



# Proof of Evidence of Ben Pycroft in relation to Housing Land Supply

Outline application for up to 69 dwellings, with associated access, landscaping, open space, and drainage infrastructure (all matters reserved other than access) –  
Land south of Blakesley Hill, Greens Norton

for Richborough Estates Ltd

Emery Planning project number: 20-643

PINS ref: APP/Z2830/W/21/3267906

LPA ref: S/2020/1376/MAO

Project : 20-643  
Site address : Land south of Blakesley  
Hill, Greens Norton  
Client : Richborough Estates Ltd  
  
Date : 11 May 2021  
Author : Ben Pycroft

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## 1. Introduction

- 1.1 This proof of evidence is submitted on behalf of Richborough Estates Ltd (i.e. the Appellant) in support of its appeal against the decision of South Northamptonshire Council to refuse to grant outline planning permission for up to 69 dwellings, with associated access, landscaping, open space, and drainage infrastructure (all matters reserved other than access) at land south of Blakesley Hill, Greens Norton (PINS ref: APP/Z2830/W/21/3267906, LPA ref: S/2020/1376/MAO).
- 1.2 This proof of evidence specifically addresses matters relating to housing land supply. It should be read alongside the proof of evidence prepared by Mr Lomas, which deals with all other planning matters in relation to the appeal.

### Qualifications

- 1.3 I am Benjamin Michael Pycroft. I have a B.A. (Hons) and postgraduate diploma in Town Planning from the University of Newcastle-upon-Tyne and am a member of the Royal Town Planning Institute. I am a Director of Emery Planning, based in Macclesfield, Cheshire.
- 1.4 I have extensive experience in dealing with housing supply matters and have prepared and presented evidence relating to five year housing land supply calculations at several Local Plan examinations and public inquiries across the country.
- 1.5 In 2019, I prepared and presented the evidence on behalf of Hollins Strategic Land and others in relation to South Northamptonshire Council's five year housing land supply at a public inquiry into their appeal against the decision of the Council to refuse to grant outline planning permission for up to 66 no. dwellings at land south of Kislingbury Road, Rothersthorpe. The inquiry took place in late April / early May 2019. The decision was issued on 17<sup>th</sup> May 2019<sup>1</sup>. The Inspector (Philip Major) agreed with my evidence that the Council's five year housing land supply should be measured against the adopted housing requirement set out in policy S3 of the West Northamptonshire Joint Core Strategy in accordance with paragraph 73 of the Framework and therefore that the Council could only demonstrate a five year housing land supply of **2.74 years**.
- 1.6 I understand my duty to the inquiry and have complied, and will continue to comply, with that duty. I confirm that this evidence identifies all facts which I regard as being relevant to the opinion

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<sup>1</sup> PINS ref: 3206346 – Core document **CD7.04**

that I have expressed and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion. I believe that the facts stated within this proof are true and that the opinions expressed are correct and comprise my true professional opinions which are expressed irrespective of by whom I am instructed.

- 1.7 I provide a separate summary to this proof of evidence and set of appendices. I also refer to several core documents.

## 2. Planning Policy Context

2.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration, which is discussed below.

### Development plan context

#### Existing development plan

2.2 The development plan comprises:

- The West Northamptonshire Joint Core Strategy Local Plan (Part 1) (adopted December 2014) (WNCJS); and
- The South Northamptonshire Part 2 Local Plan 2011-29 (adopted July 2020).

2.3 The conformity of the appeal proposal to the development plan is addressed by Mr Lomas. I refer to the housing land requirement and supply sections of the WNCJS in my proof of evidence. However, it is of note that the Part 2 Local Plan does not propose any residential allocations. In accordance with paragraph 214 of the Framework, the Part 2 Local Plan was examined within the context of the 2012 Framework.

#### Emerging development plan

2.4 The three West Northamptonshire authorities (Daventry, Northampton and South Northamptonshire) have also agreed to prepare a West Northamptonshire Strategic Plan, which will review and where appropriate replace policies within the Joint Core Strategy. The timetable for the preparation of the West Northamptonshire Strategic Plan is set out in the Local Development Scheme as follows:

- October 2018 to June 2019 – Commencement of preparation / evidence gathering and scoping;
- March 2019 – Issues consultation;
- September 2019 – Options consultation;
- June 2020 – Consultation on draft document;

- December 2020 – Proposed submission consultation;
- April 2021 – Submission to Secretary of State;
- September 2021 – Examination; and
- January 2022 – Adoption.

