



Appeal Decision

Inquiry held on 16-18, 23-26, 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

Appeal Ref: APP/Z2830/W/20/3261483

Land east of Waters Lane, Middleton Cheney

- 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 Catesby Strategic Land Ltd against the decision of South Northamptonshire Council.
 - The application Ref S/2020/0441/MAO, dated 12 March 2020, was refused by notice dated 7 August 2020.
 - The development proposed is described on the application form as comprising up to 60 dwellings (use class C3) including means of access into the site (not internal roads), associated highway works and extended gardens to No's. 6, 8, 10, 16 Waters Lane and 15 Thenford Road, with all other matters (relating to appearance, landscaping, scale and layout) reserved.
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Decision

1. The appeal is allowed, and planning permission is granted for the development of up to 54 dwellings (use class C3) including means of access into the site (not internal roads), associated highway works and extended gardens to No's. 6, 8, 10, 16 Waters Lane and 15 Thenford Road, with all other matters (relating to appearance, landscaping, scale and layout) reserved at Land east of Waters Lane, Middleton Cheney in accordance with the terms of the application Ref S/2020/0441/MAO, dated 12 March 2020, subject to the conditions set out below.

Preliminary Matters

2. The original description of development on the appellant's application form is contained within the banner heading above. During the course of the planning application the number of proposed houses was reduced to 54. It was on this basis that the Council determined the planning application. I have treated the appeal on the same basis.
3. The application was made in outline form with all matters reserved for future consideration except for access. It was confirmed at the Inquiry that plan ref CAT114 3203 showing a housing layout is to be treated as illustrative only. However, a Development Parameters plan ref CAT 114 3503 is one of the plans to be considered as part of the appeal. This broadly identifies areas of open space and the spread of built development. I have determined the appeal on that basis.
4. A draft section 106 agreement (S106) was discussed at the Inquiry, with a final completed version submitted after the Inquiry with my agreement.

5. The S106, which is a material consideration, includes obligations relating to financial contributions towards 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. In addition, the agreement secures the provision of two bus shelters and their maintenance, the application for a Traffic Regulation Order (TRO) to cover the relocation of the 30mph speed limit along Waters Lane, a contribution towards the upgrade of Public Right Of Way (PROW) AU15 and measures to secure the additional garden land for neighbouring residential properties. 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.
6. 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.¹ Evidence that I heard regarding housing land supply and requirement as well as policy matters is relevant to both cases.
7. 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 that is how the evidence was presented to me. The administrative changes make no difference to my reasoning or the outcome of this decision.

Main Issues

8. The main issues are:

- 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

Five Year housing land supply

Background

9. 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. SNC 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

¹ Land south of Thenford Road Appeal ref APP/Z2830/W/20/3259839

needs of Northampton are to be met in part, in sustainable urban extensions (SUEs) sitting in Daventry and South Northamptonshire.

10. 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.
11. 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.
12. 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.
13. 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

14. 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).
15. 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.

16. 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.
17. 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.
18. 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.
19. 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.
20. 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.² 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.

21. 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.
22. 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.
23. 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.
24. 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.
25. 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 figure³. In this case though, the Plan figure is higher than LHN.
26. 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

² Appendix 3 Mr Richards Proof of Evidence

³ Paragraph: 062 Reference ID: 61-062-20190315

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

27. 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.
28. 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.
29. 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 be engaged in relation to development within that area, in accordance with paragraph 11(d) of the Framework.
30. 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.
31. 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 HLSSOCG, 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.
32. 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.
33. 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.

34. I appreciate that excluding the NRDA figure from the overall requirement, represents a different approach from that taken by the Inspector at Rothersthorpe⁴ 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 decision⁵, 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.

Delivery v Need

35. 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 is 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.
36. 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 allocations⁶. 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

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

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

⁶ Paragraph: 001 Reference ID: 2a-001-20190220

delivery figure within the JCS, in my view the higher figure forms the requirement figure.

37. 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.
38. 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.
39. 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 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.
40. 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.
41. 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.

42. 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.
43. 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

44. 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.
45. The PPG is clear on how to deal with under delivery⁷. 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 years⁸. 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 requirements⁹.
46. 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 report¹⁰.
47. 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

⁷ Ref ID 68-031-20190722

⁸ Ref ID 68-032-20190722.

⁹ 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

¹⁰ Bedford Borough Local Plan 2030, Inspectors' Report, December 2019

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.

