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## Appeal Decision

Inquiry held on 28 February, 1-3 March, 25 April 2017

Site visit made on 25 April 2017

**by Helen Hockenhull BA(Hons) B.PI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 June 2017**

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**Appeal Ref: APP/L2820/W/16/3149835**

**Willowbrook Stud Farm, Rushton Road, Desborough, Kettering NN14 2QN**

- 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 Gladman Developments Ltd against the decision of Kettering Borough Council.
  - The application Ref KET/2015/0978, dated 1 December 2015, was refused by notice dated 4 March 2016.
  - The development proposed is described as 'outline planning permission for up to 147 residential dwellings (including up to 30% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Rushton Road, and associated ancillary works. Demolition of on-site buildings and structures at Willowbrook Stud Farm. All matters to be reserved with the exception of the main site access'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline with only the matter of access to be determined at this stage. Matters of appearance, landscaping, layout and scale were all reserved for future determination and I have dealt with the appeal on this basis.
  3. A Statement of Common Ground (SoCG) dated 9 February 2017 was submitted before the Inquiry. In addition a further SoCG dated 24 February 2017 with regard to Five Year Housing Land Supply was submitted at the event.
  4. The Council's reason for refusal makes reference to the North Northamptonshire Core Spatial Strategy (CSS) adopted in 2008 and the emerging policies of the Northamptonshire Joint Core Strategy (JCS). However in July 2016 the Council adopted the JCS and it is agreed in the SoCG that the Core Spatial Strategy no longer forms part of the development plan and is not relevant in the consideration of this appeal.
  5. Two draft unilateral undertakings under Section 106 of the Town and Country Planning Act 1990 were submitted at the Inquiry. The first provided for financial contributions in relation to education, community services, health
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provision, libraries, the management and maintenance of the Tailby Meadow Local Nature Reserve and footpath connections from the site to Tailby Meadow and Sycamore Drive. The second draft unilateral undertaking related to the provision of affordable housing. Signed and executed copies of both deeds were provided after the event. I have taken these into account in my decision.

6. It is stated in the SoCG that the Council also rely on Joint Core Strategy Policy 19 concerning Green Infrastructure as part of their case, though this policy was not referred to in the reason for refusal. I have determined the appeal on this basis.
7. The Council in cross examination conceded that the appeal scheme does not offend Policies 1, 28 or 29 of the JCS, though these policies are referred to in the reason for refusal. In terms of Policy 11 the Council rely solely on Table 2 which relates to well-connected places.
8. After the close of the Inquiry the parties were asked to consider and submit comments on the implications of the Supreme Court Judgement in *Richborough Estates v Cheshire East BC*<sup>1</sup> [2017] issued on 10 May 2017 on their respective cases. I have taken account of the parties' representations on this matter in determining this appeal.

### **Main Issues**

9. Based on all I have seen and heard the main issues in this case are :
  - whether the area has a 5 year supply of deliverable housing sites and the implications for development plan policy;
  - whether the appeal site forms a suitable location for housing with particular regard to its accessibility to local services and facilities;
  - the effect of the development on the integrity of the green infrastructure network;
  - the effect of the development on the character and appearance of the landscape.

### **Reasons**

#### ***Policy context***

10. It is agreed between the parties that the appeal site lies within open countryside outside the boundary of Desborough. Saved Policy 7 of the Local Plan for Kettering 1995 aims to protect the open countryside and states that 'Planning permission for development in the open countryside will not be granted except where otherwise provided for in this plan.' The appellant also makes reference to Policy RA5, though this is not mentioned in the reason for refusal. This policy states that planning permission will not normally be granted for residential development in the open countryside though states a number of exceptions including housing to meet local needs and replacement dwellings.

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<sup>1</sup> *Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council*

11. Policy 1 of the JCS states a presumption in favour of sustainable development. Policy 11 promotes development in the Growth Towns of Corby, Kettering, Wellingborough and Rushden. In market towns such as Desborough the policy supports growth in homes and jobs to support regeneration and local services at a scale appropriate to the character and infrastructure of the town. JCS Policy 28 sets out the housing requirements of the Borough to 2031 and Policy 29 provides for 1360 new homes in Desborough over the plan period. I am advised by the Council that the majority of this will be through existing completions and commitments leaving a residual of 407 dwellings (including 10% buffer for allocation purposes) to be allocated through the emerging Site Specific Local Plan Part 2 (SSLP2).
12. There is dispute between the parties as to whether Saved Local Plan Policy 7 is out of date. This Policy seeks to protect the countryside from unjustified development. It allows only limited development otherwise provided for in the Plan, such as rural exception sites. It appears to me that the purpose of this policy is to protect the countryside; it does not impose a blanket ban on all development in such areas.
13. However notwithstanding the above, it is common ground between the parties that in order to provide for the growth envisaged in the JCS, greenfield land on the edge of Desborough will be required. The parties agree that the development of the appeal site would be in conformity with the spatial strategy set out in JCS Policy 11, which focuses development towards the urban areas. The appellant has argued that as Policy 7 would prevent growth on the edge of Desborough, it is inconsistent with the Framework and the JCS and therefore out of date.
14. The test set out in paragraph 215 of the Framework is that relevant policies in existing plans should be given due weight in accordance with the degree to which they are consistent with the Framework. Although this Policy pre dates the Framework, I consider it to be broadly consistent with it, in particular one of the core planning principles which recognises the intrinsic character and beauty of the countryside. It should therefore attract significant weight.
15. I am mindful that JCS Policy 11 not only seeks to focus development in urban areas but also to ensure the character of the rural area is maintained and reinforced and that the open countryside is protected. Therefore I consider that Saved Policy 7 is consistent with JCS in this regard and not out of date. In order to accommodate the planned growth, it appears to me that it is the settlement boundaries of Desborough defined in the Local Plan that are out of date and not Saved Policy 7. I am advised that the Council has been evaluating growth options and potential sites as part of the preparation of the emerging Local Plan Part 2. Work is therefore ongoing to address this matter.