2.5 The issues consultation scheduled for March 2019 took place from 5<sup>th</sup> August to 11<sup>th</sup> October 2019. Consultations on the options, draft and proposed submission document scheduled for September 2019, June 2020 and December 2020 respectively have not taken place.

## **National planning policy and guidance**

### **The National Planning Policy Framework (“the Framework”)**

2.6 The Framework was published in March 2012. It was revised in July 2018 and again in February 2019. In relation to housing land supply, footnote 7 as set out on page 6, section 5 of the “*Delivering a sufficient supply of homes*” and the definition of “deliverable” set out on page 66 of the Framework are all relevant to my proof of evidence.

### **Planning Practice Guidance (PPG)**

2.7 The PPG was first published in March 2014 and has been updated since. It contains guidance on “*Housing and economic needs assessment*” at chapter 2a, “*Housing and economic land availability assessments*” at chapter 3, and “*Housing supply and delivery*” at chapter 68. I refer to paragraphs within these sections of the PPG in my proof of evidence.

## **Other material considerations**

2.8 The following documents are also relevant to my proof of evidence:

- South Northamptonshire Council - Housing Land Availability Study (base date 1<sup>st</sup> April 2020, published July 2020)<sup>2</sup>; and
- Northampton Related Development Area (NRDA) Five Year Housing Land Supply Assessment (base date 1<sup>st</sup> April 2019)<sup>3</sup>.

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<sup>2</sup> Core document **CD6.07**

<sup>3</sup> Core document **CD6.25**

### 3. Housing supply and delivery and the tilted balance

3.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration. However, it is the Framework itself which defines what a five year housing land supply is, sets out the requirement to demonstrate one and explains how it should be calculated, not the development plan. It is also the Framework, which introduces and explains how the Government measures housing delivery through the Housing Delivery Test (HDT), not the development plan. This is deliberate because it is the Framework itself which sets out the circumstances in which the tilted balance to the presumption in favour of sustainable development will be triggered as a result of a local planning authority either failing to demonstrate a five year supply of housing land or meeting the HDT.

3.2 Paragraph 11 of the Framework explains that plans and decisions should apply a presumption in favour of sustainable development. For decision-making, this means:

*"c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

3.3 Footnote 7 of the Framework is referred to after "out-of-date" in paragraph 11d) and states:

*"This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1".*

3.4 Whilst they are not the only routes in which the tilted balance to the presumption in favour of sustainable development can be triggered, the Framework is clear that paragraph 11d) of the Framework applies in the following circumstances:

- 1) the “local planning authority” cannot demonstrate a five year supply of housing land with the appropriate buffer as set out in paragraph 73 of the Framework; or
- 2) where the latest Housing Delivery Test indicates that the delivery of housing was less than 75% of the housing requirement over the previous three years.

### **Five year housing land supply**

3.5 As explained above, the tilted balance to the presumption in favour of sustainable development is triggered where the local planning authority cannot demonstrate a deliverable five year housing land supply in accordance with paragraph 73 of the Framework. It does not state that the tilted balance would apply if a five year housing land supply is calculated in any other way than that set out in paragraph 73.

3.6 The second sentence of paragraph 73 of the Framework is within chapter 5: “*Delivering a sufficient supply of homes*” and is under the title: “*Maintaining supply and delivery*”. The second sentence of paragraph 73 of the Framework states:

*“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 local housing need where the strategic policies are more than five years old”.*

3.7 Footnote 37 of the Framework is referred to at the end of this sentence and states:

*“Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance”.*

3.8 Therefore, the basis on which the five year housing land supply is calculated is a binary position. The five year housing land supply should be calculated against either:

- a) the housing requirement set out in adopted strategic policies where:
  - i. those policies are less than five years old or

ii. are more than five years old but have been reviewed and found not to require updating: or

b) the local housing need calculated using the standard method set out in national planning guidance where the policies are more than five years old and either:

i. have not been reviewed or

ii. have been reviewed and found to require updating.

