

LAND SOUTH OF BLAKESLEY HILL, GREENS NORTON

APPEAL BY RICHBOROUGH ESTATES

APP/Z2830/W/21/3267906

CLOSING SUBMISSIONS

ON BEHALF OF WEST NORTHAMPTONSHIRE COUNCIL

1. These closing submissions will first address the principle of development, secondly housing land supply, thirdly character and appearance, fourthly benefits, and finally the planning balance.

The principle of development

2. Under this heading the Council addresses the Inspector's identified main issue of whether the appeal site is a suitable location for the proposed development, having particular regard to the identified strategy for growth for the area.

Conflict with the sustainable strategy in the JCS and LPP2

3. The appeal scheme is contrary to an up to date development plan in terms of the principle of development. That conflict goes to the heart of the development plan.
4. The spatial strategy of the JCS is to focus development in the main settlements: the Principal Urban Area of Northampton, the Sub-Regional Centre of Daventry, and the Rural Service Centres of Towcester and Brackley. This strategy permeates the Vision (p.19-20), the Objectives (p.20-22), and the policies, in particular the 'S' (i.e. 'strategy') group of policies.
5. S1 is the starting point. It contains a tiered approach to distribution, with Rural Areas at the bottom. This provides, as the Rothersthorpe Inspector put it, a "clear steer" for the location of development (CD7.04; para 7). S1(D) provides that "new development in the Rural Areas will be limited". The supporting text explains that the aim for the Rural Areas in terms of development is restricted to "meeting local needs and supporting local services" (5.15). It is a policy of restraint in respect of the Rural Areas.

6. R1 is the next port of call. It gives effect to S1's limitation on development in the rural areas in a number of ways.
7. First, a rural requirement of 2,360 dwellings is set and once it has been reached, which it now has, additional criteria have to be satisfied (R1(i)-(v)), which do not apply in this case. The supporting text (16.16) explains that policy-based exceptions can still be acceptable beyond this limit, such as rural exception sites or allocated sites, but the appeal scheme does not fall into that category.
8. Secondly, development is required to be within the existing confines of the village (R1(G)). R1 only allows development outside the confines in limited circumstances which do not apply in the present case (penultimate paragraph of R1).
9. The spatial strategy has been adopted for sound reasons of sustainability, concerning all three limbs of sustainable development. High car ownership and congestion is a significant issue (4.29; 4.47; Objective 3), to which the strategy responds by focusing development in urban areas. The difficulties of providing the facilities and connectivity to make piecemeal development outside the urban areas sustainable are specifically identified (5.12). Limiting development in the Rural Areas also protects the "rural character of the area" (5.15).
10. The conflict with R1 by reason of the 2,360 being further exceeded and the breach of R1(G) directly harms this sustainable strategy.
11. The Appellant advanced a case that "69 additional dwellings on a site in the Rural Areas would not materially distort the overall spatial distribution set out in S1" (RL proof 3.2.16). But the plan depends on the in-principle conflict of schemes such as the appeal scheme being given significant weight. Otherwise, the policy of restraint in the Rural Areas would have no force and the objective to focus development in the urban areas would be undermined. The Paulerspury Inspector rightly recognised this when finding that:

"The distribution of unjustified housing outside of the most sustainable towns, villages and adopted confines within the district would **undermine the basis of the development plan strategy**, of which Part 2 was only very recently adopted." (CD9.2 para 39; emphasis added)
12. It is not necessary to produce evidence of strategic harm, given that the purpose of the plan is to set the strategy so that decision-makers can follow it without having to reassess the merits of the strategy, which is an impossible and inappropriate task in a s.78 appeal. We have a plan-led system, the plan

has been found sound and where an application conflicts with it “permission should not usually be granted” (NPPF/12). The Appellant did not attempt to show any “unusual” reasons why the plan should not be followed. Indeed the appeal site is the type of edge of settlement greenfield site which exists all over the district. Unless the in-principle objection to this type of site is taken seriously, the plan’s strategy will be impossible to achieve.

13. Nevertheless, there is in fact powerful evidence in this case of how the strategy would be undermined by the Appellant’s approach. AM explains that in the space of just four months in 2021, five appeals concerning significant residential development adjacent to village confines in South Northants are taking place (ranging in size from 26 homes to 76 homes), which total 291 proposed homes. That is 12.3% of the 2,360 allowance for the South Northants Rural Areas, which is a figure for an 18 year plan period (AM proof 6.34). Of course each will be considered on its merits, but the Appellant’s argument of “it’s only 69 more dwellings” is not a site specific argument; it could be advanced by every other site promoter in the district and if accepted it would be fatal to the strategy.

14. The strategy from the JCS is carried through into the LPP2 and the in-principle objection is essentially the same. There is conflict with LPP2 SS1 and LH1 because both policies require development to be within the settlement confines, which the appeal scheme is not.

15. The Appellant has fundamentally misunderstood the importance of the settlement confines in suggesting that there is no problem with being “on the wrong side of the line” (Appellant opening, para 12). LPP2 explains that the settlement confines are a key part of the sustainable strategy (emphasis added):

“4.2.1 A settlement confines boundary defines the extent of a settlement’s existing or proposed main built-up area, **and its purpose is to direct development towards the most sustainable locations in the district.**”

16. The LPP2 has very recently been examined and found sound (June 2020). That included the settlement confines, which the Inspector found to be:

“grounded on a clear and compelling rationale” (CD6.8; para 26).

17. The Inspector noted that:

“Defining settlement confines also gives a **clear indication** of how a decision taker should react to a development proposal.” (para 28; emphasis added)

18. RL explained (XX) that the Appellant promoted the site through the LPP2. The site was not included as an allocation and in finding the LPP2 sound the Inspector confirmed the soundness of that exclusion, as well as the soundness of the settlement confines boundary being where it is. RL stated (XX) that he thought it “unfortunate” that the boundary was not drawn around the appeal site, which reveals a failure on the part of the Appellant to properly recognise the weight that must be given to the up to date development plan. Proposing this scheme so soon after the LPP2 has been adopted is the opposite of the “genuinely plan-led” approach which the NPPF promotes (NPPF/15).
19. Separately and in addition to the conflict with R1(G) regarding confines, the Council says that there is also conflict with R1(E) regarding inappropriate scale. There is an overlap here with the character and appearance issues, as the harm in character and appearance terms is partly as a result of the large size of the scheme. Leaving those matters for later however, the Council considers that AM’s range of factors need to be considered to properly answer this scale question (AM proof 6.26). These include:
 - (i) That the LPP2 provides that “Secondary Service Villages (A) are likely to be more suitable for **limited development** ...” only (SS1). ‘Limited’, which is a term appearing in connection with the Rural Areas throughout the development plan (see also JCS S1D and LPP2 3.2.4), provides some further understanding of what is an appropriate scale. No fixed limit is imposed and the application of both ‘scale’ and ‘limited’ obviously involve a significant amount of judgment, but nonetheless they must be given force.
 - (ii) RL agreed (XX) that the percentage increase in number of households is a relevant parameter in considering scale. The appeal scheme would represent a c.10% increase on the size of the settlement in one block of housing (AM proof 6.26). That is a significant indicator of excessive scale in the Council’s view. The Appellant pointed to the Potterspurty appeal where a 10% increase was not defined as excessive in scale, but that was before the LPP2 had been adopted which is highly relevant to this issue.
 - (iii) There are limited facilities and services in Greens Norton and limited opportunities for sustainable modes of transport to higher order settlements, as will be discussed further below.

