the circumstances to be different in the case before me. This is because Middleton Cheney sits higher in the settlement hierarchy as a primary service village. For the reasons identified above I do not place as much weight as the appellant on the SRFI as a very significant site specific consideration. Overall, I give the delivery of market housing through the scheme moderate weight in the planning balance.
61. There would be economic benefits during construction and afterwards from spend by occupants within the local economy. There would also be the potential for additional patronage at the local primary school. However, as the specific benefits have not been quantified the weight given to this is limited.
62. The appellant cites off site highway improvements at the junction of Towcester Road and Lower Road as a benefit of the scheme, giving it significant weight. However, I give this moderate weight given there is little substantive evidence to indicate that it would go beyond mitigating the impacts of the scheme. Whilst the appellant says for example that it will reduce traffic speeds on Lower Road there is no evidence to suggest that this is currently an issue.
63. The development would generate biodiversity gain of around 25.5% through increased landscaping on the site. I give this moderate weight. I also give moderate weight to the increase the provision of public open space by around 2.6ha based on the indicative layout.

64. I am of the view that the benefits outlined are not sufficient in this case to outweigh the harm I have identified and the conflict with the development plan.

**Conclusion**

65. For the reasons identified I conclude that the appeal should be dismissed.

*K Ford*

INSPECTOR

Richborough Estates

## **Appearances**

### **For the Appellant**

Ms Sarah Reid of Counsel, instructed by Hollins Strategic Land LLP

She called:

Mr Nigel Evers

Mr Stephen Harris BSc (Hons) MRTPI

### **For the Council**

Ms Isabella Tafur of Counsel, instructed by West Northamptonshire Council

She called:

Mr Jon Goodall MA (Cantab) MSc MRTPI

Mr Andrew Murphy BA (Hons) MSc MRTPI

### **Interested persons who spoke at the Inquiry:**

Cllr Ann Addison

Cllr Stephen Clark

Cllr Paul Heath

### **Inquiry Documents**

INQ1 Opening statement on behalf of the Appellant

INQ2 Open statement on behalf of West Northamptonshire Council

INQ3 Statement by Cllr Ann Addison

INQ4 Statement by Cllr Paul Heath

INQ5 Statement by Cllr Stephen Clarke

INQ6 Appeal Decision 3256072 CD6.16

INQ7 Agreed final S106 agreement

INQ8 Amendment to Table 7.6 Mr Harris proof of evidence

**APPENDIX 2**

**APPEAL REF: APP/Z2830/W/20/3259839 LAND SOUTH OF THENFORD  
ROAD, MIDDLETON CHENEY OX17 2NB.**



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## Appeal Decision

Inquiry held on 16-18, 23-26 March, 30 March 2021

Site visit made on 29 March 2021

**by Zoe Raygen Dip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 April 2021**

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**Appeal Ref: APP/Z2830/W/20/3259839**

**Land south of Thenford Road, Middleton Cheney OX17 2NB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Manor Oak Homes against the decision of South Northamptonshire Council.
  - The application Ref S/2020/0183/MAF, dated 30 January 2020, was refused by notice dated 7 August 2020.
  - The development is described on the application form as 2x1-bedroom apartments, 2x2-bedroom apartments, 6x2-bedroom houses, 9x3-bedroom houses and 4x4-bedroom houses including open space, access and ecological enhancements.
- 

### Decision

1. The appeal is allowed, and planning permission is granted for 2x1-bedroom apartments, 2x2-bedroom apartments, 4x2-bedroom houses, 7x3-bedroom houses and 5x4-bedroom houses including open space, access and ecological enhancements at land south of Thenford Road, Middleton Cheney OX17 2NB in accordance with the terms of the application Ref S/2020/0183/MAF, dated 30 January 2020, subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. During the course of the planning application the number of dwellings was reduced to 20, proposed as 2x1-bedroom apartments, 2x2-bedroom apartments, 4x2-bedroom houses, 7x3-bedroom houses and 5x4-bedroom houses. It was on this basis that the Council determined the planning application. I have treated the appeal on the same basis.
3. A draft section 106 agreement (S106) was discussed at the Inquiry, with a final completed version submitted after the Inquiry with my agreement.
4. The S106, which is a material consideration, includes obligations relating to financial contributions to allotments, refuse provision, early years and primary education, libraries, healthcare, playing fields and secures the provision of open space and its maintenance and affordable housing and a travel card for each dwelling. There is also a monitoring fee payable to the Council to monitor the provisions of the S106. Prior to the Inquiry the Council had submitted a Planning Obligations and Community Infrastructure Levy (CIL) Compliance Statement. I have had regard to the both documents in my consideration of the appeal.

5. I heard two appeals at the Inquiry, both regarding sites within Middleton Cheney. The documents listed at the end of this decision therefore also include documents which are relevant to the separate appeal.<sup>1</sup> Evidence that I heard regarding housing land supply and requirement as well as policy matters is relevant to both cases.
6. On 1 April 2021 South Northamptonshire Council ceased to exist and became part of the unitary authority known as West Northamptonshire Council. For the purposes of this appeal I have referred to the individual Councils given that is how the evidence was presented to me and the administrative changes make no difference to my reasoning or the outcome of this decision.

## **Main Issues**

7. The main issues are:

- The effect of the proposal on the character and appearance of the area;
- Whether or not the Council is able to demonstrate a five year housing land supply; and,
- The effect of the proposal on the identified strategy for growth for the District.

## **Reasons**

### Character and appearance

8. The appeal site is a slightly undulating field sited on the edge of Middleton Cheney. It is mostly enclosed by low hedgerows with a limited number of trees. To the north are residential properties on Thenford Road and the land slopes down from these houses. Due to their height and materials, these properties present a hard, abrupt edge to the appeal site.
9. To the west, there is housing on Main Road and while not as prominent as that on Thenford Road, it still presents a hard edge to the village with few gaps, particularly the more modern development at Rochester Close and Meadow Drive. To the south and east of the appeal site is open countryside including some large agricultural barns to the south. There are a number of Public Rights of Way (PROW) which lead from Middleton Cheney into the open countryside, one of which runs quite close to the southern edge of the appeal site (AU14). When travelling east along these footpaths, walkers quickly leave the built environment of Middleton Cheney and experience good views of the wider countryside. Walking west along these footpaths the settlement of Middleton Cheney is prominent in the landscape, and in particular the houses on Thenford Road, given their materials and elevated position. The relative lack of trees and landscaping here makes the settlement edge more apparent. Further afield on the footpath network, the intervening rolling landscape and increased tree cover means that while the settlement is viewed on the horizon, it appears more integrated into the landscape.
10. There are very view glimpses of the appeal site from Main Road through the existing built development and these are referred to in the Middleton Cheney Conservation Area Appraisal and Management Plan (CAA). The Conservation Area boundary extends along the Main Road, the appeal site lying outwith the

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<sup>1</sup> Land east of Waters Lane, Middleton Cheney, Appeal Ref APP/Z2830/W/20/3259839



Conservation Area. There is no suggestion from the Council that the proposal would harm the setting of the Conservation Area or its heritage significance. From the evidence before me, and my observations on site, I see no reason to disagree given the extent of built development which separates the appeal site from the Conservation Area.

11. Travelling along Thenford Road towards Middleton Cheney, the land rises on entering the village, which gives prominence to the gable ends of houses on the south side of the road giving an abrupt change from open countryside and the built form, with the appeal site being viewed in the foreground.

#### Valued Landscape and the Special Landscape Area

12. Turning now to the value of the site and the wider landscape. The appeal site is designated as part of a Special Landscape Area (SLA) The SLAs were reviewed in the *South Northamptonshire: A Review of Special Landscape Areas 2017* which formed part of the evidence base for the South Northamptonshire Part 2 Local Plan 2011-2029 adopted 2020 (LPP2), in which they were adopted under policy NE2. This policy requires that development outside settlement confines should avoid harmful impacts to the character and appearance of the area and pay particular regards to design, materials, siting of buildings and the use of land.
13. Apparent from the supporting text to this policy, the 2017 review of the SLAs in the context of national guidance, considered a number of factors including the distinctiveness of the landscapes, their scenic quality, natural and cultural character and function. The LPP2 Inspector in his report concluded that *in terms of SLAs, the Local Plan is based on a proportionate evidence base, and that the landscapes that it sets out to protect are valued for the purposes of the Framework.*
14. This, together with the site's designation, its particular sensitivities and its relationship to Middleton Cheney and the SLA as a whole, leads to the Council concluding that the site constitutes a 'valued landscape' in terms of paragraph 170(a) of the National Planning Policy Framework (the Framework). This is disputed by the appellant.
15. Based on my assessment of the landscape baseline, above, and from my own observations at the site visit, I consider that the site is of moderate landscape value. While the appeal site is part of the SLA it is right on the edge of that very large designation, which also includes the adjacent housing on Thenford Road and Main Road. The appeal site has a little undulation and is enclosed by a hedgerow with a few trees giving it some landscape quality representative of the wider SLA. However, to the south and east the field patterns are larger, and the land becomes more undulating. The hedgerows are more distinct and the number of trees in those hedgerows increases significantly. It also has recreational value through the close footpath network. However, the site is heavily influenced by the prominent built form on its fringe which limits its tranquillity, scenic quality and perceptual aspects, away from the more sensitive landscape to the east and south. The site itself does not exhibit any particularly unique qualities or rarity, simply comprising an unremarkable small field.
16. Notwithstanding the comments of the LPP2 Inspector, I am therefore of the view that the appeal site itself is not a valued landscape for the purposes of the

Framework. I am also mindful that while it is designated as an SLA within the LLP2, Policy NE2 does not prohibit development of such areas, subject to the avoidance of harmful impacts to the character and appearance of the area and careful design. The Framework also recognises the intrinsic character and beauty of the countryside and seeks to ensure decisions contribute to and enhance the natural environment.

#### Landscape and Visual Effects

17. Having established the baseline and value, I find that the site has moderate sensitivity given the characteristics I have identified and the undeveloped nature of the site on the edge of the village.
18. It was common ground between the parties that the appeal scheme would cause landscape and visual harm, although the extent of those harms was in dispute. The appeal proposals would clearly result in development where there is currently none and the settlement of Middleton Cheney would be extended into the countryside to the south and east. Such changes would affect the pattern and character of the landscape.
19. However, the impacts would be limited by a number of factors. Firstly, the appeal site forms a very small part of the wider landscape setting to Middleton Cheney and the more sensitive eastern and southern rural environment would be preserved. Furthermore, the majority of the hedgerow and trees would be retained on site. Secondly, the proposed development would be well related to the existing settlement and would not appear out of place given the influence of the built form along two of its site boundaries. Despite the comments of Mr Askew, for the Council, I found at my site visit that the abrupt edge created by Nos 20-32 Thenford Road in particular does not diminish as you move east across the site, largely due to the relatively small size of the appeal site. The influence of the existing built form therefore extends across the site eroding its rural character. In addition, the area of the proposed housing would not extend beyond the line of existing housing on Rochester Close and Thenford Road. While the housing on the northern side of Thenford Road is at a significantly lower level than that on the south, it is still visible within, and has an influence on, the wider landscape. Moreover, it is agreed in the Planning Statement of Common Ground (PSOCG) that the proposed layout and design of the houses complies with the South Northamptonshire Design Guide (SNDG). In particular, the homes are designed in the rural 'vernacular' with narrow gable spans, steeply pitched roofs and detailing including chimneys, window proportions and architectural detailing and materials which reflect the SNDG.
20. Thirdly, notwithstanding the landscape strategy that has been submitted, there is the potential to create a softer landscape edge. Mr Askew considered that the appellant's proposed dense landscaping belt, as demonstrated in the Year 10 photomontage, recognises the likelihood of significant adverse landscape effects that could only be mitigated by dense screen planting out of character with the locality.
21. I would agree that the local character is not one of dense landscaping. However, I have already found that any harmful effects on the landscape would be mitigated to a large extent by the presence of the existing built form. The low density of the proposed scheme, and the presence of green space on the south and eastern boundaries means that the housing would not need to be "hidden" by landscaping. Rather, an effective scheme would soften the edge to

- the countryside while retaining the general open character. This would also ensure that the few existing ash trees within the appeal site (which the Council suggest are suffering from ash dieback) would be replaced. It is noted at paragraph 11.3.3 of the LPP2 that trees are beginning to decline in this SLA, leading to a change in the landscape quality, composition and experience and that these key components should be renewed to maintain landscape quality. The appeal scheme presents an opportunity to achieve that renewal, together with further tree planting and enhancement of the hedges to reinforce SLA characteristics, which might not otherwise be possible. A suitable condition could be imposed to achieve an acceptable scheme. All these matters, together, would help mitigate the impact of the proposals on the landscape. Furthermore, there would be a slight beneficial effect in terms of softening of the edge of the built form and introduction of replacement trees important to the SLA.
22. The greatest visual effects would be experienced along footpath AU14, to the south of the appeal site, and on the approach to Middleton Cheney along Thenford Road. Walking east along the footpath, the wider view towards the open countryside and Thenford Hill, which is also in the SLA, would be obscured and interrupted by the proposed housing. However, given the size of the appeal site this would only be for a very short distance. Once beyond the eastern site boundary, views along the footpath as it heads further into the countryside would be largely unchanged and walkers would still be able to experience the wider expansive views and. In any event, as I observed when walking the path, users would already be aware of the proximity of Middleton Cheney.
23. The settlement edge would be brought closer to the footpath. However, the houses would be seen in the context of the existing built form and therefore visual effects would be similar to that currently experienced, albeit they would be closer. This would be similar when walking west along the footpath towards Middleton Cheney, when any visual effect of the extended settlement would be mitigated by the existing built form and the introduction of landscaping.
24. Further afield, although in the immediate locality, the proposed houses would be visible in the skyline from the footpaths. However, this would be in the context of a small extension to the existing settlement and a denser coverage of trees which would filter any views. The visual impacts would be limited.
25. Any harm caused by the extension of housing along Thenford Road, together with the proposed access, would be mitigated by the proposed development being contained within the existing built form. Moreover, given the slope of the land, the proposed houses would be at a lower level than those existing.
26. The view from Main Road between Nos 22 and 24, which the Council says forms one of the tantalising views of the open countryside referred to in the CAA, would change. However, while housing would be visible, the view would primarily be along the proposed road and through to the open countryside beyond. There would therefore only be a negligible effect.
27. The parties are agreed that there would only be a negligible/minor adverse effect in the wider countryside and SLA.
28. Mr Askew considers that there would be major adverse effects for residents overlooking the site. This is largely to be expected given that the site would

change from a field to a housing development. However, it is agreed that there would be no harmful effects on living conditions arising from that change, therefore this is not significant in the overall consideration of the scheme.