3.9 It is important to note that the Framework does not distinguish between those local planning authorities who have a Local Plan which is less than five years old and those local planning authorities who have a plan which is more than five years old, but the relevant policy has been reviewed and found not to require updating. In both cases, the Framework is clear that the five year housing land supply should be measured against the adopted housing requirement. The aim is for all local authorities to have up to date Local Plans and therefore any situation where the five year housing land supply is measured against the local housing need is a "stop gap" until the new Local Plan has been adopted.

3.10 Additional guidance is provided in chapter 68 of the Planning Practice Guidance (PPG): "*Housing supply and delivery*". This section of the PPG contains guidance on "*5 year housing land supply*", "*Demonstrating a 5 year housing land supply*", "*Confirming 5 year housing land supply*", and "*Calculating a 5 year housing land supply*".

3.11 Paragraph 68-001 of the PPG<sup>4</sup> answers the question: "*What policies are in place to encourage local authorities to promote a sufficient supply of land for housing and support delivery?*". It states:

*"The standard method for calculating local housing need provides a minimum number of homes to be planned for. Authorities should use the standard method as the starting point when preparing the housing requirement in their plan, unless exceptional circumstances justify an alternative approach.*

*The Housing Delivery Test measures whether planned requirements (or, in some cases, local housing need) have been met over the last 3 years. The 5 year housing land supply is a calculation of whether there is a deliverable supply of homes to meet the planned housing requirement (or, in some circumstances, local housing need) over the next 5 years."*

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<sup>4</sup> Paragraph: 001 Reference ID: 68-001-20190722:

3.12 Paragraph 68-002 of the PPG<sup>5</sup> answers the question: “What is a 5 year land supply?”. It states:

*“A 5 year land supply is a supply of specific deliverable sites sufficient to provide 5 years’ worth of housing (and appropriate buffer) against a housing requirement set out in adopted strategic policies, or against a local housing need figure, using the standard method, as appropriate in accordance with paragraph 73 of the National Planning Policy Framework.”*

3.13 Paragraph 68-003 of the PPG<sup>6</sup> answers the question: “What is the purpose of the 5 year housing land supply?”. It states:

*“The purpose of the 5 year housing land supply is to provide an indication of whether there are sufficient sites available to meet the housing requirement set out in adopted strategic policies for the next 5 years. Where strategic policies are more than 5 years old, or have been reviewed and found in need of updating, local housing need calculated using the standard method should be used in place of the housing requirement.”*

3.14 Paragraph 68-005 of the PPG<sup>7</sup> answers the question: “What housing requirement figure should authorities use when calculating their 5 year housing land supply?”. It states:

*“Housing requirement figures identified in adopted strategic housing policies should be used for calculating the 5 year housing land supply figure where:*

- *the plan was adopted in the last 5 years, or*
- *the strategic housing policies have been reviewed within the last 5 years and found not to need updating.*

*In other circumstances the 5 year housing land supply will be measured against the area’s local housing need calculated using the standard method.”*

3.15 Paragraph 68-028 of the PPG<sup>8</sup> answers the question: “How will areas with joint plans be monitored for the purposes of a 5 year land supply?”. It states:

*“Areas which have a joint plan have the option to monitor their 5 year housing land supply and have the Housing Delivery Test applied over the whole of the joint planning area or on a single authority basis. The approach to using individual or combined housing requirement figures will be established through the plan-making process and will need to be set out in the strategic policies.*

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<sup>5</sup> Paragraph: 002 Reference ID: 68-002-20190722

<sup>6</sup> Paragraph: 003 Reference ID: 68-003-20190722

<sup>7</sup> Paragraph: 005 Reference ID: 68-005-20190722

<sup>8</sup> Paragraph: 028 Reference ID: 68-028-20190722

*Where the 5 year housing land supply is to be measured on a single authority basis, annual housing requirement figures for the joint planning area will need to be apportioned to each area in the plan. If the area is monitored jointly, any policy consequences of under-delivery or lack of 5 year housing land supply will also apply jointly."*