48. 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.
49. 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.
50. 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 oversupply, 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.
51. 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

52. 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.
53. 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 appellant.

Conclusion on the five year housing requirement

54. 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

55. 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

56. 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.
57. 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.
58. 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.
59. 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

60. 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.
61. 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.

62. I understand the appellants 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.
63. 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

64. 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 PPG¹¹. 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.
65. 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.
66. 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.
67. I have had regard to an appeal decision¹² 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

¹¹ Paragraph: 007 Reference ID: 68-007-20190722

¹² APP/P4605/W/18/3192918

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.

68. 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

69. 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.
70. 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 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 date¹³ and applied the allowance to years 3, 4 and 5¹⁴. 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 5¹⁵ 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 implemented¹⁶ creating a supply from minor sites of 283.
71. 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 2001/02¹⁷.
72. 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
73. 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

¹³ Paragraph 4.18 of the Housing Land Availability Study 2020

¹⁴ Total windfall allowance 209 – 69 in year 3 and 70 in years 4 and 5

¹⁵ Total windfall allowance 150 – 75 in years 4 and 5

¹⁶ Paragraph 4.18 of the Housing Land Availability Study 2020

¹⁷ Paragraph 4.150 Mr Richards POE

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 dwellings¹⁸ giving an annual build rate of about 88, which past evidence since 2001 does not wholly support.

74. 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.
75. 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.

Conclusion on five year housing supply

76. 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 54 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

77. 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.
78. 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.
79. 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.
80. 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

¹⁸ 75+75 (windfall allowance) + 291 from minor sites = 441

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.

81. 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.
82. 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.
83. 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.
84. 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.
85. 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.
86. 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.
87. 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.
88. 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.

89. 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).
90. 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.
91. 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.
92. 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.
93. 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.

94. 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 54 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 give the 20 dwellings proposed at Thenford Road and the 32 at Millers Way.
95. The Council alleges harm to the intrinsic character and beauty of the area attaching moderate weight to that harm. However, it presented no evidence in this regard to the Inquiry, on the basis that it would not be sufficient reason on its own to warrant refusing planning permission and thus is not in itself a reason to refuse planning permission.
96. I have had regard to the Landscape and Visual Impact Assessment (LVIA) submitted by the appellant in this regard. The scheme would result in the construction of a housing development of up to 54 dwellings that would extend Middleton Cheney to the north and east into the open countryside. The LVIA concludes, this would result in a significant change to the appearance of the appeal site and would lead to the direct loss of open countryside that makes a pleasant contribution to the northern part of Middleton Cheney, to its initial detriment. This change would be visible to those using the public paths and roads around Waters Lane, Thenford Road and Centenary Road and surrounding residents.
97. However, the appeal site is on the edge of the settlement and would be generally viewed against a backdrop of existing housing, extending no further into the countryside than the existing built form to the west and east. Furthermore, due to the undulating nature of the surrounding land and tree coverage the appeal site is not particularly prominent within the wider area. While it does comprise attractive, gently undulating farmland with mature hedgerows and trees, I observed that this is not to a degree that is particularly unusual within the surrounding landscape. Furthermore, the masterplan largely preserves the existing field pattern through the retention of much of the central hedgerow. The proposed planting and significant areas of open space would, in my view, effectively integrate the development into the village so that in the longer term, identified in the LVIA there would be negligible discernible landscape or visual effect in the immediate locality and beyond. Therefore, in my view, there would be no unacceptable harm to the intrinsic character and beauty of the countryside. I find no conflict with Policy SS2a of the LPP2 and Policy R1(B) of the JCS or paragraph 170 of the Framework which together and among other things seek to protect against the unacceptable loss of undeveloped land, open spaces and locally important views of particular significance to the form and character of a settlement, require that development enhances and maintains the distinctive character of rural communities and recognise the intrinsic character of the countryside.