(iv) There has already been significant housing growth at Greens Norton: 71 houses since the start of the JCS plan period, including 20 affordable homes (RL proof p.26 Table 3.2).

(v) Scale must also be considered on a district wide level: the JCS at 16.17 makes clear that 2,360 is the overall scale of development designed to meet local needs and support local services. That has already been exceeded and 69 further homes, in one location in one village, is a material further exceedance.

20. AM's oral evidence on scale should not be misconstrued. ZS asked AM whether Greens Norton would still function as a Secondary Service Village if the appeal scheme was allowed, to which AM rightly agreed that it would. It was in that context that ZS asked AM whether allowing this scheme would be consistent with Greens Norton's function as a SSV in the hierarchy. In answering that it would, AM was simply agreeing that the scheme would not move Greens Norton into a different category. AM at para 6.26 – 27 makes clear his view that the appeal scheme is of "a disproportionate scale to the size of the village", which he did not depart from and which is the Council's position. RL's attempt to capitalise (in EIC and XX) on what AM had said (or not said) is an example of how RL's evidence did not stay within the confines of objective and impartial professional evidence, as also seen in his failure to represent in a fair and balanced way what the Parish Council had said about the utility of the local bus (proof 4.8.3 vs Parish Council's appeal representation to the Inspector, para 4(d), p.4).

21. RL's suggestion (EIC) that the Council should be obliged to identify what scale of development would be appropriate in order to maintain a scale objection is plainly wrong. The Council and an Inspector can only deal with the scheme before it. Scale is a fact sensitive judgment and speculating on other non-existent schemes is not a useful exercise.

22. R1(F) does not assist the Appellant. R1(F), in requiring residential development to "promote sustainable development that equally addresses economic, social and environmental issues" is about as broad a policy as it is possible to imagine. As AM explained, it is a sweeping up policy dealing with detailed development management issues not dealt with by R1(A)-(E). It is not dealing with the S1 sustainable distribution and the Council in not relying on it is certainly not agreeing that this scheme is sustainable development.

23. Finally on strategy, it has been a major part of the Appellant's case to this inquiry to point to the shortfall in housing delivery in the NRDA against JCS figures. RL's Table 3.1 (proof p.18) shows that delivery is behind the JCS

trajectory, but AM and JG when asked about it were right to point out that it is a West Northants wide figure. The JCS allocation for the South Northants Rural Areas has already been met. Therefore in the plan area in which this appeal site actually lies, the JCS has delivered. Overall the West Northants figure is behind the trajectory because of NRDA shortfall, which was something expressly recognised in the LPP2 at para 3.1.6, where it is noted that “Whilst housing delivery across South Northamptonshire is strong, delivery within the NRDA has been weaker resulting in a significant shortfall”. In preparing the LPP2, this issue was considered and it was decided that the issue could not be properly resolved by the LPP2 making either large strategic or smaller allocations. The latter option was rejected because any such smaller allocations should be located near the NRDA, i.e. the source of the shortfall, but it was unclear whether such sites could realistically deliver before adoption of the West Northants Strategic Plan. Further, given that the NRDA is a cross-boundary area, a comprehensive approach is more appropriate which the JCS review will facilitate (LPP2 3.1.9). As to small sites further from the NRDA, the LPP2 stated:

“For the avoidance of doubt, development in or adjacent to villages within South Northamptonshire is not considered an appropriate location to meet the housing needs of Northampton.” (3.1.10)

24. The Appellant, in direct contradiction of this approach, says that a site outside a village a considerable distance from the NRDA should be developed to meet a “short term need” (RL’s words in XX) arising from the NRDA. That is not sustainable and it is flatly contrary to the strategy which has been found sound as part of the recently adopted LPP2.

Relative unsustainability of Greens Norton

25. Greens Norton is low down the settlement hierarchy. It is located in the Rural Areas, which sit at the bottom of the overall hierarchy within the JCS (the “Hierarchy of Places”: JCS para 5.7 and S1). It is also low down within the more local hierarchy in the LPP2: it is a Secondary Service Village and therefore a “third category” settlement sitting below the Rural Services Centres (Brackley and Towcester) and the Primary Service Village (see SS1).
26. Greens Norton has certain village services which are commensurate with its ranking in the hierarchy. They are not remotely comparable to the range of services that are found in the higher order settlements of Northampton, Daventry, Brackley and Towcester, to which the development directs significant development. The services are also more limited in range than the Primary Service Villages such as Middleton Cheney.

27. The reality is that the residents of the proposed dwellings will still be making a significant number of trips to higher order settlements for employment and other opportunities, and inevitably a large proportion of these trips will be by private car. It will be a car dependent community. In particular:
- (i) There are no significant employment opportunities in Greens Norton.
 - (ii) There is no secondary school in Greens Norton.
 - (iii) There is no retail other than a village store, post office and butchers.
 - (iv) There is no train station in or near Greens Norton.
28. RL in XX defended the scheme on the basis that the new residents would be no more car dependent than existing residents in Greens Norton, but that fails to recognise that the JCS strategy is to focus development away from these less sustainable areas. RL also repeatedly sought to pray in aid the facilities within Towcester, but that again misses the point: Towcester is one of the settlements where the JCS seeks to focus development precisely because it has such facilities, whereas Greens Norton does not.
29. RL's reliance on Towcester also falls down on the difficulty of getting there other than by private car. There is a single return bus service a day (out 1013, return 1250; AM Appendix 4). That is very limited, offers no scope for commuting and no flexibility for other journeys, and is of likely utility only for certain shopping or leisure trips which can be done in that specific 2.5 hour window. RL agreed (XX) that it would not result in significant modal shift.
30. Cycling to Towcester is no better. The route highlighted by the Appellant down Mill Lane involves cycling for around 1.5km on a 60mph road with no on- or off-road cycle path, which is a relatively narrow country lane (especially at the bridge) thereby leaving limited space for cyclists if there are passing cars, and which has a significant incline. It will be unattractive for the majority of potential cyclists and will lead to people choosing their cars.
31. As to other settlements, there is no return bus journey option to Brackley at all. There is a potential commuter return service to Northampton (out 710am; return 6pm) but it is a single peak hour service with only two other buses during the whole day (1017 and 1256). The journey is a significant duration – 45 minutes or so – which adds to its limited attractiveness.
32. The Parish Council's evidence on this should carry weight given their first hand experience of this. Their survey indicates current usage by only 3% of the

village and they describe such a service as “theoretically beneficial” only (para 4(d) p.4).