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

16. The Council maintains that it can demonstrate a housing land supply in excess of five years and consequently the relevant policies for the supply of housing should be considered to be up to date.
17. The appellant argues to the contrary; that notwithstanding the recent adoption of the JCS, the Examination Hearings into housing land supply took place in November 2015. Since then the supply situation has moved on to a material extent. It is agreed between the parties that the changed position is

mainly due to delays in the commencement of the planned Strategic Urban Extensions (SUE's). It is clear that this results in a different supply position to that considered by the Local Plan Examining Inspector. I must therefore consider the matter on the basis of the information now before me.

18. At the commencement of the Inquiry at the end of March 2017 the Council did not have housing completion data available for 2016/17. Instead they provided a projected completion figure amounting to 581 dwellings. However during the adjournment this data became available and showed the completion of 706 dwellings for that monitoring year. I have taken account of this figure in my assessment.

*i) Housing land requirement*

19. In the Housing Statement of Common Ground it is agreed between the parties that the base date from which a five year housing land supply position should be calculated is 1 April 2017 and that the five year supply period should be 1 April 2017- 31 March 2022. The parties are in agreement that the Objectively Assessed Need for Kettering is 520 dwellings per annum (pa) equating to 10,400 over the plan period from 2011-2031. It is also agreed that taking account of actual rather than projected completions for 2016/17, the shortfall accrued since April 2011 amounts to 381 dwellings and that this shortfall should be made up over the first five years of the plan period in line with the Sedgfield method. A windfall rate of 228 dwellings per annum is also agreed.
20. The parties however dispute whether, in light of paragraph 47 of the Framework, the buffer should be 5% or 20%. An application of a 5% buffer would result in a five year land supply requirement of 626 dwellings per annum, 3130 dwellings for the period 1 April 2017- 31 March 2022. With a 20% buffer, the requirement would be 715 dwellings per annum or 3577 over the five year supply period<sup>2</sup>. It is also disputed whether there should be a 10% lapse rate applied to small sites and in addition there is disagreement on the quantum of housing likely to be delivered on certain sites over the next 5 years. I shall address each of these matters in turn.

*ii) The size of the buffer*

21. Paragraph 47 of the Framework aims to boost significantly the supply of housing and amongst other things requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their requirements with an additional buffer of 5% to ensure choice and competition in the market. However where there is a record of persistent under delivery of housing the Framework states that authorities should increase the buffer to 20% to provide a realistic prospect of achieving planned supply. The appellant argues that this is the case in Kettering.
22. Planning Practice Guidance (PPG) in paragraph 035 advises that the approach to identifying a record of persistent under delivery involves questions of judgement for the decision maker in order to determine whether or not a particular degree of under delivery of housing triggers the requirement to bring forward an additional supply of housing. The factors behind persistent

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<sup>2</sup> Mr Johnson's Response to Kettering BC Update on Housing Completions 12April 2017 (ID 30)

under delivery may vary from place to place and therefore there is no universally applicable test or definition of the term. The PPG accepts that it is legitimate to consider a range of issues such as the effect of a housing moratorium and the delivery rate before and after any such moratorium. In consequence the PPG acknowledges that the assessment of a local under delivery is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle.

23. In this case the appellant has taken a 10 year period over which to assess past housing delivery, whereas the Council has considered a longer period over 15 years. Whilst both periods take account of the economic recession, to my mind the consideration of the longer 15 year period has the benefit of allowing consideration of periods of significant over supply during (2001/2-2005/6). This is more reflective of the peaks and troughs of the local housing market referred to in the PPG.
24. The Council met and exceeded the requirements of the Northamptonshire Core Spatial Strategy (CSS) between 2001/02 and 2005/06 and also in 2007/08. Whilst I acknowledge that there has been a shortfall in 7 out of the last 11 years, cumulatively delivery has met or exceeded the requirements for a period of 9 years from 2001/02-2009/10. The level of completions fell below housing targets in the period of the recession however this also coincided with an increased requirement in the CSS from 2006/07. Since then, with the exception of 2014/15, housing delivery has met the annual requirement.
25. The appellant in cross examination expressed the view that whilst the recession cannot be ignored as it is clearly part of the economic cycle, it should not be material to a planning judgment as the population continues to grow and households are still forming. However I disagree with this approach. Whilst I acknowledge that the recession is not mentioned in the PPG<sup>3</sup> as an issue to be taken into account in assessing under delivery, it clearly has a significant impact. I consider it is too simplistic to say that a shortfall over 7 of the last 11 years is due solely to the under delivery of the Council, when during the recession house builders were not bringing sites forward and delivery rates on sites under construction were significantly reduced. I am mindful that since the end of the recession, delivery rates have improved. Furthermore population growth in Kettering exceeded the County and National average during the period 2001-2011. Whilst I agree with the appellant that this does not directly relate to dwelling completions and delivery, it does provide an indication of the high performance of the Borough in terms of population growth during a period which included the recession.
26. At the Inquiry the appellant provided live completions data from the NHBC during the period April 2015 to the end of February 2017. The appellant suggested that this indicated completions of around 500 units for 2016/17, much lower than the 581 dwellings the Council had forecast. However as the actual completions for 2016/17, 706 dwellings, became available towards the end of the Inquiry, this evidence is no longer relevant to my consideration of this appeal.
27. At the time of the JCS Examination the Council could demonstrate an 8.65 year supply assuming a 5% buffer and a 7.57 year supply applying a 20%

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<sup>3</sup> PPG paragraph 035 Reference ID:3-035-20140306

buffer for the period 1 April 2015- 31 March 2020. The Examining Inspector did not give any view on the size of the buffer to be applied. This may have been because it did not matter as either way the Council had a 5 year housing land supply. In any event I am mindful that the JCS was only adopted in July 2016. Since that time the Council have exceeded delivery, notably in 2016/17. It is also clear from the evidence before me that the Council is working to bring forward the SUE's. As recognised by the Local Plan Examining Inspector<sup>4</sup>, once these sites are underway they would have the potential to deliver significant numbers of new homes in a relatively short timescale. This suggests to me that there is a reasonable prospect of delivery rates continuing to exceed the annual requirement in the next few years of the plan period.

