

LAND SOUTH OF BLAKESLEY HILL, GREENS NORTON

APPEAL BY RICHBOROUGH ESTATES

APP/Z2830/W/21/3267906

**OPENING SUBMISSIONS
AND LIST OF APPEARANCES
ON BEHALF OF WEST NORTHAMPTONSHIRE COUNCIL**

Appearances for the Council

Advocate: Hugh Flanagan

Barrister, Francis Taylor Building, Temple, London EC4Y 7BY

Jon Goodall MA (Cantab) MSc MRTPI

Associate Director, DLP Planning Ltd

Andrew Murphy BA (Hons) MSc MRTPI

Director, Stansgate Planning Consultants Ltd

Opening submissions

1. West Northamptonshire Council resists this appeal concerning land south of Blakesley Hill, Greens Norton.
2. The Council gave three reasons for refusal. The first reason concerns conflict with the development plan by reason of development outside of Greens Norton's settlement confines, such that the scheme is in open countryside, and

development of inappropriate scale to the existing settlement. The second concerns landscape and character harm. The third concerns infrastructure contributions and is capable of being resolved upon completion of a satisfactory s.106 obligation. A satisfactory s.106 agreement has now been agreed.

3. The subject matter of the first two reasons for refusal comprise the principal issues in dispute between the Council and the Appellant, along with whether the Council is able to show a five year supply of housing land. These align with main issues i, ii, iii and vi as identified by the Inspector in his post CMC note (para 8; 12 April 2021), as follows:

- i. whether the proposed development would be in a suitable location with particular regard to the identified strategy for growth for the district;*
- ii. whether the Council is able to demonstrate a five year housing land supply;*
- iii. the effect of the proposal on the character and appearance of the area;*
- ...*
- vi. whether any adverse effects, including conflict with the development plan considered as a whole, would be outweighed by other material considerations.*

The development plan

4. The development plan comprises the West Northamptonshire Joint Core Strategy Local Plan (Part 1) (adopted in December 2014 for the period up to 2029) (**‘the JCS’**) and the South Northamptonshire Part 2 Local Plan 2011 – 2029 (adopted in July 2020) (**‘the LPP2’**).

5. The JCS covers the administrative areas of three former local planning authorities – Northampton Borough, Daventry District, and South Northamptonshire District. These three local government areas were abolished, and the former Councils wound up and dissolved, on 1 April 2021: article 4 of the Northamptonshire (Structural Changes) Order 2020. The new

unitary West Northamptonshire Council came into existence on the same date. It is the new local planning authority for the West Northamptonshire area: section 1 of the Town and Country Planning Act 1990.

6. The JCS remains the adopted development plan for West Northamptonshire, including the South Northamptonshire area within West Northamptonshire. The LPP2 remains the adopted development plan for the South Northamptonshire area. This is provided for by regulation 26 of the Local Government (Boundary Changes) Regulations 2018 (see also PPG 68-025):

“26.— Local development documents

(1) A local development document adopted by a predecessor council under section 23 of the 2004 Act (adoption of local development documents) before the reorganisation date shall have effect on and after that date as if it had been adopted by the successor council for such part of its area as corresponds to the area to which the document relates.”¹

7. The JCS sets a spatial strategy of concentrating development in the urban areas – namely the ‘Principal Urban Area’ of Northampton, the ‘Sub-regional Centre’ of Daventry, and the ‘Rural Service Centres’ of Towcester and Brackley (policies S1 – S4 in particular). Outside these urban areas, the strategy for the ‘Rural Areas’ is one of restraint (policy R1 in particular).
8. Recognising that Northampton’s needs cannot be met within the former administrative boundary of Northampton Borough, the JCS creates the ‘Northampton Related Development Area’. This area, which is delineated on the policies map and extends partly into the former South Northamptonshire and Daventry districts, includes sustainable urban extension allocations which cross the former administrative boundaries.

¹ See also DL/5 of the Paulerspury decision (17 May 2021) on this subject: CD9.1.

9. R1 requires, subject to certain non-applicable exceptions, residential development in Rural Areas to be within existing settlement confines.
10. The LPP2 is a non-strategic part 2 plan which expressly operates within the strategic framework of the JCS. LH1, like R1, requires development to be within settlement confines, subject to certain non-applicable exceptions.