33. The findings of the Potterspurty Inspector (CD7.1) are instructive, given it is also a Secondary Service Village (A) and while somewhat further from Towcester, it is still relatively close. Notwithstanding that it had an hourly bus service (DL/102), the Inspector found that:

“103. ... development within Potterspurty would be expected to result in longer and less sustainable journeys than those associated with new dwellings in larger settlements, and that are in closer proximity to locations where jobs, shops and services are concentrated. ...”

34. The Appellant’s observation that the Council has not alleged breach of S10(e) or SS2(1)(k) misunderstands the nature of the objection to the scheme. As AM explained, the limited village services in Greens Norton can be accessed on foot and by bicycle in accordance with S10(e) and SS2(1)(k), but the Council’s concern is with the strategic issue that S1, R1, the Vision and the Objectives are concerned with non-car access to the wider range of services found in higher order settlements.

35. RL’s re-analysis of the place of Greens Norton in the settlement hierarchy was not an appropriate exercise to be conducting on a s.78 appeal. The LPP2 Inspector found “that the Background Paper forms a **robust basis** for assessment” (para 23; CD6.17; emphasis added) and noted that it underpins the LPP2 strategy (para 18). RL, however, sought to adjust the methodology from the Background Paper to show where Greens Norton would sit if the points awarded for ‘other considerations’ and ‘secondary school’ were excluded (RL Appendix 4). That tells us nothing given that the methodology that the LPP2 Inspector found robust included these factors. RL’s suggestion that the ‘other considerations’ were somehow less significant is also flawed given that the scoring system in the Background Paper attributes more points to them than all other criteria other than the ‘most important’ factors (see Table 4 in CD6.11). They are potentially very weighty matters and clearly should not be excluded. RL’s presentation of Greens Norton alongside the five PSVs also has the potential to mislead because in points terms Greens Norton is actually closer to the next settlement in the SSV category (Blisworth) than the bottom of the PSV category (Kings Sutton), and the LPP2 Inspector found that “the gaps between the bottom of one category and the top of another are sufficiently wide to justify a split” (para 23).

36. The Middleton Cheney Inspector recognised the correctness of the Council’s approach to the sustainable strategy in the development plan, and the

importance of settlement confines as part of that (para 90 – 92; ID7.6). Essentially, the Inspector recognised the importance of the policy of restraint and that it is properly applied, but found that Middleton Cheney was so sustainable that it justified taking the unusual approach of going against the development plan. In para 93 in particular, the Inspector recorded that Middleton Cheney is not only, as a Primary Service Village, in the top village category but at or near the top of that category.

37. Greens Norton is not comparable in sustainability terms. Middleton Cheney has multiple shops along with many other services and also has a secondary school (para 93; 111; 113). As AM explained, Middleton Cheney settlement is 3km or so from Banbury which has a train station. It has good regular bus services to Banbury and Brackley. The Middleton Cheney decisions are no precedent for what the Appellant is proposing. Indeed they actually reinforce that the usual approach is to respect the development plan policy of rural restraint and the settlement confines restriction. The Middleton Cheney Inspector was at pains to point this out, granting permission for those schemes only in light of:

“the very site-specific factors relating to [each] appeal.”

(Waters Lane DL/131-132 CD7.6; Thenford Road DL/150-151 CD7.7).

38. The Paulerspury decision, which was decided in light of the Middleton Cheney decisions, recognises this. It is a SSV(A) like Greens Norton and the Inspector there found nothing to grant permission contrary to the development plan.

Housing requirement

Plan area approach

39. Five year housing land supply is national policy in the NPPF (NPPF/73 in particular). The Council says that there clearly is a 5YHLS by reference to that policy. The Appellant in XX of JG sought to suggest that the Council was not applying national policy but rather some alternative version, which is wrong. It is a ‘straw man’ argument that the Appellant has set up only so that it can knock it down. The Council’s approach to 5YHLS, including in the identification of the relevant housing requirement, operates in compliance with national policy.
40. It is necessary to start with the development plan because that is where the housing requirement is found. National policy expressly defers to the development plan in requiring maintenance of a 5YHLS against the “housing

requirement **in adopted strategic policies**” (NPPF/73). It is common ground that the housing requirement in this case is to be taken from the adopted strategic policies, given that although the JCS is more than five years old a review has taken place and the relevant policies have been found not to require updating, as endorsed by the Middleton Cheney Inspector (CD7.6 DL/9-26) (HLS SoCG 2.2 – 2.4).

41. The JCS adopts a plan area approach to the housing requirement. First, the supporting text to S3 and S4 at 5.22 – 5.36 explains that boundaries based on the NRDA are at the heart of the spatial strategy in the JCS, in order to ensure needs are met in a sustainable way and close to where they arise (para 5.33 in particular). The JCS sets out the housing requirement based on these three NRDA-based areas – see Tables 2 - 3 on p.31-32. Paragraph 5.36 explains that the housing provision is made for the plan areas “relative to their **housing requirements** from the table above” (i.e. plan area requirements).
42. Policy S3 then sets the distribution across: (i) the whole plan area (42,620); (ii) the former administrative areas (which includes 11,020 for South Northamptonshire district area); and (iii) below the former district level – which includes the figures for the NRDA, the towns and the Rural Areas. As noted by the Middleton Cheney Inspector, the plan area figure for SNC excluding the NRDA is contained in that policy and it is 7,170 (DL/38), whereas the 3,850 is part of the NRDA plan area (DL/34).
43. The Appellant alights upon the 11,020 figure but there is no basis for doing that. The 11,020 is not prioritised over any other figure in the policy, as observed by the Potterspury Inspector (DL/46). BP (EIC) said that the inclusion of the former district area figure must be recognition that it is to be used as the requirement, but that ignores the fact that mandatory language is used in respect of all three tiers, and further it is incompatible with the supporting text to S3.
44. It is also incompatible with Policy S4. Policies S3 and S4 need to be read together as indicated by the fact that they share the same supporting text. Policy S4 requires, in mandatory terms, provision for 28,470 homes within the NRDA. That is a plan area figure, not a former district figure.
45. The Appellant observed (XX of JG) that the NRDA figure meets some of SNC’s own need (i.e. within the 3,850). That point does not go anywhere because the plan areas are about meeting needs in a sustainable way. It was a point expressly recognised by the Middleton Cheney Inspector but which she rightly concluded did not undermine the plan area approach (DL/49).