28. Having considered all the above factors, I conclude that there has not been a persistent under delivery. Therefore a buffer of 5% should be applied.

*iii) Lapse rate for small sites*

29. The Council does not apply a lapse rate taking account of small sites with planning permission that for a range of reasons do not come forward for development. Rather the Council argues that the 5% buffer effectively acts as a proxy lapse weight. However this is not the purpose of the buffer which is aimed at providing choice and competition. I consider that it is appropriate to apply a lapse rate of 10% on small sites as by their very nature they often have constraints to be overcome and may not be developed. In respect of this appeal, only 79 dwellings on small sites are included in the five year supply. Applying a 10% lapse rate reduces this to 71, a loss of 8 dwellings. This is not significant in terms of the overall supply.

*iv) Deliverable supply*

30. Paragraph 47 of the Framework aims to boost significantly the supply of housing and to do this local authorities should identify a supply of deliverable sites sufficient to provide five years' worth of housing against their housing requirements. The Framework in footnote 11 states that to be considered deliverable sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. It also notes that sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years. The PPG makes it clear that planning permission or allocation in a development plan is not a prerequisite for a site being considered deliverable in terms of the five year supply.

31. In the Housing SoCG the Council's position is that they can demonstrate 6.45 years supply while the appellant argues the position is 3.72 years. During the Inquiry the positions of the two parties were modified following agreement to the removal of a number of sites from the five year supply or the reduction in the estimated number of dwellings that individual sites would deliver. The Council's final position was 6.31 years with a 5% buffer or 5.52 years with a 20% buffer. The appellant's view was that there was a 4.25 years (5% buffer) or 3.72 years (20% buffer) supply.

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<sup>4</sup> JCS Inspectors Report paragraph 48

32. The appellant argues that the Council has a poor past record of predicting housing completion rates and has disputed the Council's predictions in their Site Schedule prepared for the 2015/16 Annual Monitoring Report (AMR). In particular the appellant disputes the deliverability of around 30 sites. These include the SUE'S at Kettering East, Rothwell North and Desborough North, sites identified in the Kettering Town Centre Area Action Plan, sites in the Emerging Local Plan Part 2 and three sites with planning permission. I shall consider each in turn.

*a) Sustainable Urban Extensions*

33. The Council's Housing Land Supply Report published in January 2016 reduced the stated supply position at the time of the JCS Examination to 6.98 years (5% buffer) or 6.1 years (20% buffer). It is acknowledged by the Council that this reduction in supply was due in the main to delays in delivery of the SUE's. The potential risk with these larger sites was recognised by the JCS Examination Inspector who required a review mechanism to be included in the plan so that if there was more than 75% under delivery in the first three years of the plan, a review should be triggered and consideration given to the identification of further sites. This position has not yet been reached.

*Kettering East*

34. The Kettering East SUE forms a large site with capacity for 5500 dwellings over the JCS plan period. I am advised by the Council that currently there are two developers on site, David Wilson Homes and Barratts. At a delivery rate of 50 dwellings per developer, it is likely that these parts of the site could deliver as predicted over the five year supply period. Turning to Persimmon, the Council considers that this developer could achieve 20 completions in 2017/18 rising to 50 dwellings a year in the rest of the five year supply period. However Persimmon are not yet on site. I am advised that amendments are required to their planning permission, the Section 106 needs to be signed and Access F needs to be constructed before first occupation of any of the dwellings. This access is estimated to start in Spring 2017 and take 8 months to complete. I therefore consider it most unlikely that Persimmon will achieve completions in 2017/18 but more likely from 2018/19 onwards.

35. Taylor Wimpey also has an interest in this site. Access E is required to be constructed prior to occupation of any dwellings on their part of the site and this is estimated to start in summer 2017 and take 7 months to complete. The Council suggest 30 completions from this developer in 2018/19 which I consider would be achievable in this timeframe.

36. Other parcels within Kettering East, Hallam Land and Hanwood Park are estimated to provide completions from 2019/20 onwards. Whilst these sites require reserved matters permissions and other matters to be resolved I consider it likely that this could be achieved.

37. In summary in relation to Kettering East, I consider that the Council has been optimistic in terms of the delivery on the Persimmon section of the site. This should be put back a year reducing the sites contribution to the five year supply by 50 units.

### *Rothwell North*

38. This site has capacity to deliver 700 dwellings over the JCS plan period. Outline planning permission was resolved to be granted subject to the completion of a Section 106 agreement just before the start of the Inquiry on 21 February 2017. As part of information provided to support their application Persimmon provided the Council with details of their estimated delivery on the site. However separately Persimmon had also provided the appellant with delivery information. Conflicting information had been provided by the developer, the difference being 120 dwellings over the five year period. During the Inquiry the appellant agreed to accept the Council's figures as stated in their Site Schedule.