98. Nevertheless, 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

99. The appeal site comprises 0.7ha of Grade 2 agricultural land with the remainder being Grade 3b. The Framework identifies the best and most versatile agricultural land as land in Grades 1, 2 and 3a of the Agricultural Land Classification. The Council considers that the loss of the Grade 2 agricultural land, in particular, would have a harmful impact which, although not a reason for refusal, should be weighed in the planning balance.
100. The small piece of land which is Grade 2 is located immediately adjacent to the settlement edge and is on sloping land. Part is also adjacent to a tree belt on Thenford Road.
101. The Framework makes little distinction between the grades within the overall BMV classification, other than at Footnote 53 where it states that "where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality should be preferred to those of higher quality".
102. I appreciate that there is no definition of significant, in this context, within the Framework. However, given the very small amount of land classified as Grade 2 on the appeal site then the harm caused by its loss, and the conflict with Policy SS2, would be very limited, particularly given its location and particular constraints.
103. The appellant has submitted a Transport Statement (TS) as part of the appeal. Concerns have been raised regarding the adequacy of the TS given that there were road closures at the time of the survey, and it is considered that it does not appropriately take account of the traffic impact northbound along Waters Lane.
104. The appellant confirms that the data collected, when Waters Lane to the north was closed, was used only for context with the 85th percentile speed data used to inform the visibility splay requirements. A further count was undertaken in December 2019 when the road was fully open, and this informed the baseline traffic data for the junction assessment of Waters Lane/Main Road. The Highway Authority raised no objections with that approach.
105. I saw at my site visit that the road to the north of the appeal site is a relatively narrow country lane with no footway. There were a number of people walking along it and I have no reason to doubt the Parish Council's assertion that it forms part of a popular circular pedestrian route to the north of the village linking into PROW.
106. Although the TS did not focus on impacts on that part of Waters Lane to the north of the appeal site, this was for good reason. Using the traffic generation figures it was found that there would be a total of some 38 traffic movements during the day, with 5 in the morning peak period and 4 in the evening peak period that would travel north along Waters Lane. This would be a very limited increase in traffic using the road and the junction with the B4525. The record of personal injury collisions at this junction provided by Northamptonshire County Council identified no recorded collisions within 20 metres of the

junction, with only one being recorded in 2017 from other publicly available information. Such information does not suggest a dangerous junction. In that context, coupled with the likely very low increase in traffic, and the relatively good visibility along the road, I am content that the development proposed would not cause material harm in terms of highway safety, a view shared by the Highway Authority.

Planning Obligation

107. 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.
108. 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).
109. 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.
110. The S106 secures the provision of two bus shelters serving existing bus stops on Main Road together with bus stop poles with integral timetable cases, flags and real time displays and a commuted sum for their maintenance. This together with the provision of a 28 day travel card for each dwelling are measures that accord 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.
111. 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.

112. 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.
113. A contribution towards the costs of upgrading and improving the PROW AU15 to accommodate the rise in population and consequent increase in use of the footpaths is also included and improve the surface of the footpath to facilitate it as a convenient walking route to the secondary school and local facilities.
114. 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.
115. 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.
116. The obligation in the agreement to secure an application for a Traffic Regulation Order to cover the relocation of the 30mph speed limit on Waters Lane is necessary to ensure works can proceed to protect highway safety.
117. The S106 includes the offer of additional garden land to neighbouring properties and also to agree what would happen to the land if it were not required by the adjacent occupiers. However, planning obligations should only be accepted where, among other things, they are necessary to make the development acceptable in planning terms. Whilst the arrangement proposed may be desirable for adjoining occupiers, I am not persuaded that it meets the test of necessity, not least since if the 'offer' is not taken up, the land could be put to some other use. On that basis, in the light of current legislation and guidance, it would be unlawful to take the arrangement into account. Accordingly, the respective obligation carries no positive weight in favour of the development proposed.
118. 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 PPG¹⁹. 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.
119. 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.

¹⁹ 036 Reference ID: 23b-036-20190901

Planning Balance

120. 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 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.
121. In light of the above, the appeal falls to be determined in accordance with the development plan unless material considerations indicate otherwise.
122. The proposal would provide a total of 27 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. The appellants Affordable Housing Statement identifies Middleton Cheney as being within the least affordable area in SNC and the Council's own Housing Strategy states that home ownership is out of reach for households on low or average incomes. This was not notably challenged by the Council.
123. I appreciate the SHTs 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. These are households in need now and thus the provision of 27 affordable homes in an accessible location is a consideration that attracts significant weight in this case. Both parties agree therefore that the affordable housing provision secured should be given significant weight in this case.
124. 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 Thenford Road. The Council produced one Secretary of State decision²⁰ 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.

²⁰ APP/C1570/A/14/2213025

There is no dispute here that the 54 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.