46. BP agreed (XX) that the JCS takes a plan area approach. He sought to argue, however, that the NPPF forces the Council and the Inspector to use the former administrative area figures. That is not right. First, the plan area approach in the JCS was found sound against the NPPF2012 which required authorities to maintain a 5YHLS. BP pointed out (EIC) that NPPF2019 para 73 has adopted a new binary approach to the housing requirement, such that it is to be taken from the adopted strategic policies, or LHN. But that change is not relevant to this plan area issue. The plan area approach is embedded in those adopted strategic policies (read with their supporting text as is required). NPPF2012 para 47 required “local planning authorities” to maintain a 5YHLS “against their housing requirements”. That approach has not changed in the NPPF2019.
47. The JCS Inspector, in the context of 5YHLS, stated that “it is considered desirable and acceptable in principle that the NRDA is taken as one joint area for the assessment of new housing delivery” (IR/198; CD6.16). He found the plan area approach to the housing requirement and supply compatible with the NPPF. Given that the national policy has not materially changed in this respect, it would be wrong to adopt any different approach in this appeal.
48. The NPPF2019 does not preclude a plan area approach to the housing requirement when determining 5YHLS. As BP concedes: “the wording of paragraph 73 of the Framework does not specifically state that a five year housing land supply should be assessed on an administrative area basis” (rebuttal 2.11).
49. What NPPF/73 does say is that local planning authorities should maintain a 5YHLS against their housing requirement. A plan area approach in a joint plan complies with this. In particular:
- (i) Prior to local government reorganisation on 1 April 2021, the three former local planning authorities (i.e. South Northamptonshire District Council, Daventry District Council and Northampton Borough Council) would comply with the obligation in NPPF/73 to monitor 5YHLS against “their housing requirement” by monitoring 5YHLS in each of the plan areas.
 - (ii) The same applies for West Northamptonshire Council after 1 April 2021. Local government reorganisation on 1 April 2021 has involved the dissolution of the three former local planning authorities and the creation of the new unitary West Northamptonshire Council as the new local planning authority, including for the purposes of NPPF/73: see the definition of “local planning authority” in the glossary of the NPPF and

also the Council's opening at paras 5 – 6 for reference to the relevant legislation. By monitoring 5YHLS against its housing requirement for the relevant plan area, West Northamptonshire Council acts in accordance with NPPF/73.

50. NPPF/17 expressly supports the use of joint plans, such as the JCS, in particular to address “the issues and opportunities facing each area”. The issue regarding meeting Northampton's unmet need falls into that category. Addressing it through the NRDA and the plan areas is allowed for by NPPF/17, as well as NPPF/26's encouragement for cross-boundary working between strategic plan-making authorities, as observed by the Middleton Cheney Inspector (CD7.6; DL/33). The NPPF must be read as a whole and there is clear link between the reference in NPPF/73 to “strategic policies” and NPPF/17's explanation of how “strategic policies” can work within joint plans.

51. BP's various arguments in favour of using the housing requirement for the former administrative area of South Northamptonshire District are without merit. First, that administrative area no longer exists and the former local planning authority of South Northamptonshire Council no longer exists. West Northamptonshire district is now the administrative area and West Northamptonshire Council is the local planning authority. The PPG on which BP sought to rely in this respect provides no support for operating on historic administrative boundaries in West Northants. It provides (68-025; emphasis added):

“Where a newly formed local planning authority is covered by **strategic housing requirement policies adopted by predecessor authorities, these policies** can continue to be used as the housing requirement for calculating the 5 year housing land supply in the areas they apply where these are less than 5 years old, or they are older but have been reviewed within the last 5 years and found not to need updating.”

52. That guidance is to continue to use the adopted strategic policies. The Council is doing this by continuing to operate on the plan area approach set down in the JCS' strategic policies and their supporting text. The guidance says nothing about continuing to use historic administrative area boundaries.

53. BP's use of a South Northants administrative area housing requirement was misconceived before local government reorganisation for the reasons set out above, but local government reorganisation has rendered it even more indefensible. Although he resisted the suggestion, BP has been left in no man's land by local government reorganisation, adopting neither the plan areas set

out in the development plan, nor the current administrative area boundary, but rather a historic boundary for an area which no longer exists.

54. BP was also wrong to suggest that the trigger for the tilted balance in fn.7 of the NPPF cannot operate on a plan area basis. It can. In the words of fn.7, if “the local planning authority” (i.e. West Northants Council) cannot demonstrate a 5YHLS for the plan area where the proposed development is located, then the tilted balance will apply. BP’s suggestion that the Middleton Cheney Inspector had not dealt with his argument is plainly wrong: the Inspector expressly acknowledges the administrative area argument of the Appellants in those conjoined appeals at DL/28 (which is precisely the same argument which BP now advances) and then in DL/29 explains how the tilted balance in NPPF/11(d) will be triggered by a shortfall in 5YHLS, which is obviously a reference to fn.7.

55. BP’s argument based on the HDT is likewise flawed, for at least two separate reasons:¹

(i) The HDT uses administrative areas but the guidance provides that the former South Northants administrative area will only be used for the HDT for one more year on a transitional basis before moving to the new reorganised administrative area: HDT Technical Note January 2021 para 35 p.8 (CD6.29). Given that government is moving away from using the old South Northants administrative area in the HDT, the HDT provides no support for operating 5YHLS on those old administrative areas.

(ii) Further, HDT is a separate policy and separate test to 5YHLS. HDT is in NPPF/75 not NPPF/73 and it deals with past housing delivery not future housing supply. BP placed great weight on the fact that the HDT results can determine the appropriate buffer to apply for 5YHLS purposes, but there no reason why that consequence should determine the approach to the housing requirement for the purposes of 5YHLS. If the HDT results fall below a relevant threshold, then any buffer consequence would apply for the former LPA’s area as a whole. No one is suggesting that the former LPA would be able to escape that consequence due to the plan area approach.

¹ For calculation of the HDT requirement, see JG’s proof appendix 6. It is based on a plan area figure for SNC excl. NRDA (398), plus an apportionment from the plan area figure for the NRDA (214) (Tables 2 – 4), such that the plan area figures do underlie the HDT requirement.