29. Taking all of the above into consideration, the proposal would have a minor adverse effect upon the landscape character and appearance of the area and that would be limited to the immediate locality of the site.
30. In reaching my conclusions I have been aware of the Council's criticisms of the methodology used by Mr Self, for the appellant, and the original submitted LVIA in stating that significant landscape or visual effects are those considered to be greater than moderate. In the Council's view moderate landscape effects can be significant. However, I have reached a conclusion that the effects would be minor based on the information before me at the Inquiry and from my own observations having visited the site and the surrounding areas.

#### Conclusions on Character and Appearance

31. To sum up, the development of the site would result in a permanent and obvious loss of an undeveloped part of the countryside. This in itself would have a moderate adverse visual and landscape impact. However, due to the existing built form, topography and landscape character, the relatively small size of the appeal site, as well as the proposed mitigation, the visual harm and harm to the landscape attributes of the area in terms of the rural character of the SLA and the ability to appreciate the setting of the village, would be minor.
32. Consequently, the proposal would have a minor adverse effect upon the character and appearance of the area. This would result in some conflict with Policy SS2a of the LPP2 which requires that development does not result in the unacceptable loss of undeveloped land, open spaces and locally important views of particular significance to the form and character of a settlement. I also find some conflict with Policy R1(B) of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) 2014 (the JCS) which requires that development enhances and maintains the distinctive character of rural communities. The development is within the SLA and I find conflict with Policy NE2 of the LPP2 in that there would be minor harmful impacts to the character and appearance of the area.
33. Finally, there would also be some conflict with the Framework which recognises the intrinsic character and beauty of the countryside and seeks to ensure decisions contribute to and enhance the natural environment.
34. The Council also alleges conflict with parts b and d of Policy SS2 and Policy R1(B) of the JCS. However, part b of Policy SS2 requires development to use a design led approach to demonstrate compatibility and integration with its surroundings and the distinctive local character of the area in terms of type, scale, massing, siting form, design, materials and details. As is clear from my findings above, this has been achieved. Part d of that policy requires development to incorporate suitable landscape treatment as an integral part of the planning of the development. The proposal includes for landscape and open space integral to the development. The imposition of a condition would ensure that it would be suitable for the local character and therefore avoid conflict with that part of the policy.

35. Policy R1 (B) states that residential development in rural areas will be required to not affect open land which is of particular significance to the form and character of the village. I accept that the proposal would affect open land, but I am not convinced, for the reasons above, that the appeal site is of particular significance in the form and character of the village. I therefore find no conflict with Policy R1 (B).
36. Furthermore, I find no fundamental conflict with the requirements of Northamptonshire's Current Landscape Character Strategy and Guidelines or the SNDG. The strong hedgerow network would largely remain intact and would be enhanced, as would existing hedgerow trees. The rural setting of the village would be retained through the preservation of the SLA to the south and east of the appeal site, which more readily displays the dominant characteristics of the SLA. Given that context, I am satisfied that the impact of the scale of the development proposed would be minimised.

### Five Year housing land supply

#### *Background*

37. South Northamptonshire Council (SNC) has for some time worked alongside Northampton Borough Council (NBC) and Daventry District Council (DDC) to seek to provide sufficient housing land. SDC and DDC each plan to accommodate some of the housing need for NBC (which cannot, and has not been able for some time, meet its needs within its boundaries). To that end (amongst others) the JCS was adopted in 2014 to cover the three authorities. That document clearly sets out the expected scale and distribution of housing development and includes an area known as the Northampton Related Development Area (NRDA). This includes the administrative area of NBC and parts of DDC and SNC. It has its own housing allocation within the JCS, and the needs of Northampton are to be met in part, in sustainable urban extensions (SUEs) sitting in Daventry and South Northamptonshire.
38. The monitoring of housing delivery by all three Councils has been done on the basis of the three Plan areas, rather than administrative boundaries, as the Plan areas fundamentally underlie one of the sixteen objectives of the JCS, namely to provide a range of housing in sustainable locations to ensure all residents have access to a home that they can afford and that meets their needs. To do that, housing development will be focused at the most sustainable location of Northampton, supported by Daventry, and Towcester and Brackley in their roles as rural service centres, with limited development in the rural areas to provide for local needs and support local services.
39. The LPP2 was adopted by the Council in 2020 and covers the whole of the administrative area of SNC, including that within the NRDA. It follows the approach to the distribution of housing within the JCS, but does not make allocations for additional housing within South Northamptonshire, as the overall strategic housing needs set out within the JCS for the towns of Towcester and Brackley and the rural areas will be met, and in the case of the rural areas exceeded through the delivery of homes in excess of the number in Policy S3 of the JCS.
40. However, the Council acknowledges that there will continue to be a need for new affordable and market homes, both to meet current government policy and, in addition, to ensure the sustainability of the rural areas. Therefore,



policies in the LPP2 include revisions to the Settlement Hierarchy, to reflect the current levels of services and facilities, in addition to accessibility to surrounding settlements; a review of settlement confines; clarity on how development proposals within development confines will be managed and exceptions to the above policy approaches including self-build, starter homes and other routes to low cost, affordable and entry level housing.

41. Against that background it is acknowledged that the SUEs have not yet delivered at the pace anticipated by the housing trajectory and it is common ground that the deliverable housing land supply for the NRDA falls well short of 5 years, being in the region of 2.64 years (31 March 2018). In comparison, the Council is claiming a five year housing land supply of 8.18 years within the Plan area of SNC, excluding the NRDA for the purposes of this appeal. The appellant fundamentally disagrees with this figure, for a number of reasons mainly relating to the way the Council has calculated its housing requirement, although some aspects of the deliverable supply are also disputed. As a result, the appellant's preferred figure is 3.27 years. However, the Statement of Common Ground on Five Year Housing Land Supply (SOCGHLS) includes 28 different scenarios and consequent housing supply figures on which I was presented with evidence at the Inquiry.

#### *Requirement*

42. The first point to be addressed is whether the Council should be using the figures in the JCS for the calculation of the requirement, or those relating to Local Housing Need (LHN) using the standard methodology set out in the Planning Practice Guidance (PPG).
43. Paragraph 73 of the National Planning Policy Framework (the Framework) states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies or against their LHN where the strategic policies are more than five years old. Footnote 37 of the Framework advises that that is unless strategic policies have been reviewed and found not to require updating.
44. The JCS was adopted in 2014 and therefore clearly is more than five years old. As well as the contents of footnote 37 of the Framework noted above, there is a requirement as set out in paragraph 33 that plans be reviewed at least once every five years and updated as necessary. In October 2018, the Councils published their West Northamptonshire Strategic Plan (or Joint Core Strategy Review) Scoping Document (the SD). Within that document there is a clear consensus and commitment from the partner Councils to prepare a joint spatial plan to replace the JCS. A number of reasons are cited for the new plan, including the requirement to move to using the LHN from December 2019 (when the JCS would be 5 years old), a shortfall in delivery of housing of 14.5% (as at 31 March 2018) with the principal challenges being within the NRDA and the proposed growth around the Cambridge-Milton Keynes-Oxford corridor, which would need to address a longer time frame than that within the current JCS. The review has now commenced with the Councils having published a Regulation 18 version of that Plan.
45. It seems to me therefore that, for a number of reasons, having reviewed the JCS, the Councils have agreed that there is likely to be an updated housing requirement principally due to proposed growth over a longer time period than



- the existing JCS and significant under delivery of housing within the NRDA. This was agreed by Mr Goodall for the Council in cross examination.
46. In January 2020 the West Northamptonshire Joint Planning and Infrastructure Board considered a report regarding a review of policies (the Review) in accordance with paragraph 33 of the Framework. Given that there was already a commitment to prepare a new Strategic Plan the Review undertakes what it refers to as a proportionate light touch approach.
47. The Review considers the key issue of housing requirements as set out, on the Council's case, in Policies S1, S3, S4 and S6 of the JCS. Three of those policies are found to be up to date and in accordance with the Framework. However, in respect of Policy S3, it concludes that while the Strategic Plan will review the scale of housing provision using the national methodology to calculate LHN as a starting point over the extended plan period up to either 2041 or 2050, in the interim, the housing requirement figures in policy S3 should continue to be used for the purposes of calculating 5-year land supply. This is because the residual housing requirement in the JCS is over 6,700 dwellings higher than the LHN figure and, having regard to the Framework's objective of boosting housing supply, this is considered to provide a sufficient level of contingency during the transition period to the new Plan.
48. This, the appellant says is wrong. Having already found that the JCS requires updating (not least because of the use of LHN and significant under delivery) then how can a subsequent review not find the strategic policies to require updating for the purposes of paragraph 73 of the Framework, particularly as there is no explicit finding in the Review that Policy S3 does not require updating and there is an existing commitment to do precisely that. The appellant's view is supported by legal opinion.<sup>2</sup> Furthermore, there is no provision within Paragraph 73 for an interim solution - either the policies in the JCS do not require updating, or the LHN figures need to be used.
49. Paragraph 31 of the Framework states that the review of all policies should be underpinned by relevant and up to date evidence, which should be adequate and proportionate. In light of the existing commitment to prepare a new Strategic Plan, then the Review has been proportionate in its approach. Whether it is adequate, given the existing commitment to review the JCS and update, is another matter.
50. Essentially, my understanding is that the existing JCS requires updating to extend its timescale and to allow for more growth over a longer time period and address the under delivery in the NRDA. In the meantime however, the Review has found the spatial strategy of the Councils to be sound and the housing figures in Policy S3 fit for purpose, given that the residual figure in the JCS is higher than would be the case if using the LHN.
51. Mr Richards for the appellant, sought to demonstrate that for SNC, the agreed LHN figure of 507 dwellings per annum is higher than the 351 per annum used by the Council in its analysis of five year housing land supply. However, he accepted in cross-examination that the 351 figure excluded any requirement in the NRDA. When those figures are taken into account the number per annum, whether based on need or delivery figures, would be significantly above 507.

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<sup>2</sup> Appendix 3 Mr Richards Proof of Evidence

52. This is an unusual circumstance. While I accept that the high residual requirement figure in the JCS is largely due to an under delivery against expectations in the NRDA, using an LHN that would result in a lower requirement than the JCS would be counterintuitive to the Government's objective to significantly boost the supply of homes. Furthermore, if LHN figures were to be used, they would be based on the administrative area of the Council, rather than the Plan based approach in West Northamptonshire, and this is a key plank of the Council's spatial strategy which has been found in the Review to accord with the Framework and is up to date (Policy S1). In particular, it reflects the advice in paragraph 59 of the Framework that it is important that a sufficient amount and variety of housing land can come forward where it is needed.
53. I also note that paragraph 33 of the Framework states that a significant change in LHN will mean that relevant strategic policies will need updating. The PPG advises that a significant change will have occurred where the Plan requirement is adopted prior to LHN and the LHN figure is higher than the Plan figure<sup>3</sup>. In this case though, the Plan figure is higher than LHN.
54. While on the face of it, it appears that there has, for the purposes of paragraph 73 of the Framework, been a finding by the Councils that strategic policies regarding the housing requirement require updating, this is primarily due to matters relating to an extension of the plan period and a need to accommodate larger growth for the extended Plan period. But in this particular instance, using a LHN figure which would result in a lower requirement than the existing JCS and is not based on the plan areas of the JCS underlying its spatial strategy (which has been found up to date via Policy S1) would be contrary to the Government's aim as set out in the Framework, of significantly boosting the supply of homes where they are needed. Therefore, in my view, the figures in the JCS should continue to be used for the purposes of defining the five year housing requirement.