### *Desborough North*

39. Desborough North is also allocated for 700 dwellings and has outline planning permission granted in April 2014. Based on information provided by the site promoter, the Council estimates that the site will deliver 450 dwellings between 1 April 2017 and 31 March 2022, with 50 dwellings in 2017/18. The appellant however considers this to be too optimistic as no developer is in place and a reserved matters application would need to be prepared and submitted. The appellant suggests that a delivery of 200 dwellings, a reduction of 250 units is more realistic over the five year supply period.
40. Despite the optimism expressed by the site promoter, I agree with the appellant that it is most unlikely that the site would deliver completions in 2017/18. I consider it could take up to 18 months to market the site, secure a developer, obtain reserved matters permission, discharge conditions etc. The site could feasibly start to deliver in 2018 but it would be unlikely to deliver 50 dwellings in that year. Whilst the Council at the Inquiry revised their delivery estimate for this site by removing 20 dwellings in 2017/18, I consider that the Council's trajectory should be pushed back by 18 months so that the overall delivery on the site could be overstated by 125 dwellings.

#### *b) Kettering Town Centre Area Action Plan*

41. The Kettering Town Centre Area Action Plan (KTCAAP) was adopted in July 2011. This document sets out the regeneration priorities and vision for Kettering Town Centre to 2021. The Plan identifies a number of separate 'quarters' including a residential quarter and identifies 29 sites providing 957 dwellings. The Council advises that 54 dwellings have been completed on allocated sites since the adoption of the Plan in 2011.
42. The Council makes reference to a Town Centre Delivery Plan currently under preparation which will help to deliver the sites identified in the KTCAAP. In addition I am advised that a Surface Water Management Plan is also being finalised for the Borough which will address some of the constraints holding back some of the town centre sites such as surface water flooding issues and capacity in the network.
43. Neither of these plans are currently available in draft form. The Town Centre Delivery Plan will require consultation with stakeholders and it is not anticipated to be in place until 2018. The Surface Water Management Plan will require the implementation of infrastructure works such as channel widening, swales, larger pipes which will be need to be designed and funding



allocated before work can commence. Whilst these documents indicate that the Council is working to bring the sites in the KTCAAP forward, the timescales involved are uncertain.

44. The Council's five year housing land supply assumes the delivery of 438 dwellings from the KTAAP in the period 1 April 2017- 31 March 2022. The appellant has assessed the sites in the Plan with regard their deliverability in the 5 year supply period. 15 sites providing a total of 371 dwellings are disputed. Before the Inquiry the Council accepted that 3 of these sites, which together would have provided 62 dwellings, would be unlikely to come forward. This reduced the supply figure to 376 dwellings. The appellant refers to a number of sites currently in operational use such as B&Q Meadow Road, the National Grid site on Jutland Road, the temporary car park site on Trafalgar Way and the Morrisons staff car park site. The Council agreed during the Inquiry to remove the Morrisons and B&Q sites from the Site Schedule (total of 71 dwellings).
45. Whilst I do not intend to analyse each of the remaining disputed sites in turn, it appears to me that many of these sites have a number of constraints to overcome. I note that the Council's trajectory puts these sites in the latter part of the supply period to take account of this. Bearing in mind the past delivery of the KTCAAP since 2011 and the issues facing many sites such as the presence of existing operational users, the uncertain timeframes for the implementation of the Town Centre Delivery Plan and Surface Water Management Plan, I am not persuaded that all of these sites will come forward in the next five years and those that do would be likely to be towards the end of the supply period.
46. However I consider that the appellant has taken an overly pessimistic stance, estimating that only 5 dwellings would be delivered from sites identified. Having assessed the evidence before me I consider that only one site meets the deliverability criteria of footnote 11 of the Framework. That is the Meadow Road Recreation Ground owned by the Council (94 dwellings). The other sites are either occupied by operational uses or are dependent on other factors or developments in order to come forward and are therefore not available now. I consider that the delivery from the KTCAAP sites could be overstated by up to 211 dwellings.

*c) Emerging Local Plan Part 2 Sites*

47. The Council have identified 14 emerging sites which they consider will deliver 467 dwellings over the period 1 April 2017-31 March 2022. The appellant disputes 12 of these sites and therefore removes 257 dwellings from the supply over the next five years. The sites have been the subject of assessment work and have been considered by the Council's Planning Policy Committee as housing options to be taken forward as potential allocations. The Local Plan Part 2 is at an early stage of preparation and is envisaged the document will be the subject of consultation later in 2017 with adoption in September 2018.
48. Having regard to the stage in plan preparation that has been reached, I agree with the appellant that as a result limited weight can be attributed to this document. The draft allocations may be the subject of objection during the plan process.

49. Whilst I accept that an allocation in a development plan is not a prerequisite for a site being deliverable in terms of the 5 year housing land supply, there should be a realistic prospect that they would be delivered. Some sites are in active operational use such as the Glendon Ironworks and Geddington Sawmill sites. In the case of the Ironworks site, it was identified as a housing option in 2012 and the existing user would need to relocate. With regard to the Sawmill site, the existing user intends to downsize resulting in a mixed use site with issues of noise and contamination and I am advised that Anglian Water have assets affected by the site. Others have significant constraints to overcome such as Geddington South East with issues of noise and odour, being located close to a water recycling centre. The Kettering Town Football Club site appears likely to be the subject of local objection as attempts have been made to designate it as a community asset and in addition highways officers have advised that it would be better coming forward with an adjacent site currently in operational use.
50. Whilst it is possible that some of the potential allocations may come forward as planning applications before the adoption of the Part 2 Plan, it is more likely that they would come forward later. This is reflected in the Council's trajectory with these sites delivering dwellings in the latter part of the supply period.
51. I recognise that these sites have a level of support from the Council as they have been chosen as housing options to be taken forward in the plan process and have been the subject of consultation. However in light of the issues raised above, I am not confident that they will all be delivered and contribute to the five year housing land supply.
52. The appellant does not include any of these sites in their 5 year housing land supply estimate which again I consider to be overly pessimistic. I consider that the Former Kettering Town Football site, Geddington Sawmill, Glendon Ironworks and the Geddington South East sites would have the greatest difficulties to resolve and would be the least likely to be delivered. On the evidence before me I consider that the remaining sites are available and there are no significant constraints to be overcome. On this basis they would meet the advice in the PPG and could be considered to be capable of being delivered within a 5 year timeframe<sup>5</sup>. In my assessment this would result in the supply from the 12 disputed Emerging Part 2 sites being overstated by up to 141 dwellings.