56. BP raised a similar argument based on the fact that local housing need operates on administrative area boundaries. That goes nowhere because NPPF/73 only requires LHN to be used as the housing requirement in circumstances where the strategic policies are more than five years old and either have been reviewed and found to require updating, or not reviewed at all. Where policies need updating (or have reached a certain age and no review has been undertaken) it is entirely logical to require an administrative area approach (i.e. through LHN) rather than any plan area approach in the strategic policies. But where the policies have been reviewed and found not to require updating, as in West Northants, and the NPPF does not require the LPA to shift to LHN, there is no basis to shift to an administrative area basis.
57. The Council's approach to the housing requirement has very recently been examined in the Middleton Cheney decisions and found to be correct (and it was also found to be correct by the Potterspurty Inspector by reference to the NPPF2012 at DL/46 and 74-76 (CD7.1)). BP suggested that his arguments were not addressed in the Middleton Cheney decision but that DL/27-34 plainly show that they were. It is also a fairly extraordinary suggestion for BP to make given that he simultaneously invites the inquiry to follow the Rothersthorpe decision (CD7.4), which gives no express reasons whatsoever on the plan area issue, in contrast to Inspector Raygen's extensive reasoning devoted to this subject (DL/27-34).
58. Consistency in decision-making is an important principle in planning. The extent of the reasoning given in a decision is relevant to this. In the Potterspurty and Middleton Cheney decisions, the plan area issue was addressed in significant detail and detailed reasons were given for deciding the issue in the Council's favour. The Middleton Cheney Inspector observed that the Rothersthorpe Inspector, on other hand, had made a "limited case for including the NRDA" (DL/34), which it is respectfully submitted is somewhat generous given that no express reasons at all are discernible on the issue in the Rothersthorpe decision. Consistency clearly favours following the Potterspurty and Middleton Cheney decisions.
59. It is also relevant that the plan area approach to 5YHLS has been used by all three former local planning authorities since 2014 (see e.g. Joint AMR table at p.28; CD6.19) and followed in all the appeal decisions identified by the parties other than Rothersthorpe.
60. Further, the LPP2 operates on a plan area basis (e.g. 4.1.2 and Table 2) and the LPP2 Inspector found that plan sound. The Inspector did so having express regard to the Rothersthorpe decision and noted that it took a "considerably

different approach” to other appeal decisions (IR/32-33; CD6.17). The Appellant has pointed out that the LPP2 was examined against the NPPF2012 under the transitional provisions, but as set out above the issue as to use of plan areas is not affected by introduction of the NPPF2019. The Appellant also drew attention to the Inspector’s observation that “the housing policies of the LPP2 could be found out of date for the purposes of the 2019 version of the Framework soon after their adoption” (IR/43). But that is not a reference to the plan area issue, as the LPP2 does not set out the housing requirement. Rather the Inspector is referring to any change in detailed housing policy in the NPPF2019 which might impact on LH1-11 in the LPP2, which is not relevant to this inquiry.

Trajectory vs annualised

61. The Council say that an annualised approach should be taken to the housing requirement.
62. The JCS is expressly premised on using the ‘Need’ housing figure in South Northants as the trajectory. JCS para 5.42 states: “For the purpose of calculating the 5 year land supply, the figures to be used are the NEED Target line, ...”. The Middleton Cheney Inspector determined that for the purposes of NPPF/73, the requirement figure to be used for South Northants excluding the NRDA is the ‘delivery’ figure (DL/35-43). The Council accept the conclusion the the delivery figures should be used, but consider that if the delivery figure is to be used, then an annualised not trajectory approach should be adopted.
63. This is for two main reasons. First, the NPPF (para 73) and the PPG (68-021) support use of a trajectory if it is identified in a strategic policy. The trajectory for the delivery figure is not set out in any strategic policy in the JCS. Indeed both the JCS strategic policies and the supporting text expressly do not support the use of the delivery trajectory. Para 5.42 states in terms that the need trajectory, not the delivery trajectory should be used. Policy S6 likewise states that housing should be “measured against the objectively assessed need” (sub para 2). Policy S6 is a ‘strategic policy’ within the meaning of the NPPF/20 because, as JG and AM explained, the ‘S’ means strategic and monitoring housing is a key part of the strategy for the “scale ... of development” and making “sufficient provision for housing” (NPPF/20).
64. There is a delivery trajectory in Appendix 3, but neither the JCS policies nor supporting text say it should be used for the purposes of assessing five year supply.

65. Secondly, there are very real issues with using the delivery trajectory for 5YHLS purposes. As indicated by Chart 1 in JG proof p.29, the delivery trajectory is very steep indeed at points, going from just over 200 homes per year to over 600 homes per year in the space of five years or so. That sort of profile should not be imposed on a local planning authority for 5YHLS purposes unless it expressly appears in policy and has been found sound for that purpose. The need trajectory, which is what the JCS actually proposed for 5YHLS, is very different, with much smaller steps and then becoming annualised from 2018/19 onwards.

66. Chart 1 also shows that the delivery annualised figure, which JG proposes should be used for 5YHLS purposes, is at all times above the need figure, such that there can be no suggestion that adopting the Council's approach would result in needs not being met at any point.

67. The Council recognise that on this discrete point they are taking a different view to the Middleton Cheney Inspector, but this is an issue (unlike the plan area issue) which was not dealt with fully in the Middleton Cheney decision (see the brief reasons at DL/52-53). The Council was there arguing for the use of the need figure, and therefore whether to use a trajectory or annualised approach if the delivery figure was to be adopted was not something which was fully dealt with.

Conclusion on requirement

68. The Council say that a plan area approach should be taken, using the annualised figure, as set out in the HLS SoCG Table 5 in the column headed 'Council Supply – Plan area requirement (delivery) (annualised)'.

Housing supply

General points

69. In determining supply the starting point is to have close regard to the definition of deliverable in the NPPF (Annex 2). As the Secretary of State made clear in the recent Bloor Homes, Hanging Lane Birmingham decision (CD7.26; July 2019):

“‘realistic prospect’ remains the central test against which the deliverability of all sites must be measured” (DL/20).

The Secretary of State endorsed the Inspector's reasons in that case, in which the Inspector emphasised that care needed to be taken against imposing certainty as the test for deliverability (IR14.35-43).

70. The PPG provides guidance on the sort of evidence that will be expected, but (i) the PPG cannot be used to raise the bar beyond the 'realistic prospect' central test in the NPPF; and (ii) the PPG does not require all the types of evidence listed in ID68-007 to be provided – they are alternatives, hence the word 'or' at the end of the list.
71. BP's suggestion that the Council had failed to recognise the change in the definition of deliverable is unfounded; the Council has had careful regard to that policy and guidance, as it is properly understood.
72. Realism was not a feature of BP's evidence. On the disputed NRDA sites, for example, BP's approach is, as JG explained, to assume 0 units of supply in a five-year period from sites within a strategic growth area with outline permission for several thousand homes despite substantial evidence of the examples of progress sought in national policy.
73. BP identified where more information could be provided, but in assessing the future delivery of a housing site it will always be possible to identify some more information that could have been provided, or to conceive of some issue that might delay delivery. BP noted that for the three disputed NRDA sites the Council had not produced statements of common ground or developer letters / emails. But neither policy nor guidance requires those. Where relevant the Council has sought such evidence for its HLAS 2021, but in no way can that make the evidence which JG put forward for the three disputed NRDA sites inadequate; the evidence must be assessed on its merits. For example, evidence of discharge of conditions and activity in moving schemes forward as relied on by JG is hard evidence of progress and must carry weight.