#### *Inclusion of the NRDA*

55. The Council is of the view that the housing requirement figures are based on the Plan area approach set out in the JCS and therefore, to have a requirement for five year housing land purposes which includes the NRDA would be contrary to that approach.
56. The appellant's view is that as paragraph 73 of the Framework refers to *local planning authorities...* then it should be the Council based administrative area that the five year housing land requirement is based on. Furthermore, there is nothing in the JCS that refers to the monitoring of five year housing land supply on a Plan area basis, notwithstanding that this is how it has been done for a number of years by all three constituent authorities.
57. In my view the Plan area based approach clearly underlies the Council's spatial strategy to provide new housing in a planned and sustainable manner by its provision in the most accessible area of the NRDA, followed by Towcester and Brackley and then small planned development in the most accessible rural areas. By monitoring the five year supply in each of those areas, where there is no five year supply for that particular area, the so called 'tilted balance' would

<sup>3</sup> Paragraph: 062 Reference ID: 61-062-20190315

be engaged in relation to development within that area, in accordance with paragraph 11(d) of the Framework.

58. The current situation, on the Council's case, is that absent a five year housing land supply for the NRDA, the tilted balance would be engaged should a development site come forward in the NRDA. However, it would not be engaged in the rural areas where there has, in SNC, been a considerable oversupply of new housing and the housing allocation for rural areas outlined in Policy S3 has already been met.
59. Therefore, to include the parts of SNC that lie within the NRDA into the five year housing land supply figures, would mean that under whatever scenario from the SOCGHLS, where the NRDA is used, the tilted balance would be engaged throughout the District giving a presumption in favour of sustainable development in the rural areas as well as the NRDA.
60. In my view that would materially undermine the spatial strategy of the Council as such an approach would potentially lead to a higher delivery of housing in the rural areas than is planned for, due to under-delivery in the SUEs whose role is to provide for unmet need in Northampton and to deliver part of SNC's requirement in the most accessible location in the District. This would ignore the objectives for the NRDA. I also note that the JCS examination Inspector, in paragraph 199 of his report, concluded that to enhance flexibility it is considered desirable and acceptable in principle that the NRDA is taken as one joint area for the assessment of new housing delivery.
61. Furthermore, the Framework at paragraph 26 encourages cross boundary working and co-operation. The JCS has been prepared to address, in part, the very specific issue of Northampton being unable to meet its own housing needs within its administrative boundary which has been an ongoing issue for a lengthy period. To then monitor housing supply figures on administrative areas would run counter to the objectives of the JCS.
62. I appreciate that excluding the NRDA figure from the overall requirement, represents a different approach from that taken by the Inspector at Rothersthorpe<sup>4</sup> where, at paragraph 15, he concludes that the Council should be seeking to deliver numbers set out in the development plan including the NRDA. However, this seems to be related to adopting the overall figure set out in Policy S3 of 11,020 including the 3,850 in the NRDA. While this is the most recent appeal decision dealing with a dispute regarding five year housing land supply, I do not know what precise information was before that Inspector about whether he should include the NRDA, other than he clearly was aware of the Pottersbury decision<sup>5</sup>, where that Inspector followed the individual elements of the Councils case as made here, against the background of the very recently adopted JCS at that time. However, on the evidence before me, and the limited case made for including the NRDA in the Rothersthorpe decision, while I appreciate the need for consistency in decision making, I am satisfied that for the reasons I outline above the NRDA should not be included in the requirement figure at this time.

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<sup>4</sup> APP/Z2830/W/18/3206346 (the Rothersthorpe appeal decision)

<sup>5</sup> APP/Z2830/A/14/2224285 (the Pottersbury appeal decision)

## *Delivery v Need*

63. The JCS contains two sets of figures regarding housing for SNC, excluding the NRDA. One relates to the Objectively Assessed Housing Need (OAHN) and the other higher figure relates to delivery. In his report regarding the JCS, the Inspector found that the assessment by the Cambridge Centre for Housing and Planning Research (CCHPR) leads to a requirement of 41,760 net new homes which also takes into account the extended plan period to 2029 to ensure that it has a minimum lifespan of about 15 years. This is the "OAHN" figure. In accordance with the Framework's guidance to also take into account current market conditions, the Joint Planning Unit judged it necessary to add additional dwellings to the "OAHN" figure. This was to make allowance for the level of existing commitments, higher housing demand and market prices, as well as the need to allow some further growth in villages and to help redress the historically lower proportions of social rented units in South Northamptonshire District. The overall total, as modified, of 42,620 net new dwellings is equivalent to an average of 2,367 homes per year for the period 2011 to 2029. The Inspector concluded that including that provision in the JCS suitably and sufficiently addressed the objectively assessed need for housing to 2029.
64. The PPG is clear that the need figure is the first step in the process of deciding how many homes need to be planned for. It should be calculated separately from assessing land availability, establishing a housing requirement figure and preparing policies to address this such as site allocations<sup>6</sup>. In my view the additional homes are clearly above the objectively assessed need as assessed by the CCHPR and relate primarily to SNC having a substantial supply of sites which are required to fulfil the 5 year land supply until the SUEs come on stream, not artificially constraining the SUEs to meet the need and the provision of small scale development in rural areas as outlined in the JCS, and therefore not related to the need for the plan period. While referred to as a delivery figure within the JCS, in my view the higher figure forms the requirement figure.
65. Indeed, it is the higher "delivery" figure that is included in Policy S3 of the JCS concerning the scale and distribution of housing development. Nevertheless, the Council's case is that when calculating the five year housing requirement, the figure used should be the "OAHN" figure, namely 41,760 as referred to in paragraph 5.42 of the JCS. That paragraph states that, for the purpose of calculating the 5 year land supply, the figures to be used are the need target line (equating to the "OAHN" figure), but it goes on to say, for the avoidance of doubt, appropriate planning permission will be granted to meet the planned delivery target set out in Policy S3.
66. The "need" figures are contained within Table 6 and Table 2 of the JCS forming part of the supporting text of the policies for the spatial strategy and equate to a figure of 6,320 for SNC excluding the NRDA, as opposed to the "delivery" figure in Policy S3 of 7,170.
67. The Council is of the view that the "OAHN" figure is that which reflects the requirement for the Plan areas, with the relevant figures being embedded into the strategic policies of the JCS, in particular through Policy S6 regarding monitoring and review, which states that housing completions by location and type and the availability of land for housing in the future is to be measured

<sup>6</sup> Paragraph: 001 Reference ID: 2a-001-20190220

against the objectively assessed need. From there, the reader would need to go to the aforementioned Tables to find those figures in the supporting text to the spatial policies S3, S4 and S6.

68. While I accept that Table 2 details total housing requirement by reference to "OAHN", and whether or not Policy S6 is a strategic policy with reference to paragraph 20 of the Framework, the policies in the JCS that have housing figures set out in them are policies S3, S4 and R1 which include figures relating to delivery. Paragraph 73 of the Framework sets out that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement *set out in adopted strategic policies*. For whatever reason, those latter six words were included in the 2018 and 2019 versions of the Framework but were absent in the 2012 iteration against which the JCS was considered sound. Although the LPP2 has been adopted since the later version of the Framework, the examining Inspector was clear in his report that the housing requirement for the District is derived from the JCS and the consideration of the basis of that requirement was not before him in his examination or within the scope of the LPP2.
69. I also note that the Review makes reference to the continued use of Policy S3 for the purposes of calculating 5 year land supply. Furthermore, in a letter from the JPU to SNC, the JPU states that *the provisions of Policy S3 are clearly rooted in the spatial strategy of the WNJCS, a strategy which was found to be sound through extensive examination. To throw this strategy away overnight through a narrow interpretation of paragraph 73 of the NPPF would make no sense and would run counter to the proper planning of the area. Our review of policies is clear that Policy S3 and the spatial strategy which underpins it is consistent with the wider objectives of the NPPF including that of boosting housing supply. Until it is replaced as part of the new plan, then it should be considered to be up to date and be used as the basis for the calculation of the 5-year land supply.*
70. I understand that it is only in SNC that the "delivery" figure is higher than the "OAHN" figure, and the Review serves all three Districts. Nevertheless, the letter from the JPU referred to above is purely to SNC and the contents reinforce my findings above.
71. I therefore conclude that the delivery figures within Policy S3, excluding the NRDA, should be used to calculate the housing requirement. I realise that this is different from the conclusion of the Inspector in the Pottersbury appeal decision. However, that decision was taken in the light of a different policy regime, very soon after the adoption of the JCS, but before the 2018 and 2019 iterations of the Framework.

#### *Oversupply*

72. On the Councils case, in SNC, excluding the NRDA, there has been an oversupply of housing when assessed against the need based trajectory of 1178. When assessed against a delivery based trajectory, as contained in Policy S3, this reduces to 721.



73. The PPG is clear on how to deal with under delivery<sup>7</sup>. With regard to oversupply, the PPG states that where areas deliver more completions than required, the additional supply can be used to offset any shortfalls against requirements from previous years<sup>8</sup>. The appellant takes this to mean that Councils cannot then offset oversupply against future requirements, only past requirements and that to do so would be contrary to the Government's objective of significantly boosting the supply of housing. I am also referred to a number of appeal decisions including a Secretary of State (SoS) decision, where decision makers concluded not to offset oversupply against future requirements<sup>9</sup>.
74. In my view, while the PPG allows shortfalls against requirements from previous years it is silent on whether it is possible to set them against future years and therefore the facts of the matter need to be examined on a case by case basis. I draw support for this view from the case put forward by the SoS as set out by Counsel in paragraph 14 of *Tewkesbury BC v SSHCLG* [2019] EWHC 1775 and the Bedford Local Plan Inspectors in their report<sup>10</sup>.
75. The Council has dealt with the oversupply by applying it equally over the remaining plan period, not just the five year period. If the oversupply were not taken into account, then the requirement in the five years of the monitoring period would not lead to an artificially low expectation in the future, since the homes required would already been provided. Instead, the number would be artificially inflated above the housing requirement in the adopted plan. While the Government's objective is to significantly boost the supply of homes, that objective is not divorced from the requirements of the Framework when considered as a whole, and should not be viewed in isolation from the requirement to ensure that a sufficient amount and variety of land can come forward where it is needed. Delivery, for whatever reason, is bound to fluctuate from year to year. Were the Council not to adjust its future housing requirement to include oversupply then, if in the future for whatever reason it was unable to meet its requirement, it could find decisions in its area subject to the tilted balance for not meeting a requirement it had already met in previous years which, in this instance, would potentially lead to housing not being located where it is needed i.e. not in the NRDA but widespread in rural areas instead.
76. The planned requirement is to meet a specific need over the plan period. To artificially inflate it through not offsetting oversupply would mean that the overall requirement figure in the plan period would increase. The planning system, which the Framework makes clear should be genuinely plan led, would be significantly undermined through the location of housing where it is not needed and has not been planned for.
77. I accept that there is a significant under supply in the NRDA, which also includes some of the housing requirement for SNC. However, to take that into account when calculating housing land supply within the Plan area for the rural areas, would undermine the carefully considered spatial strategy for the area as a whole.

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<sup>7</sup> Ref ID 68-031-20190722

<sup>8</sup> Ref ID 68-032-20190722.

<sup>9</sup> APP/G1630/W/20/3256319 (the Gotherington appeal decision), APP/G1630/W/3184272, APP/A1720/A/14/2220031, APP/F4410/W/16/3158500, APP/J0405/W/16/3158833

<sup>10</sup> Bedford Borough Local Plan 2030, Inspectors' Report, December 2019

78. I understand that housing need is expected to be reviewed every five years. That is the working of the plan led system. At that point, any material changes to local circumstances can be incorporated into the housing requirement figure for the next Plan period. To change the requirement mid Plan by not adjusting for over supply, does not accord with that system of Plan review. While the housing requirement is a minimum figure and not a cap, it is still an overall requirement which provides the necessary certainty to underpin the very cogent spatial strategy.
79. I have dealt with most of the arguments put forward by Inspectors on the other appeal decisions brought to my attention, including those in the Rothersthorpe decision. The Inspector in the Gotherington appeal decision states that deducting oversupply conflicts with the definition of a deliverable supply. However, I am dealing here with the requirement figure, not looking at whether housing meets the definition of deliverable.

#### *Trajectory v annualised*

80. Paragraph 73 of the Framework, and the PPG, allow for a stepped housing requirement and provide for housing land supply to be measured against that stepped trajectory. The JCS adopts a stepped trajectory and five year supply is to be measured against that trajectory. This was endorsed by the Inspector in his report regarding the JCS.
81. While there has been under delivery in the JCS, this is not a meaningful challenge to the provisions of the JCS and does not present realistic justification to measure delivery against an annualised figure as suggested by the appellants.

#### *Conclusion on the five year housing requirement*

82. For the reasons above, I conclude that the five year housing requirement figure should be drawn from figures in the JCS. For the period 1st April 2020 to 31st March 2025, based on the delivery figure contained within Policy S3 of the JCS, the requirement is 2,151 dwellings. Adjusted for oversupply, and with the required 5% buffer, it is 1,838.