3.16 Paragraph 68-008 of the PPG<sup>9</sup> answers the question: "What happens if an authority cannot demonstrate a 5 year housing land supply?". It states:

*"In decision-taking, if an authority cannot demonstrate a 5 year housing land supply, including any appropriate buffer, the presumption in favour of sustainable development will apply, as set out in paragraph 11d of the National Planning Policy Framework."*

3.17 The first point I make is that there is no provision in paragraph 73 of the Framework to calculate the five year housing land supply against any other figure that is not the adopted housing requirement or the local housing need using the standard method. This includes an "Objectively Assessed Need" (OAN) figure, a "local housing need" figure calculated using a different method to the standard method set out in the PPG, a figure following the review of the policy that is neither the adopted housing requirement nor the local housing need using the standard method, or any other figure.

3.18 In accordance with footnote 7, for the purposes of triggering the presumption of sustainable development as set out in paragraph 11d, an assessment of whether a local planning authority can demonstrate a five year housing land supply in accordance with paragraph 73 of the Framework needs to be made. As the assessment of the five year housing land supply against any other figure than the adopted housing requirement or the local housing need calculated using the standard method would not comply with paragraph 73 then an assessment for the purposes of footnote 7 and paragraph 11d could not be made.

3.19 The second point I make relates to the absence of a requirement for a calculation of a five year housing land supply in anywhere other than in a local planning authority. In this case, the approach taken in West Northamptonshire is to calculate the five year housing land supply for the "plan area" of each of the three districts: Daventry, Northampton and South Northampton excluding the areas within South Northamptonshire and Daventry which form the Northampton Related Development Area (NRDA) and a separate calculation for the NRDA, which includes all of Northampton and areas within both South Northamptonshire and Daventry. The NRDA is not a

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<sup>9</sup> Paragraph: 008 Reference ID: 68-008-20190722

local planning authority. Therefore there is no requirement in paragraph 73 of the Framework for a five year housing land supply to be demonstrated within the NRDA. Furthermore, as above footnote 7 of the Framework explains that the tilted balance to the presumption in favour of sustainable development would be triggered where a "local planning authority" cannot demonstrate a deliverable five year housing land supply. Therefore, the tilted balance would not be triggered in the NRDA when it cannot demonstrate a five year housing land supply.

- 3.20 There is no provision in either the Framework or associated guidance to measure the five year housing land supply across a "plan area". Indeed, paragraph 68-028 of the PPG is clear that the option is either to measure five year housing land supply on a "single authority basis" or by "a joint planning area" (but if the latter option is chosen that needs to be determined at the plan-making stage). Even if it were possible to measure five year housing land supply across a plan area as the Council proposes, the tilted balance to the presumption in favour of sustainable development would not be triggered by footnote 7.

## **The Housing Delivery Test**

- 3.21 The Housing Delivery Test (HDT) is defined on page 67 of the Framework as follows:

*"Housing Delivery Test: Measures net additional dwellings provided in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England every November."*

- 3.22 The following implications apply where the HDT results confirm delivery falls below specific thresholds.
- 3.23 Firstly, as explained in footnote 7 of the Framework, the tilted balance to the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework applies where the HDT indicates that the delivery of housing was "substantially below" the housing requirement over the previous years. The transitional arrangements set out in Annex 1 of the Framework explain that "substantially below" means for the 2018 HDT results below 25%, for the 2019 HDT results below 45% and for the 2020 HDT and beyond below 75%.
- 3.24 Secondly, paragraph 73 and footnote 39 of the Framework explain that where the HDT result is below 85%, the 20% buffer will apply for purposes of calculating the five year housing land supply.

3.25 Thirdly, Paragraph 75 of the Framework explains that where the HDT result is below 95%, the local planning authority should prepare an action plan to assess the causes of under delivery and identify actions to increase delivery in future years.

3.26 Guidance on the Housing Delivery Test is then provided in paragraphs 68-036 to 68-054 of the PPG, which should be read alongside the Housing Delivery Test measurement rule book.