125. Although there would be some loss of hedgerow to facilitate the proposed access to the development, overall there would be some biodiversity improvement through the introduction of landscaping and ecological features giving a minimum 10.4% improvement. I give this limited weight.
126. The appeal scheme would deliver in excess of the required amount of public open space. While, based on the indicative masterplan that element would be provided mainly at the northern edge of the appeal site, it would link into an existing public footpath network, which I saw at my site visit is particularly well used. I see no reason therefore why its location would prohibit local residents using it and therefore give it moderate weight.
127. Improvements to the public right of way which would improve access to the local school and shops, together with the provision of bus shelters and improved technology at the local bus stops, while mitigating the impacts of the development would also be of benefit for existing residents which would attract limited weight.
128. The development would deliver economic benefits both during construction and after from the increased spend in the local economy. There is limited evidence though to suggest or quantify the level of that economic benefit. I therefore give it limited weight.
129. Increased Council Tax receipts are mentioned as a benefit. However, since the development would result in a corresponding increase in demand on local services etc, that is not a consideration to which I attach positive weight.
130. In addition, reference is made to income for the Council from the New Homes Bonus as a benefit. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. The New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. However, the PPG makes it clear that it would not be appropriate to make a decision based on the potential for the proposal to raise money for a local authority²¹. Accordingly, while the Bonus is a material consideration it is not one to which I attach positive weight.
131. 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 my finding that there would be no unacceptable harm to the intrinsic character and beauty of the countryside to outweigh the harm arising through the conflict with the development plan. On that basis, I find no conflict with the Framework when assessed overall and I conclude, on balance, that the scheme can be considered as sustainable development and that the appeal should succeed.

²¹ ID 21b-011-20140612

132. 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 Thenford Road 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

133. 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.
134. 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 and that the reserved matters shall be in accordance with the development Parameters plan.
135. Conditions regarding finished floor levels in relation to existing and proposed levels, the pumping stations and landscaping species and protection 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.
136. 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.
137. A condition requiring some dwellings to meet the accessibility standards 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.
138. 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.
139. Conditions regarding a construction management plan and working hours are necessary 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 routeing 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.
140. A condition requiring implementation of the mitigation and enhancement measures set out in the ecological appraisal are carried out, that site clearance is timed to avoid bird nesting season, an ecological survey 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.

141. Conditions 13, 14, 23 and 24 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 of the highway network and works are required prior to development taking place to ensure the appropriate details can be satisfactorily delivered on site.
142. A condition regarding water efficiency and sustainable development measures in the construction of the homes 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.
143. A condition requiring the submission of details for equipment for the public open space are necessary to improve the quality of those spaces.
144. A condition that 5% of the properties are bungalows is necessary given the significant demand for such properties.

Zoe Raygen

INSPECTOR

APPEARANCES

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He called:

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Director and the Head of
Planning South West, Turley

Stacey Rawlings

Director, Roebuck Land and
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INTERESTED PERSONS

Councillor Burgess

Middleton Cheney, Parish
Council

Mr Buckley

Local resident

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) Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.
- 2) The development shall not be carried out otherwise than in complete accordance with the approved plans and details 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:
 - Drg No CAT 114 1001 - Site Location Plan (February 2020)
 - Drawing No. CAT 114 3503 - Development Parameters (June 2020).
 - Drg No 21074-01 C - Proposed Site Access (received 3rd June 2020)
 - Drg No 21074-3 - Terminal Signs Relocation (received 3rd June 2020)
- 3) Details of the layout, scale, appearance and landscaping (hereafter referred to as 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved. The reserved matters shall accord with Drawing No. CAT 114 3503 - Development Parameters (June 2020).
- 4) At least 5% of the dwellings hereby approved shall be bungalows.
- 5) 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 the following shall be achieved:
 - i) 50% of dwellings to M4(1) Category 1 (Mandatory); and
 - ii) 50% of dwellings to M4(2) Category 2.For affordable dwellings the following shall be achieved:
 - Intermediate tenure dwellings:
 - i) 50% of dwellings to M4(1) Category 1 (Mandatory); and
 - ii) 50% of dwellings to M4(2) Category 2.
 - Rented dwellings:
 - i) 50% to M4(1) Category 1 (mandatory);
 - ii) 40% to M4(2) Category 2 and;
 - iii) 10% to M4(3) Category 3.
- 6) The development hereby permitted shall be carried out in accordance with the recommendations, mitigation and enhancements set out in section 6 of the Ecological Appraisal (Report Ref: 1005596 EcoApp vf /JB/SS) by Aspect Ecology dated 12th February 2020 and Technical Briefing Note: Biodiversity Impact Assessment Using the DEFRA

Biodiversity Metric 2.0 Biodiversity Impact Assessment Calculator, by Aspect Ecology dated March 2020.