Northampton West SUE

74. There is an outline permission for 1,750 homes recently granted (17 December 2020) for this site and further evidence of matters progressing: discussions regarding the Design Code are well advanced and on 7 May 2021 an application for submission of details to discharge the design code condition was validated. As JG observed in the roundtable, it is notable that we have quickly moved from an outline permission to a discharge of condition application. The applicant is a housebuilder, JS Bloor, who would be expected to build out some of the parcels itself, which makes delivery one step closer (JG proof appendix 7 para A1.18; JG rebuttal para 2.25).
75. Wider evidence of deliverability which is relevant to the NRDA sites more generally is the existence and use of the West Northampton Strategic Development Framework (SDF) (CD8.06), which supports a comprehensive and cross-boundary approach to masterplanning and infrastructure delivery on these NRDA sites. It improves prospects for timely delivery.

76. JG has applied national evidence for lead-in times and delivery rates for large sites from the 2020 Lichfields report (JG proof appendix 7 para A1.14 and fn7), which is cogent evidence on those matters. Together with the rest of the evidence set out above, it makes JG's inclusion of 30 and 60 homes in years 4 and 5 eminently realistic.

Norwood Farm / Upton Lodge SUE

77. There is an outline permission for 1,900 homes (June 2020) under a hybrid application which includes approval of detailed proposals for Phase 2 of the Sandy Lane Relief Road (JG proof appendix 7 A1.16). There is a reserved matters application for site-wide infrastructure, which has been recommended for approval, most pre-commencement conditions have been discharged (ibid). This includes discharge of the design code condition on 11 February 2021 and approval of phasing details under condition 5 on 10 March 2021. This is consistent with facilitating over 500 occupations ahead of the completion of the works comprising the Phase 2 Sandy Lane Relief Road, which is strategically important to growth at the NRDA. Now that phasing has been approved, a reserved matters application is anticipated (JG rebuttal para 2.25).

78. Accordingly, there is evidence of substantial progress in terms of the site coming forward, which put together with the national evidence justifies including a total of 300 homes in total in years 3, 4 and 5 of the 5 year period.

Northampton South of Brackmills

79. There is an outline permission for 525 homes granted in November 2020, of which 410 are within SNC's area. It is also notable that there is detailed planning permission in place for parts of the site within the former Northampton Borough boundary. Dwellings have been delivered here (agreed by BP in the roundtable session), which is powerful evidence of deliverability on the (former) South Northants side of the line given it is the same site. It shows how a cross-boundary perspective must be maintained.

80. The officer report forecast first completions in 2022, and it has always been envisaged that due to infrastructure arrangements the SNC part of the site would be built out first. The applicant is a housebuilder (Martin Grant Homes) (JG proof appendix 7 A1.19-23).

81. For those reasons, alongside the national evidence, 204 homes (in years 3 – 5) fall within the definition of deliverable within policy and accord with guidance. It is noted that JG has reasonably applied a six month extension (ie pushing

first completions back into 2023/24) to update matters since his original proof: rebuttal para 2.26.

Windfalls

82. Although windfalls are not assessed against the policy test of 'deliverable' in NPPF Annex 2, but rather the policy in NPPF/70, there is a connection in that NPPF/70 provides that "any [windfall] allowance should be realistic ...". As set out above, realistic is also the central test for deliverability and realistic but does not mean certain.
83. The parties agree that a windfall allowance should be included: HLS SoCG 3.10.
84. The Council includes a windfall allowance in years 3, 4 and 5 of the 5 year period of 75dpa, i.e. 225 total (HLAS 2021 para 4.14 – 15). Net of the lapse rate, this amounts to 212 units, i.e. 71dpa (JG rebuttal para 2.16). This allowance was considered appropriate by Inspector Raygen at the Middleton Cheney appeals: DL/69-75.
85. The average from the past 10 years is 81dpa small site windfalls (HLAS 2021 Appendix 2). The average from the past 20 years is 93dpa small site windfalls (HLAS 2021 para 4.14 and Appendix 2). BP's reluctance in the roundtable to give the 20 year average weight because he has not scrutinised it is no basis for ignoring it.
86. There are 280 small site commitments in the 5 year supply (HLAS Appendix 4 p.45; agreed at BP rebuttal para 5.19). They are heavily front loaded to years 1 and 2 (see the trajectory in HLAS Appendix 4 p.45, with the year 1 figure corresponding to 107 units already under construction at 1 April 2021), leaving 26, 25, and 18 in years 3 – 5 respectively. As to what windfall to add in those 3 years, the historic data shows that an average of 61dpa completed on minor sites where the relevant permission was less than three years old; the average rises to 71dpa when the relevant permission was less than four years old (JG rebuttal para 3.26). That broadly accords with the Council's 71dpa windfall allowance.
87. That is particularly the case given that the most recent monitoring data for the 2020/21 period shows 135 commitments on minor sites with an approval date after 1 April 2020 (JG rebuttal 3.24). Those 135 commitments in a single year (even applying the Council's undisputed 7.5% lapse rate) make the Council's 71dpa windfall allowance look conservative. NPPF/70 requires regard to be had not to just "historic windfall delivery rates" but also to "expected future trends". It means the 135 commitment figure for new approvals in 2020/21 needs to be taken into account, not just the 81dpa 10 year average.

88. Accordingly, the Council's approach is robust. The Appellant's approach on the other hand is not. BP said his approach was simple but that simplicity is at the expense of realism. BP simply multiplies the historic 10 year average of 81dpa by 5 to get 405, from which he takes away the commitments of 280, leaving 125 windfalls (BP rebuttal 5.20). That fails to recognise that commitments must be considered separately from windfalls. Commitments are confirmed parts of the supply. There is no reason why a higher number of commitments should lead to a lower number of windfalls, as BP suggests. If anything, the opposite is likely to be true, given that a higher number of windfalls is likely to be indicative of a rising trend.

89. The flaw in BP's approach is illustrated by JG's rebuttal Table 12 which shows how BP's approach would lead to the trend line falling in years 3 – 5. There is no reason why that should be so.

Conclusion on supply

90. For all the above reasons, the Council says that it has a five year supply - 6.32 years to be precise (HLS SoCG para 3.15). That is based on the 1 April 2021 base date in the 2021 HLAS, which is agreed as the appropriate base date (SoCG 2.1). The correction of certain completion figures identified through the normal processes of preparing the 2021 HLAS are not relevant to the issues in dispute in this appeal. Nor did BP attempt to suggest that they were relevant, despite his wish to highlight them. They do not in any way undermine the conclusions of the Middleton Cheney Inspector given that they do not bear on the plan area or trajectory vs annualised issues in dispute.²

Character and appearance

91. Character and appearance is pre-eminently a matter of planning judgment for the Inspector and these closing submissions will accordingly not seek to repeat or deal with all the evidence, but rather focus on what the Council say are certain key matters.