Development outside settlement confines

11. The appeal scheme is entirely outside the settlement confines of Greens Norton, and therefore in open countryside. These confines are very recently adopted (July 2020), having been found sound as part of the LPP2 by the examining Inspector. It leads to the scheme being in stark conflict with an up to date development plan.
12. The settlement confines, and the policy of containing development within them unless one of the exceptions apply, are part of the sustainable strategy underlying the development plan. S1 of the JCS seeks to concentrate development primarily in and adjoining the main towns, while new development in the Rural Areas is to be “limited”. This is in light of the “Hierarchy of Places” and their relative sustainability credentials (JCS para 5.7). Northampton and the NRDA is at the top of the hierarchy as “the most sustainable location” (Objective 11), below which sit Daventry, Towcester and Brackley, with the Rural Areas at the bottom (JCS para 5.7 – 5.11). The JCS states:

“5.12 The primary choices with respect to the distribution of development in West Northamptonshire must be made in the context of the challenges the area faces and with a view to capitalising on its strengths. In order to deliver vibrant and vital towns, together with sustained rural areas, the pattern of development must be supportive of these objectives and have regard to the hierarchy of places. Piecemeal development spread around the edges of the urban areas would increase the load to the current road and utilities infrastructure,

without bringing forward the economies of scale that would make the provision of further infrastructure cost effective and therefore deliverable. Such incremental development is more difficult to serve with the range of community facilities needed to support the increase in population. Consequently, the Spatial Strategy is one of concentrating additional development within the existing towns as far as possible and in a small number of large development areas, called sustainable urban extensions. ...

5.15 The JCS recognises that there is a need for limited development in the rural area, but aims to ensure that the scale of this development is consistent with the objective of meeting local needs and supporting local services. ...”

13. The LPP2 sub-divides the settlements within the Rural Areas into Primary Service Villages, Secondary Service Villages and Small Villages (Policy SS1). But all sit in the lowest tier of the overall hierarchy, i.e. the Rural Areas, where development is to be limited and consistent with the objective of meeting local needs.
14. R1 contains a housing requirement for the Rural Areas of 2,360 which has been met (see LPP2 para 4.2.3). Against that background, the LPP2 included settlement confines and policy LH1 which allows for certain forms of housing outside settlement confines, but not market housing led schemes on unallocated sites such as the present appeal site. That approach was the subject of detailed consideration by the LPP2 Inspector, who concluded:

“28. I accept that the establishment of settlement confines as a tool to direct the location of development is an inherently restrictive approach. However, as the confines would not only direct development primarily within and adjacent to settlements but would also ensure that the intrinsic character of the countryside is recognised, it is an approach which clearly accords with the Framework. Defining

settlement confines also gives a clear indication of how a decision taker should react to a development proposal. ...”

15. The Council will say that the appeal scheme has no proper regard to that policy framework. What the Appellant is now proposing is the opposite of the “genuinely plan-led” approach which the NPPF supports (para 15).
16. The Appellant highlights the village services within Greens Norton, arguing that they make the scheme sustainable. But the Appellant fails to recognise that the village is not remotely comparable in sustainability terms to the higher order settlements of Northampton, Daventry, Brackley and Towcester, and it those urban areas where the JCS seeks to focus development. The location of this scheme beyond settlement confines of “Secondary Service Village” is in fundamental conflict with the sustainable strategy in the development plan. It is harmful in itself to the plan and it is an approach that if generally adopted would drive a coach and horses through the development plan.
17. SS1 of the LPP2 provides that Secondary Service Villages (A) “are likely to be more suitable for limited development by virtue of the Plan’s policies for housing (LH1-LH11) than Secondary Service Villages (B)”. Two points are worth mentioning at this stage. First, 69 houses cannot reasonably be termed “limited development”. This is large-scale development which is out of scale with the settlement. Secondly, this reference in SS1 is about limited development *through the LPP2’s policies*, which are permissive of certain forms of affordable-led and specialist housing schemes outside settlement confines of Secondary Service Villages, but are of no application to the present scheme.
18. This is an appeal where the Appellant concedes that the proposal is contrary to the development plan as a whole: SoCG para 5.2.5.