*d) Disputed sites with planning permission*

53. The three sites in dispute, Talbot Court, High Street Desborough; Home Farm, Butchers Lane, Pytchley and Garages, Wilson Terrace, Kettering, could deliver 31 dwellings. The Council has advised that these sites all have extant permissions and have commenced on site. Whilst I agree that commencement in the case of the Garages on Wilson Terrace for example consists of demolition of existing structures and site clearance etc I have no evidence before me to suggest that they will not deliver completions as predicted in the Council's Site Schedule.

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<sup>5</sup> PPG para 31 Ref Id:3-031-20140306

v) *Conclusion on Housing Supply.*

54. Assessing a five year housing land supply is not an exact science and involves a degree of judgment based on a range of factors and assumptions. In this case I consider that the appellant has been overly pessimistic. Conversely the Council has been too optimistic though I appreciate their assessment is often based on the information given to them by site promoters and developers. Based on my conclusions above, I consider that the Council's 5 year housing land supply figure (4116 dwellings)<sup>6</sup> is likely to be overstated by up to 527 dwellings. This results in an anticipated supply of 3589 dwellings for the period 1 April 2017-31 March 2022 which exceeds the 5 year requirement of 3130 dwellings. I therefore conclude that the Council can demonstrate a housing supply in the region of 5.7 years including a 5% buffer.

***Suitable location for housing***

55. It is agreed between the parties that the site is located within the countryside on the edge of Desborough. The site lies over a kilometre from the centre of the town with the local Primary School located at a distance of around 1.3 km, healthcare facilities being approximately 1.6 km away and the Coop Supermarket at about 1.4 km distance. There is also a small convenience store on Broadlands approximately 650 m walk from the site access. The closest secondary school is in Rothwell, approximately 3.7 km from the site.
56. Manual for Streets advises that walkable neighbourhoods are typically characterised by a range of facilities within 800m or 10 minutes walking time. With the exception of the local convenience store, other facilities and service would clearly be beyond this recommendation. However the document recognises that this is not an upper limit and that walking offers the greatest potential to reduce short car trips especially those under 2 km. With the exception of the secondary school, where it is not uncommon for children to be transported by bus, the other facilities in Desborough would be within this upper distance.
57. I accept that the quality of a route is also important as well as distance to facilities. On my site visit I walked part of the way up Rushton Road towards the town centre. The pavement is narrow in places and the route is not flat all the way with a notable incline to the west of the appeal site. I accept that some residents would find it difficult to walk the distance and climb the hill to the town centre, particularly older persons. However there would be others who would be prepared to walk this distance. This was confirmed by the evidence of local residents at the Inquiry. Equally there would be some who would use the car even for distances less than 800 metres.
58. The key consideration in this case is whether the scheme provides residents with the opportunity to use non car means of transport. Paragraph 29 of the Framework promotes sustainable transport modes giving people a real choice about how to travel. In this case there is a bus stop on Rushton Road approximately 130 metres from the site access which provides an hourly service to Corby in an eastward direction and to Desborough, Kettering and Rothwell in a westerly direction. A further bus stop around 300metres from the site provides a service to Desborough, Rothwell and Kettering three times an hour. The small convenience store within 650 metres walking distance of

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<sup>6</sup> Council's Addendum Note 02/03/17 (ID24)

the site access would cater for basic every day needs. I accept this would not provide the range of goods to be found in the Coop Supermarket in Desborough and may be expensive but it would provide a facility in walking or cycling distance. In accessing the supermarket and other town centre services, future residents could either walk to the town centre or would have the option of using public transport. I accept that there are no cycle lanes leading to the town centre from the appeal site, which may deter some users but this still remains an option for others.

59. The Unilateral Undertaking includes measures to promote public transport use, though limited to the provision of a one month bus pass for future residents. In addition it is proposed to provide foot bridges between the site and the nearby Tailby Meadow Local Nature Reserve (LNR) and the amenity open space area on Sycamore Drive providing landowner consent can be obtained. I agree with the Council that these connections would not reduce the distance to travel to the town centre or the convenience store on Broadlands. As they are likely to be unsurfaced and unlit they would not be attractive routes for many pedestrians to use especially in the winter or poor weather.
60. New housing development planned for Desborough would inevitably be positioned at the edges of the settlement further away from the town centre and the services it provides. Whilst infrastructure improvements will no doubt be implemented, future residents will have similar distances to walk or need to take public transport. Clearly some will use the private car. The Council argues that the most appropriate direction for Desborough to grow is to the north which is better situated in terms of access to services and facilities. Whilst this may be the case I must judge whether the appeal site is acceptable in terms of accessibility. I acknowledge that JCS Policy 8 aims to create walkable neighbourhoods but together with Policies 11 and 15 it also aims to prioritise the needs of cyclists and public transport users. I therefore consider that the site is a suitable location for housing, provides a choice of travel means to reduce dependence on the car and is therefore compliant in this regard with the above JCS policies and the sustainable transport objectives of the Framework.