#### *Housing land supply*

83. There is dispute regarding the supply figures associated with a number of the Council's sites relied on in the five year housing land supply. Three of these are sites within the NRDA. As I have concluded that area should not be included for the purposes of this appeal, then I have not gone on to consider the specific supply on each of those sites. That leaves three sites within the SNC area, excluding the NRDA.

#### *Turweston Road*

84. It is agreed that this site has an approved reserved matters application for 350 dwellings. There is no dispute therefore that the site is deliverable within the definition contained within the Framework. What is disputed is the extent of delivery within the five year period.
85. I have had regard to the marketing literature from the housebuilder, which suggests the scheme will be launched in 2023, and an email from the housebuilder stating that it is working to start on site at the end of 2021, with



completions expected in October 2022, and the site launch in 2023 in accordance with the marketing literature. To this end, a number of pre-commencement conditions have been discharged and work has been carried out on site. The appellant puts forward no meaningful challenge to that work programme, other than the marketing literature launch date of 2023 which the housebuilder has confirmed is correct, with completions expected in 2022. I see no reason therefore, to suppose that the Council's expectation of housing delivery commencing in 2022/23 is unrealistic.

86. With regards to the rate of the delivery, the housebuilder forecasts a rate of 58 homes per year with a total of 150 delivered by March 2025. The appellant considers this to be too high with reference to national housebuilding rates and an average of other sites in the local area and considers 42 per year to be more reasonably achievable.
87. However, I understand that this site is located close to the main urban area of Brackley with the rates suggested by the housebuilder being similar to those achieved in Towcester and Brackley. Furthermore, the site includes flats and has secured funding from Homes England. I am satisfied therefore, that the rates of delivery envisaged in the housing supply can be relied on giving a total supply of 141.

#### *Burcote House*

88. This site has prior approval for the conversion of the property into 12 dwellings. There is no dispute that if this were the end of the matter, then that would be sufficient for the site to be considered deliverable under the definition contained within the Framework.
89. However, since that time, the developer has submitted a planning application for the demolition of the building and the erection of 20 houses. Mr Goodall for the Council advised the Inquiry that this application has a resolution to grant planning permission, the associated S106 agreement has been signed and is waiting to be engrossed. The Council has also issued a CIL Grant of Social Housing Relief Notice.
90. I understand the appellant's case that given the subsequent planning application, it is unlikely that the prior approval scheme would come forward. Consequently, as the planning permission has not yet been issued, then the site has no planning permission and clear evidence is required that housing completions will begin on site within five years, which is lacking.
91. Nevertheless, in my view, the site has a permission that can be implemented at any time. Mr Richards for the appellant did not present any substantive evidence to suggest that scheme would not come forward, was no longer viable or that there was no demand for the type of housing proposed. While the planning permission may be granted for the scheme with 20 houses, the developer will then have the option to develop either scheme. It cannot be known with any certainty which one would be implemented. In any case, the consequent outcome for the supply figure would only be a revision upwards. I therefore see no reason not to include the Council's claimed 12 units within the deliverable supply.

### *Towcester South*

92. The Council's Housing Land Availability Study 2020 refers to five sites which would fall within part b sites within the definition of deliverable within the Framework i.e. those that are required to provide clear evidence of deliverability as outlined in the PPG<sup>11</sup>. One of these is Towcester South. The Council concluded that at that time there was insufficiently robust evidence to demonstrate deliverability and therefore excluded the site from the supply figures.
93. Mr Goodall, having reviewed that evidence, concluded that the Council took an overly cautious approach and that Towcester South should be included, on the basis that outline planning permission was in place on 1 April 2020, it is a large strategic site that has deliverable parcels with reserved matters consent in place at the base date, plus two additional reserved matters applications had been submitted and were pending determination on the 1 April 2020. The appellant disagrees.
94. The Framework states that where a site has outline planning permission for major development it should only be considered deliverable where there is clear evidence that housing completions will begin on site in five years. The PPG provides guidance on what constitutes clear evidence. In my view, although the reserved matters applications were not approved at the base date, that does not mean they cannot be taken into account. The PPG states that evidence to demonstrate delivery may include firm progress being made towards the submission of an application and how much progress has been made towards submitting a reserved matters application. In this case, an application had been submitted prior to the base date, and therefore can reasonably be taken into account.
95. I have had regard to an appeal decision<sup>12</sup> which states that supply should be assessed at the base date. That requires a clear cut off date, as including sites beyond that date skews the data by overinflating the supply without a corresponding adjustment of need. While the permissions were granted after the base date, in my view the circumstances were sufficient at the base date for the site to be included within the Council's supply as it met the definition within the Framework on that date and the Council adopted an overly cautious approach at that time.
96. Having found that the site should be included in the Council's supply figures, there is no dispute between the parties of the delivery figures put forward by Mr Goodall. I see no reason to disagree, particularly given that work has started on site on one of the parcels of land.

### *Windfall allowance*

97. Paragraph 70 of the Framework allows for windfalls to be included as part of the anticipated supply where there is compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall rates and expected future trends.

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<sup>11</sup> Paragraph: 007 Reference ID: 68-007-20190722

<sup>12</sup> APP/P4605/W/18/3192918

98. There is agreement between the parties that a windfall allowance should be applied and that it should be at the rate of 75 dwellings per annum. The Council has then reduced the windfall allowance by 16 dwellings overall. This equates to a lapse rate of 5% applied to the total of 326 dwellings within the supply which had not been implemented at the base date<sup>13</sup> and applied the allowance to years 3, 4 and 5<sup>14</sup>. This is in addition to the 291 claimed dwellings from minor sites in the supply. The appellant considers that the windfall allowance should only be applied to years 4 and 5<sup>15</sup> and that a further 8 dwellings should be removed from the supply, forming 5% of the 151 homes on minor sites that have not been implemented<sup>16</sup> creating a supply from minor sites of 283.
99. On the Council's case, I accept that a permission granted just before the base date could still be extant by year three and therefore would overlap with the 69 windfalls in year 3. Moreover, to say that all of the 291 dwellings on minor sites would be developed in the first two years would lead to a build rate of 145 per annum, well above the annual average of 100 of these on sites of less than 10 dwellings since 2001/02<sup>17</sup>.
100. However, that approach ignores the fact that windfalls could realistically come forward in year 3. While there may be less because some of the small sites would be counted within those already included as minor sites, it is likely there would be some. This is accounted for overall within the combined Council's figures. The Council's 209 windfall dwellings together with the 291 dwellings from minor sites would be 500 dwellings or, averaged out over the five years, 100 dwellings per year in accordance with past rates of delivery
101. I accept that net completions on minor sites between 1 April 2019 and 31 March 2020 amounted to only 88 dwellings and that completions within 2020/21 may be reduced due to Covid 19 restrictions. However, that does not mean to say that a short term reduction, mainly due to exceptional circumstances, would necessarily have an effect over the five years when Covid restrictions would (hopefully) be fully lifted in the longer term. If the appellant's approach were to be followed, then there would be an overall allowance of 441 dwellings<sup>18</sup> giving an annual build rate of about 88, which past evidence since 2001 does not wholly support.
102. Overall, I am satisfied that the windfall allowance proposed by the Council, together with that for minor sites, is justified through the evidence of past delivery rates by the Council and is not seriously challenged by any evidence relating to future delivery.
103. Having found the Council's approach to windfall to be acceptable, I have not reduced the figure from rural sites by a further 5% as suggested by the appellant as this would result in double counting given that the Council has already applied a lapse rate.

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<sup>13</sup> Paragraph 4.18 of the Housing Land Availability Study 2020

<sup>14</sup> Total windfall allowance 209 – 69 in year 3 and 70 in years 4 and 5

<sup>15</sup> Total windfall allowance 150 – 75 in years 4 and 5

<sup>16</sup> Paragraph 4.18 of the Housing Land Availability Study 2020

<sup>17</sup> Paragraph 4.150 Mr Richards POE

<sup>18</sup> 75+75 (windfall allowance) + 291 from minor sites = 441

*Conclusion on five year housing supply*

104. Therefore, I have found that of the disputed sites in the area excluding the NRDA, all should be included within the Council's supply figures as it proposed, together with its suggested windfall allocation. Along with those sites not in dispute that creates a supply figure of 1,891. Based on a five year requirement of 1,838 set out in paragraph 82 above this creates an agreed five year housing land supply figure of 5.14 years. Consequently, paragraph 11(d) of the Framework is not engaged.

*Strategy for growth*

105. One of the key objectives of the JCS is to provide a range of housing in sustainable locations to ensure that all residents have access to a home they can afford, and which meets their needs. Housing development will be focused at the most sustainable location of Northampton, supported by Daventry and Towcester and Brackley in their roles as rural service centres with limited development in the rural areas to provide for local needs and support local services.
106. This objective is translated into policy primarily through Policies S1 and R1 of the JCS regarding the distribution of development. Policy S1 states that development will be concentrated primarily in and adjoining the principal urban area of Northampton. Next on the hierarchy, where development of a lesser scale will be directed, is the sub regional centre of Daventry. Finally, the development needs of the rural service centres of Towcester and Brackley and the rural areas will also be provided for. The policy confirms that new development in the rural areas will be limited. The justification for the policy confirms that development would be restricted to local needs.
107. There is no dispute between the parties that the appeal site is located within the rural area of SNC. Policy R1 of the JCS makes provision for 2,360 dwellings within the rural area and states that the distribution of the rural housing requirement will be the subject of the part 2 local plans for Daventry District and SNC and will be guided by a rural settlement hierarchy in that plan.
108. Policy R1 also sets out seven requirements for residential development within rural areas, one of which is that the development be within the confines of the village. The appeal site is adjacent to but outside the defined settlement confine for Middleton Cheney where development is only permitted in certain circumstances. Furthermore, once the requirement for the rural areas has been met then housing development would only be permitted where one of a number of criteria is met. There is no dispute that the requirement for the rural areas has been met, or that none of the circumstances to allow development outside of confines or after the rural areas figure have been met by the appeal scheme. It was a matter of agreement therefore, that the proposal is in conflict with Policy R1.
109. The fact that housing development is still being allowed in the rural areas, such as Millers Way at Middleton Cheney seems to suggest that the Council is not rigidly applying the 3,260 limit, albeit that that development is within the settlement confines of the village.
110. The Council's position is that the 3,260 rural homes to meet the requirement in policy R1 amounts to the limited development in policy S1 necessary to meet

- local needs. In so much as the rural requirement has been met and there is no particularly convincing evidence to suggest that the proposed development meets local needs then, in my view, the proposal also conflicts with Policy S1.
111. Turning to the LPP2, Policy SS1 states that proposals for new development will be directed towards the most sustainable locations in accordance with the District's settlement hierarchy. I accept that parts of SNC are within the NRDA and therefore, in accordance with the JCS and that those locations are regarded as the most sustainable areas of the district as a whole.
112. However, paragraph 3.2.2 of the LPP2 makes it clear that one of the purposes of the plan is to identify a settlement hierarchy as an integral part of the delivering the spatial strategy for the *rural areas*. Indeed, at paragraph 3.2.3 it states that the highest priority will be to focus development on the market towns. Outside of those, there is a hierarchy for the villages. Middleton Cheney is designated as a Primary Service Village (PSV) the second category. These are villages that have the highest levels of services and facilities.
113. I take this to mean that when Policy SS1 directs development to the most sustainable locations, the priority is to the market towns followed by the villages. Therefore, while in terms of the JCS a PSV is at the lower end of the hierarchy, for the intentions of the LPP2, they are second category locations for the purposes of the limited development proposed in the JCS in the rural areas.
114. In addition, part 2 of Policy SS1 requires that development should be within the settlement boundaries of the settlements in accordance with their scale, role and function unless otherwise indicated in the LPP2. Part 4 of Policy SS1 outlines specific types of housing that would be acceptable outside settlement boundaries, none of which the proposal meets. Again, there is agreement in this regard that the proposal is in conflict with parts 2 and 4 of the policy.
115. Policy LH1 of the LPP2 confirms that development outside settlement confines will not be acceptable unless it meets a number of criteria. It is also agreed that the appeal scheme meets none of the criteria and therefore is in conflict with this policy too.
116. In so much as there is no dispute that the proposal is contrary to policy R1 of the JCS and policies SS1 and LH1 of the LPP2, it is also agreed that the proposal is contrary to the development plan as a whole. I see no reason to disagree. These policies underly the spatial strategy for SNC and the rural areas in particular. As the proposal lies outside the settlement confines it is clearly in conflict with the policies and the spatial strategy.
117. LPP2 explains that the purpose of the settlement confines is to ensure that development is directed to the most sustainable locations and the intrinsic beauty and rural character of the district is protected. To that end, it restricts, housing development in the countryside (i.e. outside individual settlement boundaries).
118. Objective 3 of the JCS is to reduce the need to travel, shorten travel distances and make sustainable travel a priority across West Northamptonshire by maximising the use of alternative travel modes. This would also address social exclusion for those who do not have access to a car. Objective 1 of the JCS seeks to minimise demand for resources and mitigate and adapt to climate change and ensure sustainable travel modes are promoted.