92. The Council consider that the site in landscape and visual terms is currently part of attractive countryside. It displays key characteristics of the Undulating Claylands LCT - bullet points 3 ("broad, elevated undulating landscape ..."), 4, ("wide panoramic views ..."), 5 ("a productive rural landscape ...") – and it contributes positively to the Tove Catchment LCA. RH's characterisation of it as settlement fringe does not ring true. The settlement boundary is clear,

² For the avoidance of doubt, BP's suggestion of 4.92 years supply on a now historic 1 April 2020 base date if those corrections are taken into account is not accepted, not least because if the annualised approach is taken the supply would have been over five years.

strong and linear along the rear of Benham Road and Falcon View, and the appeal site itself is entirely open with no buildings or enclosures. The influence of the Benham Road / Falcon View buildings on the site is limited, given the mature planting which softens the settlement edge. This also means that the current boundary is not harmful or in need of improvement. Bury Hill does not serve to contain the site as part of the settlement; rather Bury Hill has the character of a rural lane in the countryside. RH drew attention to the telegraph poles and village gateway signage, but the signage is beyond the site and the telegraph poles are unobtrusive.

93. While the site does not form part of a valued landscape within NPPF/170a or a Special Landscape Area, it does have local value and means that pedestrians and cyclists on the convenient loop out of the village along Blakesley Hill, down Bury Hill and returning via Bradden Road are surrounded by countryside on all sides. The value is particularly found in the fact that on this western side of the village the landscape has a more rolling quality that extends to Blakesley and into the rural heart of South Northamptonshire. It has a more tranquil character than is found at the eastern (along Towcester Road) and southern (along Mill Lane) entrances of the village. The site is at a gateway into the village and out into the countryside, as acknowledged by RH in the roundtable session, which heightens its importance.
94. In this way the site does fit within the JCS policy R1(B) description of “open land which is of particular significance to the form and character of the village”. The site is not identified in the Village Design Statement but the real significance of the VDS plan is that the site is not even included on the plan – because it is not perceived as part of the village. RH highlighted the areas designated as ‘important open spaces’ to the south of the village, but they are enclosed to a much greater extent by development than the appeal site. They are part of the village and that is evidently why they have been designated in this way in the VDS. The appeal site only adjoins the village on one side; the other three sides are entirely open. It would not be expected for a VDS to annotate countryside beyond the village.
95. The visual impacts of the proposed development will be significantly harmful. Approaching the village along Blakesley Hill at present, the houses on Benham Road dip in and out of view; they are recessed and not prominent. The appeal scheme will be significantly more prominent given that it is both further forward and importantly on more elevated land. The 125m contour shown in AM’s proof (p.20) illustrates how the appeal site rises from Benham Road to Bury Hill, such that Bury Hill is on the ridgeline. The Appellant’s parameters plan proposes a 10m landscape buffer on the western and northern

boundaries but that still leaves a great deal of prominent built development within a short distance of the ridgeline. The 'green development edge' behind the buffer on the parameters plan will not provide effective mitigation either, given that it is still proposed to allow two storey housing in this location. This (ineffective) mitigation is in truth an acknowledgment of the sensitivity of the elevated, gateway location but because of the nature of the site the mitigation cannot avoid the harm. Building almost up to a ridgeline is a major and unavoidable failing of the appeal scheme.

96. RH sought to play down the visual impacts when approaching the village from the west (i.e. viewpoint 12) on the basis that receptors would largely be motorists, but Blakesley Hill is a rural road on which people will be sensitive to and appreciative of the countryside surroundings.
97. The visual impacts closer to the site – i.e. at viewpoints 1, 2, 3 and 4 – will also be significant. The sensitive pedestrian and cyclist users referred to above will perceive a significantly more urbanised environment. The Council disagree with RH's suggestion in the roundtable that those users only perceive countryside to the west at the moment; the appeal site is part of that countryside and circumnavigating the boundary of a modern housing development will significantly change the experience of those users for the worse. The harm will be felt most acutely along Blakesley Hill and Bury Hill which directly adjoin the site, but receptors on Bradden Road will also be significantly affected. In addition to LVIA viewpoints 2 and 3, it is also useful to have regard to Mr Knights' 15 September 2020 consultation response (as highlighted to the inquiry by Cllr Clarke in ID4). Mr Knights' photo from Bradden Road on p.2 of ID4 indicates that the appeal scheme will appear prominently in views from Bradden Road, particularly in winter when the vegetation is less dense. Although there are no photomontages in this appeal, the impacts can readily be appreciated by benchmarking against the height of the Benham Road housing and then taking account of the fact that the extra elevation will make the appeal scheme more prominent still.
98. From Bradden Road, and along the southern portion of Bury Hill, the appeal scheme is likely to appear as 'jutting out' from the settlement as AM put it, given that it will be open on three sides. Thus while the site is well-related to the village in the sense that it physically adjoins the village and is not divorced from it, the integration with the village is limited given it is exposed on three sides and not an infill or rounding off site.
99. The Bradden Road viewpoints, and viewpoint 12 on Blakesley Hill, show that while the significant impacts are localised in that they are largely confined to

the local area, the impacts are not just immediately surrounding the site – they do extend further to the west and south.

100. The adverse landscape effects largely are apparent from the above analysis. An attractive arable undulating field which is part of the countryside setting of the settlement will be transformed by built development, which will extend the village into the countryside.

101. The appeal scheme is in particular conflict with the strategy in the Current Landscape Character Strategy and Guidelines that provides (p.31; CD6.23):

“New development, change and land management practices should be controlled or encouraged to conserve the simplicity and the limited palette of characteristics that define this generally quiet and settled rural landscape. Intrusion of development onto the more elevated sections and interflues within the Undulating Claylands should be resisted to retain the open and unobstructed views to the wider landscape.”

102. The impacts also lead to clear conflict with S1(D)(1 and 4), R1(B), SS2(1)(a) and NPPF/170(b).

Benefits

Affordable housing

103. The affordable housing provided by the appeal scheme is a significant benefit. There has been a South Northants wide shortfall. The benefit is qualified however by the limited evidence of local need. As AM explains (proof 5.10), at the time the application was determined (December 2020) there were 32 households on the Housing Register who would be willing to live at Paulerspury, of whom only three had a local connection to the parish. Demand for shared ownership is not included on the register, but nonetheless it is clear that there is very limited evidence of local need. Providing affordable housing at a level beyond local need is not supported by the JCS strategy for the Rural Areas of meeting local needs (5.15 and 16.8; Objective 11).

104. Further, affordable housing is coming forward in the Rural Areas: the 107 affordable commitments at AM proof 5.11. The LPP2 also includes a suite of policies (LH2-9) which allow for affordable housing including within, adjacent to and beyond settlement confines.