### **Green infrastructure**

61. Whilst the Council's reason for refusal does not refer to this matter or the relevant policy of the JCS, Policy 19, the Council has advised that they rely on this policy in this appeal.
62. The appeal site is located within the Ise Valley Sub Regional Green Infrastructure Corridor. JCS Policy 19 advises that green infrastructure corridors are designed as multi-functional green spaces which can provide new wildlife habitats, facilities and routes to enhance assets and provide linkages between them. The policy goes on to state that development that compromises their integrity, and therefore that of the overall green infrastructure (GI) network, will not be permitted.
63. It seems to me from Figure 17 of the JCS that the Sub Regional Corridor forms a wide band with no clear defined boundary and it covers both urban and rural areas. The appeal scheme includes the provision of open space to the southern part of the site which would provide the opportunity for biodiversity enhancement. The proposed attenuation pond proposed in this

southern part of the site can also provide such benefits. The scheme also includes a footpath connection to the LNR and amenity space on Sycamore Drive improving access to the wider GI network, though I accept not to the town centre to access facilities.

64. The Corridor already washes over much of the urban area of Desborough so that the appeal site would in effect form a small extension of this area. Having regard to the scale of the development I do not consider that it would cause harm to the integrity of the corridor as a whole. Taking account of the potential green infrastructure improvements offered by the development, I find no conflict with JCS Policy 19.

### ***Landscape matters***

65. The appeal site lies in open countryside to the south east of Desborough, on the northern slope of the Ise Valley. It comprises an area of around 6.8 hectares forming mainly agricultural land. The existing residential property, farm and equestrian buildings of Willowbrook Stud Farm lie to the north east corner of the site. The fields are subdivided by mature hedgerows and trees and slope down to the west and south to the River Ise which forms the southern site boundary.
66. The western site boundary consists of a tree/hedge line watercourse which forms the edge of the town of Desborough. On the other side of the watercourse lie existing residential properties and to the south of these dwellings is the Tailby Meadow Local Nature Reserve. Open countryside lies to the north and south of the site whilst to the east a trout lakes development is under construction. Public footpaths run along part of the southern site boundary on the opposite side of the watercourse and also close to part of the western site boundary (UH27 and UC12).
67. The site is within the Rockingham Forest National Character Area. Key characteristics of this area include broad undulating plateau and ridge, woodland areas forming a prominent feature in the skyline, a patchwork of large to medium size fields and a network of shallow streams and remnant unimproved grassland.
68. Local landscape character has been assessed by the parties as the Rolling Ironstone Valley Slopes Landscape Type within which the Kettering and Wellingborough Slopes forms the largest character area. This comprises a gentle rolling landscape of ridges and valleys. The area is bordered by the River Ise to the east and from the upper slopes of the valleys wide views are possible across surrounding landscapes. From lower slopes views along the valleys are more channelled and contained, in particular along the valley of the River Ise south of Desborough.
69. The site is not subject to any landscape designations. The Council and the appellant agree that the site does not form a 'valued landscape' as described in Paragraph 109 of the Framework. Whilst I do not disagree with the above, I consider that the site has a local value in terms of its contribution to the landscape and setting of Desborough. Whilst the site does not have the same level of protection as a designated landscape, the loss of undesignated countryside is still capable of being harmful.

70. The appellant in the submitted Landscape and Visual Impact Assessment (LVIA) assesses the overall landscape quality as good. I do not disagree. It is representative of the Kettering and Wellingborough Slopes Character type of which it is a part.
71. The Council criticises the methodology employed in the LVIA prepared by the appellant. Whilst there are differences in approach I consider that both assessments provide a clear and justified analysis for the purposes of this appeal.
72. Turning to the landscape effects of the development, it was clear from my site visit that the site lies on the valley slopes of the River Ise. I agree with the appellant that the development would not result in an adverse impact on the skyline. This is due to the site's location on the lower slopes of the valley side. However whilst the proposed mitigation and retention of existing features would to a degree assist to assimilate the proposed development into the landscape I do not consider these measures would be sufficient to overcome the harm of a residential development encroaching into this open valley landscape.
73. The western site boundary comprises the wooded tributary stream corridor of the River Ise. It forms a natural boundary to the eastern side of Desborough which to my mind has an important landscape function, visually containing the settlement. The appellant argues that it forms a natural feature not a natural boundary, though it is a feature worthy of retention which the appeal scheme is designed to achieve. Whilst I accept that the scheme retains this feature it does not address its importance to the morphology and setting of the town. The stream is typical of the local landscape character and the proposal would result in this natural topographic boundary being breached with development extending into and causing harm to the open valley landscape.
74. The appellant makes reference to the existing urban influences that have an effect on the landscape within and near to the appeal site. These include the existing buildings on the site, power lines and the extensive works and buildings associated with the trout farm development to the east. The appellant argues that trout farm would come to represent the transition between the urban edge of Desborough and the open countryside beyond. Clearly the trout farm development is currently having a considerable visual impact in the area but once complete this will improve. I do not consider that in this case, the urban influences referred to by the appellant have such a significant effect on the landscape. The trout farm forms a type of development that would not be untypical in a countryside location. Whilst I accept that this development includes a large building, the site is of sufficient distance from the settlement to be viewed as being within the countryside on the edge of the existing settlement. I do not agree with the appellant's argument that it would become the limit of development to the south east of Desborough<sup>7</sup>.
75. I observed on my site visit that when travelling west on Rushton Road heading towards Desborough the site lies in a dip and does not come in to view until a road user is much closer to it. The development would therefore have limited visual impact or harm from this perspective. However travelling

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<sup>7</sup> Mr Wakefield's proof page 20, paragraph 6.50

in the opposite direction away from Desborough, the site appears as a clearly visible rural element in the landscape. It is appreciated in the same view with the open agricultural fields to the northern side of Rushton Road creating a pleasant aspect when leaving the town. The proposed development would cause this to be lost and in this regard would lead to some harm.