119. Mr Murphy for the Council explained that due to the extremely rural nature of the District there is a high level of car ownership which can cause significant congestion issues, hence the strategy to focus most development within urban areas. Whether the development was inside or outside the settlement confines, it would still add to the level of car ownership – hence the need to limit development within the rural areas. The Council argue that to allow this development would mean that the policy of restraint in the Rural Areas within the spatial strategy would have no force and that the objective to focus development in the urban areas would be undermined.
120. I have some sympathy with that view. However, the purpose of the policy is to focus development on the most sustainable locations within the district. While I have agreed with the Plan area approach to monitoring housing, it cannot be ignored that housing delivery within the NRDA is at a low level and has been for some considerable years and this exists not only to meet some of Northampton's needs, but also those within SNC. While I agree that just because there is no five year supply within the NRDA, that should not then open up wholesale development opportunities within the rural areas, but where there are opportunities to provide housing in accessible locations then that should be given weight in the planning balance.
121. While it might not be one of the *most* sustainable locations, Middleton Cheney is a designated PSV. Indeed, it is the largest PSV in terms of number of households and second largest by population. Wherever it sits within the settlement hierarchy, the parties agree that it is a sustainable settlement. I saw at my site visit that it has a wide range of services and facilities including local shops, post office, pharmacy, village hall, library, primary school, pre-school, church and public house that would meet the day to day needs of future occupants. While future residents of the appeal scheme would need to travel further afield for a large supermarket shop, a wider range of employment opportunities or health facilities, the settlement is well served by a good regular bus service to Brackley and Banbury where there are a wider range of facilities including a railway station. It therefore has a good level of accessibility and there would be no material conflict with Policy C2 of the JCS which seeks to maximise travel choice from non-car modes in new developments, or the Framework's requirement to promote walking, cycling and public transport.
122. Furthermore, the location of the appeal site within a convenient walking distance of local services and cycling and public transport routes to higher level settlements would shorten journeys and facilitate access to jobs and services as required by part D2 of Policy S1 as well as complying with objectives 1 and 3 of the JCS including addressing social exclusion for those with no access to a car. Additionally, there is agreement within the planning Statement of Common Ground (PSOCG) that the scale of housing development, at up to 20 units, is appropriate relative to the settlement's status in the settlement hierarchy. I observed nothing on my site visit to dispute that view even given the proposed 54 units at Waters Lane and the 32 at Millers Way.
123. I have already found that there would be a minor level of harm to the character and appearance of the area and the intrinsic character and beauty of the countryside.

124. Therefore, as the appeal site is outside of the settlement confines of Middleton Cheney and in as much as the housing requirement for rural areas has been exceeded the proposal is contrary to policies S1 and R1 of the JCS and SS1 and LH1 of the LPP2.

### **Other Matters**

125. The appellant has submitted a Transport Note (TN) as part of the appeal, which concludes that the proposed level of development would not result in a significant adverse impact which would result in detrimental harm to the highway network. Although the Parish Council asserts that the appellant has not provided a sufficient transport assessment, it does not detail why it considers this to be the case.
126. The TN has been assessed by the Highway Authority who did not raise any concerns regarding the impact on the local highway network. I have seen no substantive technical evidence that leads me to a contrary view.
127. I have already noted that Thenford Road itself links into a series of PROW around the appeal site. Indeed, I walked along the footpaths and the road at my site visit. The road is narrow and there is no footway in the vicinity of the PROW. However, there is a fairly wide grass verge. Visibility along the road is good and I was able to easily avoid oncoming traffic. Given the relatively small increase in traffic that would occur due to the appeal scheme, I am content that there would not be any materially harmful impacts on pedestrians using the road.
128. Houses adjacent to the site boundary have windows looking out to the appeal site. The existing boundary treatment is sufficient to ensure that there would be no loss of privacy from ground floor windows for existing residents. The proposed houses would be set a sufficient distance from the boundary such that the intervening distance would protect the outlook and privacy of occupiers from the first floor windows of adjoining properties. Some of the existing properties which front Thenford Road would have an oblique view of the appeal site from rear windows and that view would change. However, the proposed houses would be sited a sufficient distance away to ensure that there would be no material harm to residents living conditions.

### **Planning Obligation**

129. Policy INF1 of the LPP2 expects that new development will provide for the necessary infrastructure requirements and affordable housing obligations arising from the proposal. The S106 secures the provision of 50% of the housing as affordable units in accordance with policy LH8 of the LPP2, which requires that proposals for 10 or more dwellings should achieve 50% affordable dwellings in the rural areas.
130. The obligation to provide open space on the site, including the provision of a children's play area, complies with the standards set out in the LPP2 and applies to all new housing developments on sites of eleven or more dwellings. This is in accordance with the Framework's recognition that high quality open spaces and opportunities for sport and physical activity are important to the health and well-being of communities. The agreement also includes the requirement to pay a contribution to maintain these areas in accordance with details in the document Planning for the Future of Open Space, Sport and



Recreation in West Northamptonshire (POSWN). A financial contribution to off-site playing fields is secured in accordance with the playing pitch strategy in the POSWN. The strategy identifies that the Middleton Cheney Playing Field has no spare capacity for football and that cricket facilities are over-used across the week. The study recommends enhancing the facilities to increase capacity for cricket whilst retaining football. The costs of provision and maintenance are all set out in the Council's Developer Contributions Supplementary Planning Document 2010 (SPD).

131. The LLP2 contains standards for the provision of allotments. The allotments in Middleton Cheney currently fall below that level of provision. The S106 therefore secures the payment of a contribution towards off-site provision or enhancement of allotments to accommodate increased demand as a consequence of the appeal scheme, in accordance with costs set out in the POSWN.
132. The obligation to provide each household with a 28 day travel card accords with Policy S10 of the JCS and paragraph 102c of the Framework, which together seek to promote public transport use. Given the location of the development, then it would be necessary to improve access to public transport for future occupiers to access larger settlements.
133. The evidence before me shows that there is an immediate and sustained need for primary education and early years provision in the vicinity of the appeal site and it is accepted that the proposed development would increase demand for places. The S106 makes provision for contributions towards early years, and primary education facilities, to increase capacity at local facilities based on a standard formula. Although it is acknowledged that the secondary school is also operating above an acceptable capacity threshold, it was confirmed by the Council at the Inquiry that this aspect would be funded through the Community Infrastructure Levy contribution.
134. A contribution to waste recycling is included to secure the provision of wheeled bins for each dwelling. It is necessary to ensure that each dwelling has appropriate means of disposing of waste.
135. A contribution is secured towards improvements to library provision in the village based on a standard formula and standard for provision prepared by the Museums Libraries and Archives Council.
136. The Care Commissioning Group has confirmed that there would not be sufficient capacity in the local primary healthcare system to absorb the anticipated increase in demand caused by the increased population from the proposed development. The S106 therefore necessarily secures a contribution based on the cost of future provision of new surgery projects.
137. An obligation regarding the payment of a contribution towards the monitoring of the provisions of the individual obligations is in accordance with the guidance in the PPG<sup>19</sup>. The sum involved is in accordance with the requirements in the SPD and is based on the amount of contributions in the agreement. There are a number of contributions, with different trigger points and therefore, I am satisfied that the costs are proportionate and reasonable and reflect the actual cost of monitoring.

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<sup>19</sup> 036 Reference ID: 23b-036-20190901

138. Therefore, based on the evidence before me, these obligations are necessary, and meet the statutory tests contained in Regulation 122 of the CIL, and the requirements of paragraph 56 of the Framework.

### **Planning Balance**

139. I have found that the Council can demonstrate a five year housing land supply. I have also found that the proposal would conflict with Policies S1, R1 of the JCS and policies SS1, SS2, NE2 and LH1 of the LPP2 which brings it into conflict with the development plan as a whole. I am mindful in this regard that the Framework recognises that the planning system should be genuinely planned and particularly so in this case, as the LPP2 was only adopted in 2020. However, whilst the appeal site was actively pursued, albeit unsuccessfully, as an allocation within that Plan the Inspector's report for LPP2 makes it clear that it would not be dealing with housing numbers or allocations: those would be a matter for a review of the JCS that has already started.
140. In light of the above, the appeal falls to be determined in accordance with the development plan unless material considerations indicate otherwise.
141. The proposal would provide a total of 10 affordable houses, secured through the S106 agreement. Since the start of the JCS plan period the Council has only delivered about 51% of its affordable housing needs. In a detailed response regarding affordable housing, the strategic housing team (SHT) suggest that at that time (June 2020) there were 24 households on the council's housing register seeking socially rented houses of whom 8 had a local connection to the Parish. By January 2021 that had fallen to 19 of whom 6 have a local connection to the Parish. The Housing Register is though, a living document and will change over time. As well it only records households requiring rented accommodation. There is no evidence regarding need for shared ownership and the appeal scheme would provide a significant proportion of such accommodation.
142. Mr Armstrong suggested that a detailed response regarding affordable housing from the Council's strategic housing team (SHT) was not relevant to this appeal as it was in response to a document submitted in support of the Waters Lane Appeal. However, the response makes reference to this scheme and provides a thorough response regarding affordable housing in the District and in Middleton Cheney. I consider therefore that it does have relevance to this proposal. It states that at June 2020 there were 24 households on the Council's housing register seeking socially rented houses of whom 8 had a local connection to the Parish. By January 2021, that had fallen to 19, of whom 6 have a local connection to the Parish. The Housing Register is, though, a living document and will change over time as needs vary. As well, it only records households requiring rented accommodation. There is no evidence regarding need for shared ownership and the appeal scheme would provide a significant proportion of such accommodation.
143. I appreciate the SHT's caution regarding oversaturating particular areas of the District with affordable housing. Moreover, South Northamptonshire is a large District and it is important that affordable housing is delivered where it is needed. However, the fact remains that on a District wide basis there has been a substantial under provision of affordable housing, with some households having to wait over a year for a home. This is particularly so for four bedroom properties of which the scheme would provide two. These are households in

need now and the provision of 10 affordable homes in an accessible location is a consideration that attracts significant weight in this case.

144. While I have found that the Council is able to demonstrate a five year housing land supply, this is not a cap on development. I have already found that Middleton Cheney is an accessible location for the amount of development proposed, even taking account of that proposed at Millers Way, and that in the associated appeal at Waters Lane. The Council produced one Secretary of State decision<sup>20</sup> where he gave less than significant weight to the provision of market housing, and that was due to the Council being able to demonstrate a five year housing land supply and that only a proportion of the housing would be completed in five years. Even then, the weight was only reduced to modest. In addition, there is no dispute here that the 20 houses could come forward within the next five years. The Council also submitted a further appeal decision, where the Inspector gave limited weight to market housing. However, in that instance the Inspector refers to the healthy five year supply of 6.67 years. That is not the case here. Although I have found it to be 5.14 years, that is an exceedance of just 53 dwellings. Therefore, I give appreciable weight to the provision of market housing in this accessible location at this time.
145. Although there would be some loss of hedgerow to facilitate the proposed access to the development, overall there would be an agreed biodiversity improvement through the introduction of landscaping and ecological features of approximately 25%, well in excess of the DEFRA requirement of 10%. Given the level in excess of the DEFRA requirement I give this modest weight
146. The appeal scheme would deliver in excess of the required amount of public open space including a play area, delivering 0.33 ha, well above the requirement of 0.07ha. While, that space would be provided for prospective residents, I see no reason why existing residents would not use the facilities as well, given the location of the appeal site within the footpath network.
147. Although there is no evidence before me regarding a deficiency in public open space or play space, equally there is no evidence to suggest there is an over provision. I accept the appeal site is well located for access to the countryside along a range of PROW. However, the open space on offer here provides an area to sit and play and therefore a different function. As a result, I give this moderate weight.
148. Good design is a fundamental requirement of planning policy and guidance and is neutral in any planning balance.
149. The development would deliver economic benefits, both during construction and after from the increased spend in the local economy. The appellant suggests this would be in the region of 75 jobs with future residents generating some £268,320 per year in the local area. There is no meaningful challenge to these figures by the Council. Based on the scale of the proposal I give these benefits modest weight.
150. I am of the view that the benefits outlined above are sufficient in this case, given the very site specific context of the scheme and the minor harm to the character and appearance of the area, to outweigh the harm arising through the conflict with the development plan. On that basis, I find no conflict with the

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<sup>20</sup> APP/C1570/A/14/2213025

Framework when assessed overall and I conclude, on balance, that the scheme can be considered as sustainable development and that the appeal should succeed.

151. I understand the Council's concern regarding the cumulative impacts of allowing small scale developments on the edge of rural settlements and the impact that would have on the adopted spatial strategy. I am mindful, in that regard, that in addition to the two appeals I heard at this Inquiry, there are five other current appeals regarding similar housing development on greenfield sites on the edge of village locations within the District. However, with the exception of the Waters Lane site considered at this Inquiry, there is no substantive evidence before me regarding those other sites. I have also been clear that this decision has been made having regard to the very site specific factors relating to this appeal.