105. The Appellant cites figures showing a low level of affordable housing delivery in the Rural Areas historically, but that is in significant part because the focus for growth is the urban areas, not the Rural Areas, and in any event there is now further policy support for affordable housing in the Rural Areas which is bearing fruit. Indeed at the Rural Service Centres of Brackley and Towcester there is very significant affordable housing committed: 604 units as itemised at AM proof 5.12, and notably the Towcester affordable commitments are clearly capable of meeting the limited needs of Greens Norton and in a much more sustainable location.

106. The significant weight which the Council gives to the benefit of affordable housing accords with that given to this benefit by the Middleton Cheney Inspector (para 123 CD7.6) and the Paulerspury Inspector (para 43 CD9.2). These decisions do not support the “very significant” weight which RL gives to affordable housing.

Market housing

107. The Council says that, in light of the existence of a 5YHLS, moderate weight attaches to the delivery of further market housing. It is important to recognise that a five-year supply means that:

- (i) The Council is complying with national policy on five-year housing supply, as contained in NPPF/73.
- (ii) The Council is complying with national policy on “significantly boosting the supply of homes”, as contained in NPPF/59.
- (iii) The Council is meeting the development plan housing requirement, which is the requirement against which the five-year supply is calculated (HLS SoCG para 2.2 – 2.4). The Council is doing what it planned to do.

108. It is notable that the Middleton Cheney Inspector did not give market housing significant weight in a five year supply scenario, stating “I give appreciable weight to the provision of market housing in this accessible location at this time” (CD7.6 para 124). “Appreciable weight” is clearly not “significant weight”, given that Inspector Raygen gave “significant weight” to affordable housing in the previous paragraph (para 123). Further, it should be noted that the weight which the Inspector gave market housing was influenced by the scheme’s “accessible location” in Middleton Cheney; as set out above, Greens Norton is significantly less sustainable than Middleton Cheney. The

Paulerspury Inspector also only gave moderate weight to market housing (DL/42).

109. It is also relevant that the Council (in all three former administrative areas) satisfies the housing delivery test (agreed BP proof p.12 Table 3.1). Thus as well as complying with national policy on housing supply, the Council is also doing so in respect of housing delivery (NPPF/75). JG also explained that the HDT result is likely to be passed for this coming year, with a likely result of 97%, i.e. above the key 95% threshold which is the first threshold at which sanctions start to apply. BP's written evidence, if all relevant likely completions are included, shows the same thing (i.e. a 97% result: see BP rebuttal para 4.4, contrary to BP's incomplete and misleading rebuttal Table 4.1).
110. RL accepted (XX) that he has been unable to produce an appeal decision concerning a comparably sized scheme where market housing has attracted significant weight in itself in a 5YHLS context (borne out by RL proof 4.4.1 – 4).
111. The Appellant's suggestion that the Secretary of State automatically attaches significant weight to market housing is also not supported by the actual decisions. In the Nantwich decision, for example, the Secretary of State concluded (CD7.9; DL28):

“... the Secretary of State agrees with the Inspector that the delivery of **significant numbers** of market housing **in a sustainable location** is a significant benefit.”
112. That attribution of significant weight was clearly premised on the “significant numbers of market housing” being delivered; around 130 (given total dwellings of 189 of which 30% would be affordable: DL1; DL29). Only 35 market homes as proposed in the appeal scheme cannot attract the same weight.
113. In the Great Dunmow, Essex decision, the Secretary of State only gave “modest weight” to market housing in a 5YHLS context (DL54; CD7.13; AM proof 10.2). The Appellant points out that in that case only a proportion of the housing would be completed in the first five years, but that consideration is balanced out by the scheme being 600 – 700 homes, i.e. even a proportion of the market homes in that scheme would exceed what is proposed in the present case.

Other benefits

114. The public transport contribution of £1,000 per dwelling is a standard contribution. There is no evidence of how it would be spent and notwithstanding the brief reference to 'enhance' in Northamptonshire Highways' consultation response (AM appendix 7) it cannot reliably be concluded that there will be any enhancement given the absence of evidence or reasons as to how this might occur and the limited size of the contribution. Given that the no.87 bus is subsidised, it appears more likely that the contribution would be used as subsidy for that service, so as to maintain the status quo rather than provide any improvement. Accordingly, the contribution attracts limited weight only (AM proof 10.7 - 9).
115. The public open space and play space offered by the appeal scheme can attract no more than limited weight in the absence of any evidence identifying a deficiency in open space / play space.
116. Economic benefits of construction jobs and spend attract limited weight, given they are short term and limited in scope. That was the weight the Middleton Cheney Inspector gave to such benefits (DL/128).
117. Site deliverability should attract no weight beyond the weight already given to the delivery of market and affordable housing. Weight is only given to market and affordable housing because it will be delivered in the near future and indeed RL's weighting to market housing is expressly premised on it being "capable of being delivered quickly" (RL proof 4.4.3). It is double counting to try to add further weight for site deliverability (RL 6.1.3), let alone significant extra weight as RL contends.
118. The biodiversity net gain is very limited at only 1.1% and accordingly should only attract very limited weight as per AM's view (EIC). Even RL only attached limited weight to it (EIC and proof 6.1.3).

Planning balance and conclusion

119. The appeal scheme conflicts with S1 and R1 of the JCS, JCS Objectives 1, 3 and 11, SS1, SS2 and LH1 of the LPP2. There is conflict with the development plan as a whole (agreed in the SoCG 5.2.5). The conflict is with an up-to-date development plan. This is not a case where the development plan is pulling in different directions. The conflict goes to the heart of plan and represents fundamental conflict with the sustainable strategy. The appeal scheme is harmful to the plan. The Appellant's approach, if generally adopted, would

significantly undermine the plan. There is also significant harm to character and appearance.

120. There is a 5YHLS and the titled balance is not engaged. The position as set out in NPPF/12 is that “permission should not usually be granted”. It is important that the statutory presumption in favour of the development plan provided by s.38(6) is properly recognised and the plan is given proper weight, especially when it is so recently adopted.
121. The balance comes down firmly in favour of refusing the scheme. There are none of the “very site specific factors” seen in the Middleton Cheney appeals. The benefits do not outweigh the conflict and harms so as to justify departing from the plan, particularly given that the Council is already complying with national policy on maintaining a five year supply of housing land, the housing delivery test, and significantly boosting supply.
122. Even on a titled balance (which the Council say does not apply in any event), the development plan conflict must carry significant weight, given that (i) this is consistent with the approach of the Rothersthorpe Inspector (DL/45; CD7.4), (ii) the JCS December 2019 review has found that the strategy is up to date and should continue to be used, and (iii) the LPP2 has very recently been found sound. The harm to character and appearance also carries significant weight. Together, these considerations significantly and demonstrably outweigh the benefits, which principally relate to addressing an alleged housing shortfall but not in a sustainable location or a sustainable way.
123. Accordingly, the Council invite the Inspector to dismiss the appeal.

HUGH FLANAGAN
Francis Taylor Building
Temple, London
15 June 2021