76. I also viewed the site from public footpath UH27 to the south. I acknowledge that views of the site vary from different points on the footpath so that the visual impact for footpath users would change over the course of a route. However I consider that, having regard to the topography of the site and its position on the valley slopes, together with the current extensive rural views, the development would from this viewpoint result in a negative visual impact. I have considered the appellant's photographs of the site in the winter months showing the effect of the development at Year 1 and with mitigation in Year 15 post construction. I conclude that whilst these measures would filter views to an extent, the mitigation effect has been overstated by the appellant. It would not be sufficient particularly in winter to overcome the negative visual impact of the development when viewed from the south. There would therefore be a significant adverse impact on the landscape.
77. Looking from the north from footpath GY12, I observed that the current view is of the southern valley slopes, though currently this view is affected adversely by the construction works at the proposed trout lakes development to the east. The rooftop of the existing dwelling and buildings on the site were visible from this point. Post development the rooftops of the proposed dwellings would be visible from this location however the lower parts of the properties would be screened by existing boundary vegetation. For this reason I consider that whilst there would be an adverse landscape impact it would be to a more moderate degree.
78. On my site visit I also viewed the appeal site from the west from the garden of a property on Sycamore Drive. I note the appellant scoped out this position from his assessment but agreed on cross examination that a receptor in this location would be highly sensitive. The scheme proposes the infilling of gaps in the existing boundary vegetation. Despite these measures I consider that the development would have a significant adverse visual impact from the rear of these properties.
79. Viewing the appeal site from Tailby Meadow Local Nature Reserve (LNR) I noted that the site contains a significant area of existing planting on this western boundary which provides a good visual screen. This is to be supplemented with additional planting as part of the scheme. Bearing in mind the extent and position of the proposed open space area I consider that the visual impact of the development from this position would be limited.
80. In conclusion whilst the appeal site is not a valued landscape in the terms of the Framework it is still worthy of a level of protection recognising the intrinsic character and beauty of the countryside. The site is typical of the local landscape character type. It lies on the open valley slopes of the River Ise. The appeal proposal would result in an incursion of built development into this valley landscape and breach the natural boundary of the settlement provided by the wooded tributary corridor of the River Ise. In addition I consider that the proposal would result in significant negative visual impacts from viewpoints to the south of the site and from Sycamore Drive and

moderately adverse impacts on views from the north. The above factors would result in harm to the character and appearance of the landscape. The proposal would therefore not conserve or enhance the character or qualities of the local landscape or protect the landscape setting of the settlement. Accordingly I consider that the proposal would conflict with Policy 3 of the JCS which seeks to ensure that development is designed in such a way that it is sensitive to the landscape of the area.

### **Other matters**

81. A number of local residents have raised concern regarding the impact of the proposal on local roads. It was commented by a local Councillor that in forthcoming development plans, the Council is aiming to direct new housing away from east side of Desborough where it could be accessed from the strategic road network namely the A14 and the A6. The development of the appeal site would encourage traffic through the town and through local villages increasing congestion. Nonetheless the highway authority has raised no objection to the development, being content that the proposal would not result in significant highway impacts.
82. Many residents have raised concern about the lack of primary school places in Desborough. However the unilateral undertaking submitted by the appellant makes provision for a financial contribution to mitigate the impact of the development and provide for the increased number of school places required by future residents.
83. With regard to surface water and potential flooding, the proposal is accompanied by a flood risk assessment and subject to appropriate conditions to ensure a suitable drainage strategy is implemented; the development should not result in any adverse flooding impacts. In terms of biodiversity, ecological assessments have been undertaken and appropriate conditions could be imposed to mitigate any impacts and protect any notable wildlife interests on the site.

### **Planning Obligations**

84. Two unilateral undertakings under Section 106 of the Town and Country Planning Act 1990 were submitted by the appellant to cover a range of matters. The first one provides obligations in relation to community services, maintenance and management of the Tailby Meadow Nature Reserve, health, libraries, education and footpath connections to Sycamore Drive and the Nature Reserve. As these obligations would offset the impact of the development on local services and infrastructure they form a neutral consideration in the planning balance. As I am dismissing the appeal for other reasons I do not need to consider whether these obligations meet the tests within paragraph 204 of the Framework and Community Infrastructure Levy Regulation 122.
85. There is dispute between the parties with regard to whether affordable housing should be secured through a planning obligation or through the imposition of a planning condition. Both have been provided by the appellant for my consideration. With regard to the planning obligation this makes provision for 30% of the dwellings to form affordable housing. I am satisfied that this provision would be necessary to make the development acceptable in planning terms, that it directly relates to the development and fairly and



reasonably relates in scale and kind to the development. Therefore the affordable housing obligation meets the legal and policy tests and I have taken it into account in my decision. With regard to an affordable housing condition, as I am dismissing the appeal I do not need to consider this further, in particular against the tests for conditions set out in the Framework and the PPG.