### **Conditions**

152. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the PPG making such amendments as necessary to comply with those documents.
153. In the interests of certainty, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
154. Conditions regarding materials, further details of the proposed houses including meter housings, boundary treatments, finished floor levels in relation to existing and proposed levels, the pumping stations and landscaping including the existing hedges are necessary to protect the character and appearance of the area. Details of floor levels are required prior to work commencing on site as construction work may alter existing site levels. I have not imposed the suggested height of the hedges to be retained as it would be difficult to enforce and the hedges are in any case relatively low in height.
155. Details of protection of existing hedgerows and trees on site are required prior to work commencing on site to ensure that the existing landscaping is protected from construction damage.
156. A condition requiring a proportion of dwellings to meet the accessibility standards as set out in the Building Regulations is necessary to ensure that a proportion of the proposed dwellings are accessible and adaptable pursuant to Policy LH10 of LPP2.
157. Details of the disposal of surface water, the management of the system used and a verification report are required to ensure that appropriate systems are in place and that the development does not cause flooding elsewhere.
158. Conditions regarding a construction management plan, noise mitigation and working hours are required to protect existing and future residents' living conditions. The Construction Management Plan is required prior to work commencing on site to ensure that all construction activities are included. I have slightly amended requirement iii) regarding the routing of construction traffic as I am not convinced it is lawful via a condition to remove the rights of drivers to use the public highway.

159. A condition requiring implementation of the mitigation and enhancement measures set out in the ecological appraisal, that site clearance is timed to avoid bird nesting season, an ecological survey, details of lighting and a landscape and ecology management plan are required to protect the ecology on the site and ensure that biodiversity on the site is improved.
160. Conditions 8 and 15 are required to protect highway safety. Conditions regarding contamination are necessary to ensure that satisfactory living conditions are provided for future occupiers of the development. Details are required prior to work commencing on site to ensure accurate ground details are recorded. Details of the highway network are required prior to development taking place to ensure the appropriate details can be satisfactorily delivered on site.
161. A condition regarding water efficiency, sustainable development measures in the construction of the homes, and electric car charging points are necessary to help deliver sustainable development and mitigate against climate change. The sustainable development measures are required prior to work commencing on site to ensure their satisfactory delivery during construction.
162. Details of fire hydrants are required to ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire. A condition requiring high speed broadband to each property is necessary to facilitate home working and aid communication pursuant to Policy SS2 of the LPP2 and paragraph 112 of the Framework.

*Zoe Raygen*

INSPECTOR

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY**

Hugh Flanagan of Counsel

Instructed by South  
Northamptonshire Council  
(SNC)

He called:

John Goodall

Associate Director, DLP  
Planning Ltd

Max Askew

Managing Director, Askew  
Nelson Ltd

Andrew Murphy

Director, Stansgate Planning  
Consultants Ltd

### **FOR THE APPELLANT**

Clare Parry of Counsel

Instructed by: Geoff Armstrong  
Director, Armstrong Rigg  
Planning

She called:

Jeff Richards

Director and the Head of  
Planning South West, Turley

Clive Self

Managing Director, CSA  
environmental

Geoff Armstrong

Director, Armstrong Rigg  
Planning

### **INTERESTED PERSONS**

Councillor Burgess

Middleton Cheney, Parish  
Council

### **DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 Opening on behalf of the appellants Catesby Strategic Land Limited
- 2 Opening on behalf of the appellants Manor Oak Homes
- 3 Opening on behalf of South Northamptonshire Council
- 4 Mr Buckley Statement regarding Waters Lane appeal
- 5 Bedford Local Plan representations
- 6 RTPi Code of Conduct



- 7 Secretary of State Decision letter
- 8 Email re SNC Developers Forum
- 9 Site visit itinerary Thenford Road
- 10 Email from Mr Buckley re Waters Lane dated 18 March 2021
- 11 Site visit itinerary Waters Lane
- 12 Errata note Statement of Common Ground Housing
- 13 Note by appellants (both appeals) Housing
- 14 Note by Council (both appeals) Housing
- 15 Email from Mr Gentry re Thenford Road appeal
- 16 Consultation response re drainage matters for Millers Way scheme
- 17 Secretary of State Decision letter
- 18 Appeal decision
- 19 Council note regarding decisions and weight given to housing
- 20 Mr Buckley closing statement Waters Lane
- 21 *Edinburgh v Secretary of State for Scotland*, The Weekly Law Reports 31 October 1997
- 22 *Regina (West Berkshire District Council and another) v Secretary of State for Communities and Local Government* [2016] EWCA Civ 441
- 23 Agreed Note re Housing
- 24 *CEG Land Promotions II Ltd v Secretary of State for Housing, Communities and Local Government* [2018] EWHC 1799 (Admin)
- 25 Closing statement for the Council
- 26 Closing statement for the appellant Catesby Strategic Land Limited
- 27 Closing statement for the appellant Manor Oak Homes
- 28 *Wainhomes (North-west) Limited v Secretary of State for Housing, Communities and Local Government and South Ribble Borough Council* [2020] EWHC 2294 (Admin)

#### **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

- A Section 106 Agreement - Waters Lane Appeal
- B Section 106 Agreement – Thenford Road appeal



## Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development shall not be carried out otherwise than in complete accordance with the approved plans and details unless otherwise required pursuant to any conditions hereby attached, or unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The approved plans and details are:
  - Location plan A1932 EX100
  - Site Layout Plan Drawing Ref A\_1932 PL100 W
  - Proposed Access Plan Drawing Ref 251-TA20
  - Road Alignment Near Plot 8 Drawing ref 251-TA21 Rev A
  - Garage Blocks Drawing Ref A\_1932 GL100 C
  - 1&2-Bedroom Flats Floorplan AH Drawing Ref A\_1932 HT100 D
  - 1&2-Bedroom Flats Elevations AH Drawing Ref A\_1932 HT105 D
  - 2-Bedroom Semi-Detached Chalet Bungalow Drawing Ref A\_1932 HT200 E
  - 2-Bedroom Bungalow Drawing Ref A\_1932 HT205 C
  - 2-Bedroom Link-Detached House AH Drawing Ref A\_1932 HT210 D
  - 3-Bedroom Semi-Detached House AH Drawing Ref A\_1932 HT300 E
  - 3-Bedroom Detached House Drawing Ref A\_1932 HT310 D
  - 3-Bedroom Detached House Drawing Ref A\_1932 HT315 C
  - 4-Bedroom Detached House Drawing Ref A\_1932 HT405 C
  - 4-Bedroom Detached House Drawing Ref A\_1932 HT410 E
  - 4-Bedroom Detached House AH Drawing Ref A\_1932 HT420 B
  - POS Extents Drawing Ref PL200 C
  - Hard Landscaping Plan Drawing Ref 6927/ASP.HL.2.0 D
  - Hard Landscaping Plan Drawing Ref 6927/ASP.HL.2.1 D
  - Hard Landscaping Plan Drawing Ref 6927/ASP.HL.2.2 D
- 3) The development hereby permitted shall be carried out in accordance with the recommendations, mitigation and enhancements set out in section 5 of the Preliminary Ecological Appraisal (Report Ref: 1005677 BN01 PEA dv1) by Aspect Ecology, dated July 2019.
- 4) 50% of the dwellings approved shall be constructed to meet the Optional accessibility standards set out in Part M of the Building Regulations (M4(2) Category 2 and M4(3) Category 3). For open market dwellings this means that the following shall be achieved:

50% of dwellings units to M4(1) Category 1 (mandatory) and;

i) 50% of dwellings to M4(2) Category 2.

For affordable dwellings the following shall be achieved;

Intermediate tenure dwellings;

i) 50% to M4(1) Category 1 (mandatory) and;

- ii) 50% to M4(2) Category 2.  
Rented dwellings;
  - i) 50% to M4(1) Category 1 (mandatory) and;
  - ii) 40% to M4(2) Category 2 and;
  - iii) 10% to M4(3) Category 3.
- 5) All dwellings hereby approved shall be designed to meet the optional higher water efficiency standard of 110 litres per person per day.
- 6) All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive.
- 7) No more than two months prior to the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm 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 mitigation scheme.
- 8) No development shall take place until detailed engineering drawings of the proposed vehicular access, estate road and footpaths (including the footpath extension along Thenford Road to the west of the site access) all as shown on Drawing No: A\_1932 PL100 Rev W and 251-TA20 have been submitted to and approved in writing by the Local Planning Authority. These detailed drawings shall include both vehicular and pedestrian facilities; including inter – vehicular and pedestrian visibility splays, carriageway and footpath/cycleway widths, ground levels, access gradient, construction, materials and surfacing and drainage details. The site access junction, estate road and footpaths shall be built out fully in accordance with these approved details before the development is first occupied.
- 9) 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 in accordance with the approved levels.
- 10) No development shall take place, including any works of demolition, ground works or vegetation clearance, until a Construction Method Statement including a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
  - i) The parking of vehicles of site operatives and visitors;
  - ii) Construction programme of works including site access arrangements

- iii) the erection and maintenance of signage at all vehicular exits from the construction site advising drivers of preferred approach and exit routes to the site;
- iv) Loading and unloading of plant and materials;
- v) Storage of plant and materials used in constructing the development;
- vi) The erection and maintenance of security hoarding;
- vii) Measures to prevent the transfer of mud, gravel and any other loose materials from inside the site out onto the public highway including wheel washing facilities, road sweeping and carriageway cleansing;
- viii) Measures and/or Protocols to control and manage the emission of dust and dirt during construction;
- ix) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- x) Full details of the days and hours of operation of the site – including delivery, demolition and construction working hours;

The approved Construction Method Statement and Construction Traffic Management Plan shall be adhered to throughout the construction period for the development.

- 11) No development shall take place until details of all sustainable development measures to be taken in the construction of the homes hereby approved have been submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall include but are not confined to:
- i) High standards of sustainable design
  - ii) Improved environmental performance and energy efficiency
  - iii) Use of sustainably sourced materials
  - iv) Maximise use of energy needs from renewable or low carbon sources
  - v) Minimise resource demand and waste generation
  - vi) Maximise use of solar gain, passive heating and cooling, natural light and ventilation
  - vii) Maximise water efficiency
- Approved details shall be implemented on site prior to the occupation of each home and retained thereafter.
- 12) No part of the development hereby permitted shall take place until a comprehensive intrusive investigation has been undertaken in accordance with the recommendations detailed in Geo Environmental Services Ltd Desk Study Report Ref GE-18685-DSR Dated 08/11/2019 in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals all of which 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*' which 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.

- 13) If contamination is found pursuant to condition 12 above, 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.
- 14) No development shall take place until the existing trees and hedges to be retained as identified in the Arboricultural Impact Assessment ref 10297\_AIA.001 Rev C dated July 2020 and any plans approved pursuant to condition 27 have been protected in accordance with a Tree Protection Plan which shall have been previously submitted to and agreed in writing by the Local Planning Authority. The Tree Protection Plan shall accord with the principles of BS5837 and include details of proposed site levels, service routes and a protection inspection schedule. Any barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by any barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made.
- 15) No development shall take place within the site until the Council has been informed in writing which roads/streets within the site are to be offered for adoption by the Local Highway Authority. If any roads/streets are not to be offered for adoption then full engineering details of the design and construction of those roads/streets along with details of the future arrangements for ownership and maintenance shall be submitted to and approved in writing by the Local Planning Authority before their construction commences. The roads/streets shall thereafter be constructed in accordance with the approved details prior to the first occupation of any dwelling served by that road/street and shall thereafter be maintained in accordance with the approved details
- 16) Full details of the fire hydrants to be provided or enhanced on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any above ground works. Thereafter, and prior to the first occupation of the development, the fire hydrants shall be provided or enhanced in accordance with the approved details and retained as such thereafter.
- 17) No development above slab level shall take place until a noise assessment has been undertaken and a scheme for protecting the proposed dwellings from noise sources affecting the site has been submitted to and approved in writing by the Local Planning Authority. Any assessment method and acoustic criteria used shall have the prior written approval of the Local Planning Authority and any proposed mitigation

scheme shall meet the design aims of the National Planning Policy Framework and Planning Practice Guidance. Any works which form part of the approved scheme shall be completed in accordance with the approved details before any of the permitted dwellings to which the scheme relates are occupied and shall be retained thereafter.

- 18) No development shall take place above slab level on any dwelling until a materials schedule for all built development and hard surfaces has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt this schedule shall identify a proportion of dwellings to be finished in natural ironstone and the remainder in brick. The works shall be implemented in accordance with the approved details.
- 19) The external walls of the buildings to be finished in natural ironstone as identified pursuant to condition 18 shall be laid, dressed, coursed and pointed using a lime based mortar with brushed or rubbed joints in accordance with a sample panel (minimum 1 metre squared in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority before the stonework is commenced. The sample panel shall be constructed in a position that is protected and readily accessible for viewing in good natural daylight from a distance of 3 metres. The panel shall be retained on site for the duration of the construction contract.
- 20) Samples of the bricks to be used in the construction of the walls of the buildings to be finished in brick as identified pursuant to condition 18 shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall be carried out in accordance with the samples so approved.
- 21) Samples of the tiles/slates (including ridge tiles) to be used in the covering of the roofs of the buildings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall be carried out in accordance with the samples so approved.
- 22) Full details of the siting, appearance and colour of any electricity or gas supply meter housings to be located on the external elevations of the buildings shall be submitted to and approved by the Local Planning Authority prior to the construction of the building above slab level. The development shall thereafter be carried out in accordance with the approved details.
- 23) Details of the construction (including cross sections) cill, lintel and door and window reveals (including rooflights and dormer windows) as well as the colour/finish of the proposed windows and doors shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of that work. The development shall be carried out in accordance with the approved details.
- 24) Notwithstanding the details shown on the approved plans, further details of the architectural detailing of the exterior of the dwellings including the eaves and verge treatment, porches, chimneys and rain water goods shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the buildings above slab level. The development shall thereafter be carried out in accordance with the approved details.