- 7) All dwellings hereby approved shall be designed to meet the optional higher water efficiency standard of 110 litres per person per day.
- 8) All species used in the landscaping and planting proposals associated with the development shall be native species of UK provenance.
- 9) 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.
- 10) 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.
- 11) 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; and
 - xi) the mitigation measures recommended at section 6 of the Ecological Appraisal (Report Ref: 1005596 EcoApp vf /JB/SS) by Aspect Ecology dated 12th February 2020 and Technical Briefing Note: Biodiversity Impact Assessment Using the DEFRA

Biodiversity Metric 2.0 Biodiversity Impact Assessment
Calculator, by Aspect Ecology dated March 2020

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

- 12) 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) maximise 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.
- 13) No development shall take place until a full set of engineering drawings detailing the proposed ground levels, access gradient, construction, materials, surfacing and drainage details of the proposed site access have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out fully in accordance with the approved details.
- 14) No development shall take place until details of the carriageway widening of Waters Lane and the new footways along the site frontage on Waters Lane as shown on the approved Drawing No 21074-01 Rev C have been submitted to and approved in writing by the Local Planning Authority. The approved works shall thereafter be provided before first occupation of any dwelling.
- 15) No part of the development hereby permitted shall take place until:
- i) a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present has been carried out;
 - ii) the risks to receptors and to inform the remediation strategy proposals have been 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' and
 - iii) both (i) and (ii) above has been submitted to and approved in writing by the Local Planning Authority.

- 16) If contamination is found pursuant to condition 15 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.
- 17) No development shall take place until the existing tree(s) to be retained as shown on the approval of reserved matters 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.
- 18) Prior to, and within two months of, 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.
- 19) Before any above ground construction commences a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. The details of the scheme shall include:
 - i) Details (i.e. designs, diameters, invert and cover levels, gradients, dimensions and so on) of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets and attenuation basins;
 - ii) Details of the drainage system are to be accompanied by full and appropriately cross-referenced supporting calculations demonstrating that there is no surcharge in the system for the 1 in 1 year, no above ground flooding for the 1 in 30 year, and that any above-ground flooding for 1 in 100 year storm is limited to areas designated and safe to flood, away from sensitive infrastructure or buildings;

- iii) Infiltration test results to BRE365; and
 - iv) Cross sections of all control chambers (including site specific levels mAOD) and manufacturers' hydraulic curves for all hydrobrakes and any other flow control devices.
- 20) No above ground construction shall take place until a detailed scheme for the maintenance and upkeep of every element of the surface water drainage system proposed on the site has been submitted to and approved in writing by the Local Planning Authority and the maintenance plan shall be carried out in full thereafter. This scheme shall include details of any drainage elements that will require replacement within the lifetime of the proposed development.
- 21) The public open space within the site shall be equipped with seating benches and litter bins (including dog litter bins) in accordance with details (to include a timetable for their installation) which have been previously submitted to and approved in writing by the Local Planning Authority.
- 22) If remedial works have been identified in condition 16 the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 16. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.
- 23) Notwithstanding approved Drawing No 21074-01 Rev C prior to the first occupation of the proposed development inter- vehicular visibility splays of 2.4m from the carriageway edge along the centre of the access by a distance of 43m measured from the centre of the access along the carriageway edge shall be provided. Any features within or affecting the resultant triangular areas shall not exceed 0.6m above access/carriageway level. The land over which these splays fall must be either in the ownership of the developer, or the local highway authority; no third party owned land may fall within these splays.
- 24) No dwelling hereby approved shall be occupied until the Speed Limit Terminal Signs have been relocated in accordance with Drg No 21074-3 - (received 3rd June 2020).
- 25) 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 rev 2 ref AAC5596, dated 5th March 2020 prepared by RPS has been submitted in writing by a suitably qualified independent drainage engineer and approved by the Local Planning Authority. The details shall include:
 - i) Any departure from the agreed design is 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) CCTV Confirmation that the system is free from defects, damage and foreign objects.
- 26) 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.
- 27) 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.
- 28) If, during development, contamination not previously identified pursuant to condition 15 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.

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