3.27 The HDT Measurement Rule Book (July 2018)<sup>10</sup> explains that HDT is calculated as a percentage of net homes delivered against the “number of homes required”. Paragraph 12 then explains that where the latest adopted housing requirement figure is less than five years old, or has been reviewed and does not need updating, the figure used will be the lower of:

*“EITHER the latest adopted housing requirement, including any unmet need from neighbouring authorities which forms part of that adopted housing requirement. This requirement will be the stepped housing requirement (or the annual average requirement where there is no stepped requirement)...*

*OR the minimum annual local housing need figure (and any need from neighbouring authorities which it has been agreed should be planned for, and which has been tested at examination) for that authority calculated with a base date of 1<sup>st</sup> April each year”*

3.28 Paragraph 14 of the rulebook explains that where the latest adopted housing requirement is over five years old, unless the strategic policies have been reviewed and found not to require updating, the figure used for areas with a joint plan will be the minimum annual local housing need figure.

3.29 Footnote 7 of the HDT Measurement Rule Book explains that the latest adopted housing requirement is collected by MHCLG from local planning authorities on an annual basis through a Housing Delivery Test DELTA collection.

3.30 The transitional arrangements set out in paragraphs 21 and 22 and footnote 18 of the HDT Measurement Rule Book explain that:

*“Household projections will be used in the Housing Delivery Test calculation for financial years up to and including financial year 2017-18, as the standard methodology for the minimum annual local housing need figure did not apply*

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<sup>10</sup> Core document **CD6.24**

*prior to this date. After this date the minimum annual local housing need figure will be used."*

3.31 Paragraph 68-043 of the PPG: "How will areas with joint plans be monitored for the purposes of the Housing Delivery Test?" states:

*"Areas which have adopted joint plans will have the option to monitor their Housing Delivery Test over the whole of the joint planning area or on a single authority basis. This will be established through the plan-making process.*

*Where an adopted joint plan has a joint housing requirement and trajectory that is not demarcated by local planning authority boundaries, the authorities will be treated as one authority for the purposes of the Housing Delivery Test, with the consequences of their result applied to both authorities.*

*Where an adopted joint plan has a housing requirement and trajectory that is demarcated by local planning authorities, they will be treated separately for the purposes of the Housing Delivery Test, according to the apportionment outlined in the adopted plan. The consequences for each authority will be separate, according to their demarcated Housing Delivery Test results."*

3.32 The HDT results for 2020 were published on 19<sup>th</sup> January 2021. The 2020 result for South Northamptonshire is summarised in the table below along with the result for Daventry and Northampton:

**Table 3.1 – Published 2020 Housing Delivery Test Results**

	Housing requirement				Housing delivery				HDT %
	2017-18	2018-19	2019-20	Total	2017-18	2018-19	2019-20	Total	
South Northants	587	612	560	1,760	832	786	459	2,077	118%
Daventry	597	697	634	1,927	854	796	549	2,199	114%
Northampton	578	796	731	2,105	942	597	576	2,115	100%
<b>Total</b>	<b>1,762</b>	<b>2,105</b>	<b>1,925</b>	<b>5,792</b>	<b>2,628</b>	<b>2,179</b>	<b>1,584</b>	<b>7,008</b>	<b>121%</b>

3.33 As can be seen from the table above, South Northamptonshire delivered 2,077 new homes over the last three years against a requirement over the same period (including some of the unmet need in Northampton) of 1,760 dwellings. This results in a HDT measurement of 118% and means that the HDT has been passed. Consequently, the tilted balance set out in paragraph 11(d) of the Framework is not triggered because of the HDT result, the buffer is not increased to 20% and an action plan is not required. However, I make the following comments.