- 25) Full details of the design and appearance of all enclosures along all site boundaries and any boundaries within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. The approved means of enclosure shall be erected prior to the first occupation of the dwelling to which it relates.
- 26) Details of all external lighting (including street lighting but excluding lighting within individual residential plots) including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter. No external lighting shall be installed within the public open space, ecology mitigation and biodiversity enhancement areas.
- 27) Notwithstanding the submitted or approved plans, a revised soft landscaping scheme including a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority before building progresses above slab level of any dwelling. The submitted plans shall demonstrate that all species used in the landscaping and planting proposals shall be native species of UK provenance and that they have been informed by those native species occurring in the local landscape as well as the qualities of the special landscape area as set out in South Northamptonshire: A Review of Special Landscape Areas 2017 or any successor document(s). The approved landscaping proposals shall be carried out in accordance with the approved timetable and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 28) Before any above ground works commence full details of the surface water drainage scheme for the site, based on Flood Risk Assessment report reference no. 251-FRA-01-F, Rev. H, dated July 2020 prepared by Martin Andrews Consulting Ltd shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented and maintained in accordance with the approved details before the development is first occupied. The scheme shall include:
  - i) Details (i.e. designs, diameters, invert and cover levels, gradients and dimensions) of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets and attenuation basins.
  - ii) Cross sections of all control chambers (including site specific levels mAOD) and manufacturers' hydraulic curves for all hydrobrakes and any other flow control devices.
  - iii) A detailed scheme for the maintenance and upkeep of every element of the surface water drainage system proposed on the site.
- 29) Prior to their installation details of the proposed pumping stations shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include all boundary enclosures and soft landscaping proposals. Development shall thereafter take place in accordance with the approved details.



- 30) Prior to the occupation of each dwelling, that dwelling shall be provided with the necessary services to enable the provision of high-speed broadband (no less than 100mbs).
- 31) No dwelling or flat hereby permitted shall be occupied until it has been provided with electric charging equipment of AC Level 2 (or equipment providing for no lesser standard of efficiency) to serve that dwelling or flat.
- 32) If remedial works have been identified in condition 13 the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 13 and a verification report that demonstrates the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority.
- 33) No dwelling shall be occupied until a Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment, report reference no. 251- FRA-01-F, Rev. H, dated July 2020 Prepared by Martin Andrews Consulting Ltd. has been submitted by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority. The details in the submitted report shall include:
  - i) How any departure from the agreed design is in keeping with the approved principles;
  - ii) Any As-Built Drawings and accompanying photos;
  - iii) Results of any performance testing undertaken as a part of the application process (if required/necessary);
  - iv) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc; and
  - v) Confirmation that the system is free from defects, damage and foreign objects.
- 34) No dwelling shall be occupied until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.
- 35) No construction work, including site clearance and delivery of materials, shall be carried out except between the hours of 08.00 to 18.00 Monday to Friday and 09.00 to 13.00 on Saturdays and at no times on Sundays, Bank and Public Holidays.
- 36) If, during development, contamination not previously identified pursuant to condition 12 is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.
- 37) The existing hedge(s) along all site boundaries of the site shall be retained any trees or plants which die, are removed or become seriously damaged or diseased within 5 years from the completion of the

development shall be replaced in the next planting season with others of similar size and the same species.

\*\*\*\*\*END OF CONDITIONS\*\*\*\*\*

Richborough Estates

**APPENDIX 3**

**APPEAL REF: APP/Z2830/W/21/3270614 LAND OFF NORTHAMPTON  
ROAD, BLISWORTH, WEST NORTHAMPTONSHIRE**



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## Appeal Decision

Hearing Held on 21 September 2021

Site visit made on 21 September 2021

**by Stephen Wilkinson BA BPI DIP LA MBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 November 2021**

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**Appeal Ref: APP/Z2830/W/21/3270614**

**Land off Northampton Road, Blisworth, West Northamptonshire**

**Grid Reference: 472724 253757**

- 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 Manor Farm Developments (UK) Ltd & CBC Meats Ltd against the decision of South Northants District Council.
  - The application Ref S/2020/0233/MAO, dated 11 February 2020, was refused by notice dated 3 November 2020.
  - The development proposed is residential development of up to 30 no. dwellings with all matters reserved except for access.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Since the application was determined by South Northamptonshire District Council, a new unitary authority, West Northamptonshire Council became operational from 1<sup>st</sup> April 2021. This includes the former administrative areas of South Northampton District Council, Daventry District Council and Northampton Borough Council.
3. The former Council adopted the Part 2 Local Plan (LPP2) in 2020. This sets out a series of development management policies but does not include housing allocations. Policy references in this decision are from this adopted plan as well as the joint core strategy.
4. In advance of the Hearing, I received a completed Unilateral Undertaking dated 10 September 2021. The Council indicated during the Hearing that this fully addresses its second reason for refusal which it has chosen not to defend<sup>1</sup>. However, I make further reference to the Undertaking later in this decision.
5. The appeal is submitted in outline with all matters reserved apart from access. Accordingly, for the purposes of this decision I am only considering the unnumbered OS extract Site Location Plan and the detail including in the Swept Path Analysis screenshot and Swept path analysis. I will treat the submitted

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<sup>1</sup> Statement of Common Ground - para 6.1

layout plan 976-BW-01C for illustrative purposes only apart from the location of the proposed access off Northampton Road.

6. During the Hearing, the Council tabled, as evidence a recent appeal decision in respect of proposed housing development in the village of Milton Malsor<sup>2</sup>. I have taken account of the comments received from both parties on this decision.

## **Main Issues**

7. The appeal raises the following issues:

- Whether or not the Council is able to demonstrate a five year housing land supply
- The location of development with reference to both national and local policies
- The effect of the proposals on the landscape character and appearance of the area, and
- Whether or not the proposals include adequate provision of necessary infrastructure directly required by this development.

## **Reasons**

### ***Housing Land Requirement***

8. The difference between the parties on this main issue can be summarised as whether the requirement should be determined by a plan led approach or through the basis of administrative areas. In practice the difference is whether the requirement is 11,020 dwellings (the appellants case) or 7,170 dwellings (the Council's case).
9. The West Northamptonshire Joint Core Strategy (WNJCS), adopted 2014, was developed by the 3 former boroughs which now form the new authority. The strategy sets out the scale and distribution of development across the 3 former districts with the bulk of housing growth directed to sustainable urban extensions (SUEs) lying on the western side of Northampton, known collectively as the Northampton Related Development Area (NRDA). The strategy identifies growth at secondary locations in Daventry, Towcester and Brackley. The WNJCS was developed with the clear purpose of planning for major growth supported by necessary infrastructure in the period 2011-2029 as the anticipated growth within Northampton could not be contained entirely within the administrative boundaries of the former district.
10. Policy 3 of the WNJCS includes a requirement for 42,620 dwellings in the period 2011-2029. This requirement includes 28,470 dwellings proposed for the SUEs.
11. The WNJCS was reviewed in 2019<sup>3</sup> given its original adoption date, in line with the requirements of the Framework. This concluded that the original growth figure included in Policy S3 and other relevant policies included at S1, S4, and S6 were up to date pending a more thorough review which is now underway.

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<sup>2</sup> APP/Z2830/W/21/3269904

<sup>3</sup> In accordance with Regulation 10A Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

12. The parties disagree on whether the proposed growth identified for the sites within the WNJCS should be included in the District's housing requirements. The appellant considers that as Policy S3 of the WNJCS identifies that the scale and distribution of housing includes sites within the SUEs (3,850 new dwellings) within the former district, then the overall requirement is a total of 11,020 dwellings. In contrast the Council's case is that the NRDA should be excluded from the housing requirement which reduces it to 7,170 additional dwellings.
13. It is evident that from the inception of joint working leading to the production of the WNJCS that a strategic approach broadly in line with the provisions of Paragraphs 5 and 17 of the Framework has been adopted by the WNJCS authorities in advance of the creation of the unitary authority.
14. The Inspector's report into the WNJCS identifies that the NRDA was to be taken as one joint area for the assessment of housing delivery<sup>4</sup>. The policies at S3, S4 and R1 of the WNJCS set out the housing numbers for the whole area. I accept that these policies define the plan area approach in line with the broad intent of the strategy.
15. Both parties acknowledge that there is an under delivery of housing on those sites within the NRDA. The appellant considers that the under supply should be disaggregated into the housing land supply figures for each District. They argue that this approach is not consistent with the Framework and undermines the delivery of the Government's housing target of 300,000 dwellings per annum (dpa).
16. In my view, the appellants approach to this matter would not be consistent with the plan led approach advocated by the WNJCS. Although there are differences between the Council's approach, the Framework and Guidance its strategic approach forms part of its adopted policy. In contrast the Framework is a material consideration, albeit an important one. However, the Framework does not carry the same weight as the policies included in the WNJCS.
17. Furthermore, the review of the WNJCS completed in 2019 was to my mind consistent with footnote 39 of the Framework in confirming the housing requirement albeit on an interim basis pending the completion of a new strategy which is underway. Although the overall housing requirement of 42,620 dwellings was not altered, the residual figure is still higher than the calculation of local housing need (LHN) by around 6,700 dwellings<sup>5</sup>. This is consistent with the option included in Paragraph 74 of the Framework.
18. The appellant identifies that the HDT<sup>6</sup> score of the 3 constituent districts includes the disaggregated parts of the NRDA. This was measured against a requirement of 612 dpa for South Northants. They argue that for this reason the housing requirements should be measured on the same geography. However, HDT scores for each district were over 100% and in my view, demonstrate that overall the WNJCS is successfully delivering supply. This further supports the plan led approach. The appellants criticism<sup>7</sup> of the Councils approach is overstated on this point.

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<sup>4</sup> Appendix 3 to Mr Goodall's evidence

<sup>5</sup> Review of Joint Planning Policies December 2020

<sup>6</sup> Housing Delivery Target

<sup>7</sup> Appellants supplementary statement - paragraph 6.14



19. As further evidence in support of their point, the appellants cite a recent appeal decision<sup>8</sup> in Wiltshire involving a joint housing strategy. It is unclear from this decision whether the joint core strategy had the same approach to accommodating growth as the WNJCS, whether the review was completed on the same basis and whereas that review found that the policies required updating this was not the outcome in this case.
20. In suggesting that administrative areas should be the basis for measuring housing requirements, the appellant does not fully address the Council's case that as a matter of locally determined policy the plan led area is the basis of its adopted strategy. This approach is consistent with the plan led system requiring co-operation between planning authorities. It provides the basis on which the new authority can complete its detailed review of housing requirement.
21. The appellant has suggested that in determining this appeal, I should adopt the same approach as that taken by an Inspector colleague in the Rothersthorpe decision<sup>9</sup>. In that appeal, the Inspector considered that the requirement included land within the NRDA and was 11,020 dwellings. However, this decision is one of several recent appeals where other Inspector colleagues have differed in their approach<sup>10</sup>. Although I recognise the need for consistency in decision making, I am not bound by previous decisions.
22. In my view the SUEs are not a reflection of the housing needs of the former South Northants District Council but of the growth of Northampton. To include them in the districts housing requirements is a misreading of the WNJCS.
23. I am satisfied that the approach advocated by the Council in this appeal follows the long standing approach agreed by the joint planning body for West Northamptonshire in having a separate housing requirement for the NRDA as required by Policies S1, S3 and S4 of the WNJCS. The Examining Inspector of the LPP2 stated that the district's housing requirement is derived from the WNJCS.
24. Whilst there will always be a tension between the measurement of supply against a 'plan area' in contrast to 'administrative areas' the Council's spatial strategy is predicated on the former and is consistent with the WNJCS. This is also consistent with Paragraph 22 of the recently adopted Framework.

#### *Annualised or trajectory*

25. Both parties adopt a different approach to the projection of annual housing requirements. The Council adheres to an annualised housing requirement in contrast to the appellant which state that adoption of a trajectory is consistent with the WNJCS.
26. Appendix 3 of the WNJCS sets out a housing trajectory for the whole of the plan period. This dismisses the idea of annualised figures as the trajectory is considered more appropriate. For the Council annualised figures are preferred given that in the first 5 years of the WNJCS, delivery was higher than the OAN. It states that this would be in line with the Guidance which suggests that a

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<sup>8</sup> APP/J1860/W/19/32492098

<sup>9</sup> APP/Z2830/W/18/3206346

<sup>10</sup> APP/Z2830/W/20/3261483

reduced delivery figure can be appropriately addressed through an annualised figure.