Character and appearance

19. The Council will highlight the current value of the appeal site as contributing to the rural and tranquil character on this side of Greens Norton, including the setting of the village. The site's openness and undulation are characteristic of and contribute positively to the Tove Catchment Landscape Character Area within which it sits. There is a logical and convenient loop for walkers and cyclists along Blakesley Hill, Bury Hill and Bradden Road which is rural, attractive and well used.

20. The Council will say that the appeal scheme is harmful to the character and appearance of the local area. The fact that the site is open on three out of four sides, and the site's position on top of the ridgeline would make dwellings prominent and clearly visible in the landscape along significant stretches of Blakesley Hill, Bury Hill and Bradden Road. These are not glimpses but continuous views at a 'gateway' location to the village which increases its importance. There will be impacts on highly sensitive recreational users (i.e. cyclists and walkers) in particular. Bury Hill, currently a very rural lane, will become more urbanised. The officer report acknowledges that the proposed development would be "generally well-related in visual terms to the existing village" given that it borders the western village boundary and is bounded by Blakesley Hill and Bury Hill, and also acknowledges that the impact is localised in the sense that there would not be a significant effect on the LCA beyond the viewpoints along Blakesley Hill, Bury Hill and Bradden Road, but that cannot avoid the adverse landscape and visual impacts that would be felt in this local area.

21. The current western boundary of the settlement comprises the rear gardens of Benham Road and Falcon View. This housing is not overly intrusive in the landscape and is softened by gardens and mature trees and hedging. It is a coherent boundary and while the appeal scheme could no doubt include careful and high quality landscaping, that is a poor justification for the scheme

given that the current boundary is not harmful and not in need of improvement.

22. The Appellant has produced a significant volume of landscape and visual evidence. The Council has not considered it necessary to instruct a specialist landscape architect in this case, first because the impacts are relatively local and do not, for example, involve a designated landscape, and secondly because the Council does not take issue with the Appellant's methodology and rather the disagreement is over judgments as to the level and nature of the harm. Planners such as the case officer in the first instance and Mr Murphy who is giving evidence are well able to reach such judgments for themselves. In this case it will be said that the harm and policy conflict is obvious.

Housing land supply

23. The Council's position is that there is **6.32 years** of deliverable housing supply (HLS SoCG para 3.15). This is set out in the Council's Housing Land Availability Study 2021 for South Northamptonshire Area (excluding the NRDA) (CD9.2).
24. The housing land supply for the South Northamptonshire area (excluding the NRDA) of West Northamptonshire has very recently been examined in conjoined inquiries which took place over eight days in respect of proposed developments at Middleton Cheney (land east of Waters Lane, ref. 3261483 (CD7.06) and land south of Thenford Road, ref. 3259839 (CD7.07)). This involved full argument on the housing requirement and supply assisted by expert evidence and counsel on all sides. In decisions dated 19 April 2021, Inspector Raygen determined that the Council at that point had **5.14 years** supply of housing land (para 76 of the Waters Lane decision). That determination was based on the Housing Land Availability Study 2020, which was the most recent at the time. The position has strengthened since, as noted above.

25. The 2021 Study has since been published (on 25 May 2021), which has a base date of 1 April 2021. The Appellant agrees that the 1 April 2021 base date should be used for the purposes of the present appeal: HLS SoCG para 2.1.
26. Mr Pycroft's written evidence indicates that the Appellant continues to dispute the existence of a five year supply. The Appellant does not rely on any change of circumstances since the Middleton Cheney decisions (which are only seven weeks old in any event). Rather the Appellant simply refuses to accept the fully reasoned conclusions of the Middleton Cheney Inspector.
27. There are a number of points of dispute between the Appellant and the Council. Only one makes a difference as to whether there is a five year supply or not. The Appellant seeks to use a housing requirement based on the whole of the former administrative area of South Northamptonshire Council, i.e. including that part of the former South Northamptonshire district which lies within the NRDA. The Council says that is not the correct approach. As determined and fully explained by Inspector Raygen, the correct approach is a 'plan area' approach, which in this case would be South Northamptonshire excluding the NRDA:

"I am satisfied that for the reasons I outline above the NRDA should not be included in the requirement figure at this time."