### **Planning Balance**

86. I have found that in relation to housing supply, a 5% buffer should be applied and that the Council can demonstrate a 5 year supply of housing land. Policies relevant to the supply of housing are therefore up to date and full weight should be afforded to them. The tilted balance in paragraph 14 of the Framework is therefore not engaged. In accordance with paragraph 12 of the Framework, development that accords with an up to date development plan should be approved unless other material considerations indicate otherwise. With regard to the Richborough Estates judgment, the parties are in agreement that this has no fundamental bearing on the issues in this appeal.
87. Whilst the site lies outside the settlement of Desborough, it is common ground between the parties that the proposal would accord with the spatial strategy of JCS Policy 11. I have found that the development would not conflict with JCS Policy 19 with regard to green infrastructure or with Policies 8, 11 or 15 of the same document which consider accessibility and promote walking and other non-car means of transport. However I have found that the proposal would conflict with JCS Policy 3 with regard to landscape impact. Therefore the development would not accord with the development plan when taken as a whole.
88. The appellant has outlined a number of benefits of the proposal which contribute to the 3 dimensions of sustainable development. The scheme would contribute to boosting the supply of housing and would also provide affordable housing, notwithstanding that the Council has demonstrated a Framework compliant supply of land. The proposal would also provide employment during construction and result in construction expenditure providing local economic benefits. Future residents would no doubt spend in local shops and help support local services and facilities. The provision of improved bus stops and pedestrian links would be of benefit to both new and existing residents and the provision of green infrastructure within the site would improve biodiversity.
89. Whilst the above benefits weigh in favour of the scheme, I consider that they do not cumulatively outweigh the harm I have identified. The proposal conflicts with the development plan and as the material considerations in this case do not indicate otherwise, the development should not be permitted. Therefore in terms of the Framework, the proposal does not form sustainable development.

### **Conclusion**

90. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Helen Hockenfull*

INSPECTOR

## Appearances

### For the Local Planning Authority

Killian Garvey  
(of Counsel)

Instructed by Simon Aley of Kettering  
Borough Council

He called:

Ian Dudley BSc (Hons)

Director, Lockhart Garrett Ltd

Julia Baish BSc(Hons) MSc MRTPI

Senior Development Officer,  
Kettering Borough Council

Andrew Smith BA(Hons) MA MRTPI

Development Team Leader  
Kettering Borough Council

### For the Appellant

Jonathan Easton  
(of Counsel)

Instructed by Gladman Developments  
Ltd

He called :

Nigel Wakefield BA(Hons)BTP/DIP LA  
DIP MA UD MRTPI

Director, Node Urban Design Ltd

Mark Johnson MRTPI MRICS

Director, Johnson Mowatt LLP

Stuart Carvel MTCP (Hons) MRTPI

Senior Planner Gladman  
Developments Ltd

### Interested Persons:

Miss Angela Read

Local Resident

Cllr Jake Hakewill

County Councillor

Trevor Brighton

Local Resident

Kevin O'Brien

Local resident

John Phillip Conaty

Local resident

Peter Mellor

Local resident

Alan Mayes

CPRE Northamptonshire

Julie Gamble

Local resident – Initially requested to  
speak, Mr Conaty spoke on her behalf

### **Documents submitted at the Inquiry**

1. Five Year Housing Land Supply Statement of Common Ground.
2. Appeal Decision Ref APP/C3105/W/15/3134944, Land off Lince Lane, Kirtlington, Oxfordshire OX5 3HE.
3. CIL Compliance Schedule.
4. Photographic Location Plan to accompany Mr Dudley's evidence.
5. Appellant's Opening Statement.
6. Council's Opening Statement.
7. Officers Report - Application Ref KET/2016/0387 , Residential development for up to 113 Dwellings (all matters reserved except access), land to the East of Watermill Close, Desborough.
8. Decision Notice - Application Ref KET/2016/0387, Residential development East of Watermill Close, Desborough.
9. Statement from Mr Mellor.
10. Statement from Mr Mayes.
11. Statement from Cllr Hakewill.
12. Email dated 28 February 2017 from Andy Lord of Persimmon Homes to Kettering Borough Council.
13. Extract Planning Practice Guidance (PPG) paragraph 035 Reference ID: 3- 035-20140306
14. Extract PPG paragraph 033 Reference ID 03-033-20150327.
15. Kettering Borough Housing Trajectory 2011-31 (at November 2015) annotated by hand by Mr Johnson.
16. Email dated 1 March 2017 from Andy Lord of Persimmon Homes to Kettering Borough Council, including Rothwell North Delivery Statement.
17. Statement from Mr Brighton.
18. North Northamptonshire Core Spatial Strategy 2008 Policy 5 Green Infrastructure.
19. Manual for Streets (MfS) Extract – Status and Application and Preface.
20. Statement from Miss Read.
21. Statement from Mr O'Brien.
22. Kettering Borough Council Housing Trajectory April 2013, annotated by hand by Mr Johnson.
23. Email dated 2 March 2017 from NHBC to Johnson Mowat, Live Completions Data for Kettering District 2015/16 and 2106/17.
24. Note requested by Inspector regarding Town Centre Delivery Plan, Liaison Forums and updated Housing Land Supply Table following adjustments made during Mrs Blaish's Cross Examination.
25. Statement from Mr Conaty.
26. Draft Planning Obligation (all matters except affordable housing) - undated and unsigned.
27. Clarification note on appellant's position with regard to housing land supply 16 March 2017.
28. Draft Planning Obligation with regard to Affordable Housing – undated and unsigned.
29. Update on Housing Completions, Kettering Borough Council 11 April 2017.
30. Appellant's Response to the above dated 12 April 2017.
31. Photographs of flooding from Miss Read Local Resident.
32. Revised list of planning conditions.
33. Council's Closing Submission.
34. Appellant's Closing Submission.
35. Cotswold District Council v SSCLG [2013] EWHC 3719 (Admin).

36. Revised wording for suggested condition 24 re Ecological Management Plan.

**Documents received after the close of the Inquiry**

37. Certified copy of planning obligation dated 25 April 2017 in respect of all obligations except affordable housing.
38. Certified copy of planning obligation dated 25 April 2017 in respect of affordable housing.
39. Council's additional submission addressing the Supreme Court judgment in *Richborough Estates V Cheshire East BC* [2017] UKSC37 dated 22 May 2017.
40. Appellant's additional submission addressing the Supreme Court judgment in *Richborough Estates V Cheshire East BC* [2017] UKSC37 dated 22 May 2017.

Richborough Estates