27. In contrast, whilst the appellant states that the difference in approach is not determinative to their case, given the dispute over the housing requirement, they advocate that the calculation of 5YHLS should be completed on the basis of the trajectory to reflect the exigencies of the Strategy.
28. Given the substance of the Council's case which is ostensibly based on the requirements of the WNJCS, I consider that a departure from the trajectory approach would be counter to the Guidance<sup>11</sup> in this instance.
29. For this reason, I accept that a trajectory approach is required to the calculation of the housing requirement.

#### *Over/under supply*

30. The Council have identified an oversupply of around 700 dwellings on those sites which lie in the part of the former administrative area of South Northants District Council, outside the NRDA when set against the OAN<sup>12</sup>. The extent of over supply is particularly acute in the rural areas. On the basis of a trajectory approach this would amount to around 401 units<sup>13</sup> over the next 5 years.
31. In contrast the appellant asserts that there is an actual under supply of around 319 dwellings when sites in the NRDA are included.
32. If the appellants approach was to be accepted this could likely result in a chronic 'tilted balance' with development pressure being met in the rural areas which have already experienced over provision against the WNJCS plan target. This would not deliver sufficient housing to address the Northampton related development pressures in sufficient numbers and with the appropriate levels of infrastructure. This would undermine the whole basis of the joint strategy and corrupt the plan led approach. In my view this is not a case of 'avoiding the application of the tilted balance'<sup>14</sup> as the appellant suggests but is consistent with effective plan making and implementation as the Framework requires.
33. The Council's approach is consistent in ensuring housing delivery is supported by appropriate infrastructure.

#### *Conclusions on housing requirement*

34. The Housing Statement of Common Ground includes a series of tables with different housing requirements based on the assumptions which underpin the approach of the main parties. For the reasons as stated above, the overall housing requirement is based on the administrative area excluding the NRDA. In line with the provisions of the WNJCS a stepped trajectory should be used.
35. Consistent with the exclusion of the NRDA from the housing requirement, I have concluded that there has been over supply from previous years. Both the Framework and Guidance are silent on this matter and in this situation it remains for the judgement of the decision maker.

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<sup>11</sup> 68-021

<sup>12</sup> HLAS 2021

<sup>13</sup> Table 5 Housing Statement of Common Ground

<sup>14</sup> Emery Planning -additional comments dated 23<sup>rd</sup> September 2021

36. The Council has adopted a plan led approach; this lies at the heart of the whole planning system<sup>15</sup>. If I were to accept the appellants argument and the references to Guidance<sup>16</sup> this would lead to an inflated requirement for the former district which would undermine the whole basis of the WNJCS.
37. The new Authority has already commenced a review of the strategy and housing requirements. I do not consider, therefore, that the Council's approach in its treatment of over delivery would be prejudicial to the Government's target of achieving 300,000 new dwellings per annum
38. For the reasons as stated above, the Council has a requirement (including the 5% buffer) of around 1,826 dwellings for the period 2021/22-2026/27 HSOCG<sup>17</sup>.

### ***Housing land supply***

39. Consistent with the approach of the parties to the calculation of the housing requirement they dispute whether sites in the NRDA should be assessed for their contribution to supply. Only 3 sites, each of which falls within the NRDA, are disputed by the parties.
40. As I have already determined that the NRDA is a separate plan area, it follows that I do not have to consider the extent of their contribution to supply over the next 5 years.

### ***Windfall allowance***

41. The calculation of windfall allowances is an inexact science and is often based on the extrapolation of the number of units which have come forward on sites in previous years. The difference between the parties is only around 87 units.
42. The Council have based their figures on housing delivery in the last 20 years on sites of 10 units and less. The average number of dwellings is around 75 dpa which has only been applied to years 3, 4 and 5 (225 in total) although this has been subject to a lapse rate reducing the overall figure to 212 dwellings. This allows for the completion of windfall sites and ensures minimum opportunity for double counting.
43. The appellant considers that this conflates the number of units which could arise from this source given that the HLAS identifies that 280 units could arise from the development of small sites of less than 10 dwellings. This would leave a balance of around 125 dwellings which could arise from windfalls.
44. Both approaches are based on valid assumptions. On the basis that the difference between the 2 figures is only 87 units it is not crucial to the overall supply figure. By reducing this difference by 50%, the overall supply would be around 168 units from windfalls over the 5 year period thereby reducing the Councils supply figure by 67 units.

### ***Conclusions on housing land supply***

45. On the basis of Table 5 included in the HSOCG (trajectory) which identifies a requirement of 1,826 dwellings over the next 5 years and with an overall

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<sup>15</sup> The Framework paragraph 15

<sup>16</sup> ID:68-028-201907022

<sup>17</sup> Table 5 Housing Statement of Common Ground

supply of around 2,019 (reduced to account for windfalls), subject to an annual requirement of 365 dpa, the Council has around 5.5years supply which is a policy compliant amount of housing land.

46. For these reasons, the tilted balance is not engaged and my consideration of the merits of the appeal scheme is determined with respect to the Council's adopted policies.

### **Location of development**

47. The Development Plan includes both the WNJCS and the Local Plan Part 2, 2020 (LPP2). The adopted policies set out the scale and distribution of proposed development with housing growth being directed to the most sustainable locations focussed primarily on Northampton and its SUEs but with secondary locations of Daventry, Towcester and Brackley. The strategy is predicated on the principles of sustainable development included in the Framework.
48. Inherent within these policies is a requirement to balance growth across the whole area in a sustainable way. The strategy is predicated on reducing the need to travel, combatting congestion and reducing social exclusion. These matters are entirely consistent with the Framework.
49. Accordingly, development within the rural areas will be limited and subject to criteria related to a hierarchy of rural settlements. Within this hierarchy Blisworth is identified as a 'Secondary Village A' due to its limited range of services and facilities. The LPP2 defines the 'confines' of the village within which new development is directed.
50. The appeal site lies outside the settlement boundary which the Examining Inspector into the LPP2 considered to be founded on a clear and compelling rationale. No evidence was presented to question the basis of the settlement boundary.
51. Both parties accept<sup>18</sup> that the appeal site is not within the NRDA and that its location conflicts with LPP2 policies SS1 and LH1 which require that new development should only be allowed if it meets various criteria. It is not part of the appellant's case that the appeal scheme falls within an exception included within the adopted policies. They accept that it conflicts with Policies SA, S1, S3 of the WNJCS and Policies SS1, SS2 and LHN1 of the LPP2<sup>19</sup>.
52. Although the appeal site lies closer to the settlement boundary than another site on Station Road where one of my Inspector colleagues recently dismissed an appeal<sup>20</sup>, the site's location conflicts with the principles of the settlement strategy which directs new development to the hierarchy of urban centres.
53. Whilst Blisworth includes a number of services which could be accessed on foot, it lacks the range of facilities including, supermarket, secondary school and range of employment opportunities. Residents of the new scheme would be required to make additional journeys just to access these important services. No evidence was presented to indicate the extent of local bus services or the cycle network for me to conclude that residents of the scheme would have a

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<sup>18</sup> Overarching Statement of Common Ground

<sup>19</sup> Overarching Statement of Common Ground

<sup>20</sup> App/Z2380/W/20/3265715

genuine choice of travel mode to access these services. Accordingly, I conclude that residents of the appeal scheme would be required to use private transport.

54. Whilst the settlement strategy favours development in Blisworth over Milton Malsor<sup>21</sup>, the principles which underpin the strategy and the importance of the settlement boundary still hold true for Secondary villages (A). The appeal proposal would be contrary to these.
55. For the above reasons, I conclude that the appeal scheme conflicts with Policies SA, S1, S3 of the WNJCS and Policies SS1, SS2 and LHN1 of the LPP2.

## **Landscape**

56. The site is an undulating field with its highest point at its southeast corner close to Northampton Road. The field slopes down towards Chapel Lane and a field drain which runs close to its western edge. Established tree belts obscure views into the site from Northampton Road and along its northern edge which adjoins a paddock. Whilst its southern and western edges lie next to the settlement boundary the site itself forms part of a broad area of countryside extending northwards from Blisworth to Station Road. The site's landscape features are characteristic of the Northamptonshire Vales NCA<sup>22</sup> and the Bugbrooke and Daventry LCA<sup>23</sup>. However, the site is not within a protected landscape.
57. A series of viewpoints from receptors located close to the appeal site boundary and beyond were included by the appellant in evidence. Both parties accept that there would be moderately adverse landscape and visual effects although the appellants case is that these would diminish over the life of the development.
58. Apart from views from the west, views of the appeal site are largely obscured either by local topography, tree belts and existing development, for example, along Little Lane and part of Chapel Lane.
59. Consistent with policies SS1 and SS2 of the WNJCS, Policy RH1 seeks to protect open land which is of significance to the form and character of villages. Policy LH1 of LPP2 seeks to preserve settlement boundaries outside of which new development will not be supported unless it meets a series of exceptions. The appellants agree that these exceptions do not apply in this appeal.
60. From Viewpoints 12, 13 and 14, along Gayton Road and bridleways RD20 and RD11, development on the site would be clearly visible. These provide clear views of the central and eastern areas of Blisworth. These areas have a settlement form characterised by housing interspersed with mature trees and tree belts.
61. From these viewpoints a development of up to 30 dwellings represents a denser form of development than that which forms the existing character and would appear as an incursion into the landscape at this point. For these reasons, the effect of the appeal scheme on the landscape character of the area would not be minimal in 10 years, as the appellant suggests. It could not be adequately mitigated during its life.

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<sup>21</sup> APP/Z2830/W/21/3269904 and additional comments 23 September 2021

<sup>22</sup> National Character Area

<sup>23</sup> Local Character Area



62. Whilst I recognise that development of the adjacent parcel of land which benefits from the extant residential permission<sup>24</sup>, would create a new context for the appeal scheme, local topography dictates that its development would not be as prominent as that of the appeal scheme. In this way the development of the 2 sites can be distinguished with development of the appeal site adversely impacting on the landscape setting of Blisworth.
63. Both parties accept that the landscape and visual impacts could best be described as moderately adverse<sup>25</sup>. However, the extent of this harm is sufficient to result in conflict with Policies SS1, SS2 and RH1 of the WNJCS and Policy LH1 of the LPP2.

### **Infrastructure**

64. The appeal was accompanied by a completed Unilateral Undertaking, dated 10 September 2021. This includes a range of measures including the provision of 50% affordable housing, capital contributions to existing allotments, the local library service, local playing fields and primary education and towards the management of the open space within the proposed scheme.
65. The Undertaking was accompanied by a Community Infrastructure Levy (CIL) compliance statement submitted by the Council. This highlights how each obligation included in the Undertaking is supported by adopted policy.
66. Overall, I am satisfied that the obligations included in the undertaking are related to the requirements of development plan policies and are necessary, directly related and fairly and reasonably related in scale and kind to the proposed scheme in line with paragraph 57 of the Framework 2021 and Regulation 122 of the CIL Regulations.

### **Planning balance and conclusions**

67. The appeal site's location conflicts with the Council's adopted settlement strategy included in WNJCS Policies SA, SS1, SS2 and RH1 and Policy LH1 of the LPP2 and would have medium to adverse landscape impacts to warrant harm.
68. Whilst the appeal site can be distinguished from the one in Milton Malsor by reason of both the position of the village within the settlement hierarchy and the amount of development proposed, the principles which underpin the Councils settlement strategy and landscape policies hold firm.
69. I acknowledge that the appeal scheme could result in benefits. These include additional housing. Other benefits include a biodiversity net gain and economic benefits in the short term through the creation of construction employment and in the longer term through increased spend on local services arising from new residents. Furthermore, the appeal scheme would result in a policy compliant amount of affordable housing, which I accord significant weight.
70. Whilst the Undertaking includes a number of measures designed to mitigate for the impact of development and which address the Council's second reason for refusal, I accord these neutral weight as they are required for the development.

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<sup>24</sup> S/2013/0225/MAF and S/2014/0431/MAF

<sup>25</sup> Overarching Statement of Common Ground



71. The site's development would adversely impact on the landscape surrounding the existing settlement and undermine the settlement strategy predicated on reducing the need to travel, combatting congestion and reducing social exclusion. These are important principles on which I place substantial weight which are consistent with the Framework.
72. Whilst the 5 year housing land supply is not be treated as a ceiling it is sufficiently robust and founded on a strategic approach that the Government priority to deliver its target of 300,000 dpa would not be undermined.
73. For the above reasons, I conclude that the benefits of the proposed scheme would not outweigh the harm that I have identified and the conflict with Policies SA, SS1, SS2 and RH1 and Policy LH1 of the WNJCS and LPP2 respectively.
74. For the above reasons, the appeal is dismissed.

*Stephen Wilkinson*

INSPECTOR

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Linzi Melrose	Director, CC Town Planning
Ben Pycroft BA (Hons), Dip TP, MRTPI	Director, Emery Planning
Michael Dunn	Appellant
Chris Jenkinson BA (Hons), Dip LA, CMLI	Associate Director, Aspect Landscape

### FOR THE LOCAL PLANNING AUTHORITY:

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Jon Goodall, MA (Cantab), MSc MRTPI	Director, DLP Planning Ltd
Andrew Murphy BA (Hons), MSc, MRTPI	Director, Stansgate Planning

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