(DL/34; and see the detailed reasons at DL/27-34)

28. By way of further background, NPPF/73 provides that supply must be assessed against the housing requirement in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, unless the strategic policies have been reviewed and found not to require updating. The JCS had its fifth birthday on 14th December 2019. A review was undertaken and strategic policies, including those concerning the housing requirement, were found not to require updating. The review concluded that they were fit for purpose and should continue to be used pending the emerging West Northamptonshire Strategic Plan, which will comprise a review of the JCS as a

whole and look beyond the end date of the current plan period. The WSNP is at an early stage, with an Issues Consultation which closed in October 2019, and does not attract significant weight.

29. Accordingly, the JCS requirement should continue to be used. The JCS housing requirement is expressly set by 'Plan Area'. The Plan Areas are: (i) the NRDA; (ii) the former administrative area of Daventry District excluding that part within the NRDA; and (iii) the former administrative area of South Northamptonshire District excluding that part within the NRDA. The requirement is broken down in this way in order to give effect to the spatial strategy and to ensure that it is not undermined.
30. The correct approach to the housing requirement in the JCS was challenged in a s.78 appeal soon after the JCS was adopted, namely Land East of Poundfield Road, Potterspury (26th June 2015) (CD7.01). The Inspector there discussed the issues in comprehensive detail and concluded that five year supply was to be assessed on a Plan Area basis. That approach was followed for many years in a number of appeal decisions and also in the monitoring reports undertaken by each of the authorities.
31. In 2019, the Inspector in the appeal concerning Land South of Kislingbury Road, Rothersthorpe (CD7.04) adopted a "considerably different approach" as the LPP2 Inspector put it (IR para 33), and assessed five year land supply against a district wide not Plan Area requirement figure. The Rothersthorpe decision gives no reasons for departing from the Potterspury decision (or any explanation of how the decision could be reconciled with the Potterspury decision). Arguments which were dealt with over many pages in the Potterspury decision were summarily dismissed in the Rothersthorpe decision. The Rothersthorpe appeal was refused overall on sustainability and character grounds, such that the Council was unable to challenge the decision in the High Court (see *Tewkesbury BC v SSHCLG* [2019] EWHC 1775 (CD7.27)).

32. The Middleton Cheney Inspector comprehensively re-examined matters and explained that the Plan Area approach was the right one.
33. There are certain other matters in dispute. First, there is a question over whether a trajectory or annualised approach should be taken to the requirement. The Council say that an annualised approach should be taken. The Council fully acknowledge that at the Middleton Cheney inquiries its position was that a trajectory approach should be taken, but that was on the basis of using an 'objectively assessed need' figure as the requirement. The Middleton Cheney Inspector determined that in fact the 'delivery' figure (which is higher) for the Plan Area should be used as the requirement. The Middleton Cheney Inspector found that the delivery figures were contained in policies S3, S4 and R1: DL/40. The Council accept that reasoned conclusion of the Middleton Cheney Inspector. However, the Council say that, on that basis, an annualised approach should be taken, as the JCS only prescribes a trajectory approach for the OAN figure, and there are significant issues with using a trajectory approach (which is not contained in an adopted strategic policy) for the delivery figure. This issue would make the difference between 6.32 and 5.65, so the supply would be above five years in any case.
34. On the supply side, there is a dispute about windfall allowance. The Council says that its position is correct, but even on the Appellant's approach the supply is still above five years (HLS SoCG Table 5).
35. There are also supply disputes on parts of three strategic cross-boundary sites within South Northamptonshire designated as the NRDA. On a proper understanding of the requirement, the NRDA sites are not relevant to the five year supply because they relate to a different Plan Area. In any event, the Council will say that its approach on these sites is robust and complies with the approach in the NPPF and PPG.

Planning balance and conclusion

36. The Council's evidence will assess and weigh the benefits of the proposal against the harm and policy conflicts outlined above. The Council will say that for all the reasons set out above the appeal scheme is unacceptable and will in due course invite the Inspector to dismiss the appeal.

HUGH FLANAGAN

Francis Taylor Building

Temple, London

8 June 2021