- 3.34 Firstly, the Housing Delivery Test in South Northamptonshire is measured against the adopted housing requirement. This is 11,020 dwellings as set out in policy S3 of the WNJCS divided by 18 years which equates to an annual average of 612 dwellings per annum. This is shown in the requirement for 2018/19. The figure is 11/12 of the 612 requirement for 2019-20 because the Government reduced the HDT requirement for that year by 1/12 to reflect the impact of Covid-19 on build rates. The requirement figure for 2017/18 was based on the household projections plus some of Northampton's unmet need due to transitional arrangements.
- 3.35 The HDT for South Northamptonshire is not measured against the local housing need. This is because the latest adopted housing requirement including Northampton's unmet needs of 612 dwellings per annum is lower than the minimum annual local housing need of 507 dwellings plus the unmet need from Northampton of 214 dwellings per annum<sup>11</sup>. It must also be the case that the policy has been reviewed and found not to require updating.
- 3.36 The Government clearly expects South Northamptonshire to deliver around 612 dwellings per annum. If this is not achieved over a three year period then the implications set out above may apply.
- 3.37 Secondly, there is no HDT result for the NRDA. This is unsurprising given the definition of the HDT refers to measuring housing delivery within a local authority area, not a plan area. The unmet housing need from Northampton is instead included within the HDT requirement for Daventry and South Northamptonshire. In South Northamptonshire's case, this is the adopted housing requirement. Therefore because there is no HDT result for the NRDA:
- there is no requirement for an action plan in the NRDA;
  - there is no way the buffer could be increased to 20% in the NRDA even if a five year housing land supply calculation could be made in the NRDA in accordance with paragraph 73 of the Framework; and
  - the tilted balance to the presumption in favour of sustainable development cannot be triggered by footnote 7 of the Framework as a result of a HDT result in the NRDA.
- 3.38 There is no provision in either the Framework, associated guidance or the Housing Delivery Test Measurement rulebook for delivery in a "plan area" to be measured by the Housing Delivery Test.

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<sup>11</sup> i.e. 3,850 / 18 years = 214

## The relationship between housing land supply and delivery

3.39 There is a clear relationship between housing land supply and delivery. If insufficient supply has been identified then delivery will fall and there will be a failure to meet the HDT. If the HDT result falls to below:

- 95% then an action plan is required to "to assess the causes of under delivery and identify actions to increase delivery in future years". Paragraph 68-051 of the PPG provides some examples of the actions local planning authorities consider as part of the action plan. These examples include actions which would identify additional sites, increase the supply and therefore delivery such as:

*"- revisiting the Strategic Housing Land Availability Assessment (SHLAA) / Housing and Economic Land Availability Assessment to identify sites potentially suitable and available for housing development that could increase delivery rates, including public sector land and brownfield land;*

*working with developers on the phasing of sites, including whether sites can be subdivided;*

*offering more pre-application discussions to ensure issues are addressed early;*

*considering the use of Planning Performance Agreements;*

*carrying out a new Call for Sites, as part of plan revision, to help identify deliverable sites;*

*revising site allocation policies in the development plan, where they may act as a barrier to delivery, setting out new policies aimed at increasing delivery, or accelerating production of an emerging plan incorporating such policies;*

*reviewing the impact of any existing Article 4 directions for change of use from non-residential uses to residential use;*

*engaging regularly with key stakeholders to obtain up-to-date information on build out of current sites, identify any barriers, and discuss how these can be addressed;*

*establishing whether certain applications can be prioritised, conditions simplified or their discharge phased on approved sites, and standardised conditions reviewed;*

*ensuring evidence on a particular site is informed by an understanding of viability;*

*considering compulsory purchase powers to unlock suitable housing sites;*

*using Brownfield Registers to grant permission in principle to previously developed land; and*

*encouraging the development of small and medium-sized sites.”*

- 85% then the 20% buffer applies to the five year housing land supply calculation meaning that additional deliverable sites would need to be identified; and
- 75% then the presumption in favour of sustainable development applies, which again would lead to the increase of housing land supply.

3.40 Once the above measures are in place they are not removed until the HDT is passed.

3.41 The relevance of this is that South Northamptonshire seeks to measure its five year housing land supply against a figure of 2,151 dwellings, which excludes the NRDA minus a proportion of the over-supply plus a 5% buffer. This equates to 1,838 dwellings over a five year period, an average of just **367 dwellings**. However, the HDT is measured against **612 dwellings** per annum. The Council has only identified a supply of 1,891 dwellings (an average of 378 dwellings per annum). Therefore it is highly likely that it will fail the HDT going forward and measures will be put in place to boost supply.

## **4. Assessment of the Council's housing supply**

4.1 My assessment of the Council's five year housing land supply is based on five key stages:

1. Identifying the base date and five year period;
2. Identifying the housing requirement;
3. Identifying the past over-supply;
4. Identifying how the past over-supply should be addressed;
5. Applying the appropriate buffer; and
6. Identifying a Realistic and Deliverable Supply.

4.2 Each stage is addressed below.

## 5. Stage 1: Identifying the base date and five year period

- 5.1 The base date is the start date for the five year period for which both the requirement and supply should relate.
- 5.2 The current housing land supply position statement has a base date of 1<sup>st</sup> April 2020 and a five year period of 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2025. I have assessed the supply at 1<sup>st</sup> April 2020 as that remains the most up to date position.
- 5.3 The Council should not attempt to include any new sites, which are not already within its schedule of sites. This would effectively mean changing the base date to beyond 1<sup>st</sup> April 2020. Within this context, there have been several appeal decisions, which have found such an approach to be inappropriate.
- 5.4 A recent example is dated 22<sup>nd</sup> March 2021 and relates to an appeal made by Wates Developments Ltd against the decision of Tonbridge & Malling Borough Council to refuse to grant outline planning permission for up to 250 no. dwellings at land west of Winterfield Lane, East Malling<sup>12</sup>. In that case, the Tonbridge & Malling Council sought to rely on the inclusion of sites that had become "deliverable" since the base date. The Inspector disagreed. Paragraph 9 of the appeal decision states:

*"Whilst I see merit in using information that becomes available after the base date to inform deliverability, I note that the Inspector in Woburn Sands was referring solely to sites that were already identified in the housing supply at the base date, in line with the approach taken in Woolpit. Indeed, he noted that to do otherwise would skew the housing supply. I share this view. An assessment of housing supply which introduces new sites would only be accurate if it also took account of lapsed sites, completions and other factors which might reduce sites at that point in time. The Council have not been in a position to supply all of this information and have not reviewed the phasing of extant permissions or indeed all of the permissions granted subsequent to the base date. I therefore have no confidence that the Council's approach would provide an accurate assessment of the actual state of supply in the district and I must therefore rely instead on the Council's previous position as of 1st April 2019 as a starting point."*

- 5.5 Reference is made to the decision in relation to an appeal made by Wavendon Properties Ltd against the decision of Milton Keynes Council to refuse to grant outline planning permission for a

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<sup>12</sup> PINS ref: 3256877 – core document **CD7.16**

mixed use development including up to 203 dwellings at land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands<sup>13</sup>. In that appeal, the Secretary of State agreed with Inspector Gilbert-Wooldridge that whilst evidence which post-dated the base date was acceptable, this was only in relation to sites already in the schedule of sites. New sites should not be added after the base date<sup>14</sup>.

5.6 Similarly, in an appeal made by the Darnhall Estate against the decision of Cheshire West and Chester Council to refuse to grant residential development for up to 184 dwellings at land off Darnhall School Lane, Winsford<sup>15</sup>, the Secretary of State agreed with Inspector Middleton that it would be inappropriate for new sites to be included after the base date and that their insertion should await the next full review of the housing land supply position<sup>16</sup>.

5.7 In allowing an appeal for up to 150 dwellings at a site on Bath Road, Corsham, Inspector Prentis stated at paragraph 53 of the appeal decision<sup>17</sup>:

*"Finally, I note that since the Inquiry the Council has permitted housing development on two sites at or near Corsham, amounting to 152 dwellings. However, it would not be appropriate simply to add that figure to the supply – that would be tantamount to changing the base date of the HLS exercise. Moreover, some of these units are already accounted for in the HLS figures. The Council and the appellant have agreed that the correct base date for this appeal is 1 April 2014. If any later base date were used it would be necessary to review all the elements of the HLS exercise".*

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<sup>13</sup> PINS ref: 3169314 – core document **CD7.18**

<sup>14</sup> Please see DL paragraph 12 and IR paragraph 12.12

<sup>15</sup> PINS ref: 2212671 – core document **CD7.20**

<sup>16</sup> Please see DL paragraph 15 and IR paragraph 344

<sup>17</sup> PINS ref: 2222641 – core document **CD7.17**

## 6. Stage 2: Identifying the housing requirement

### The housing requirement for South Northamptonshire set out in the adopted strategic policies

- 6.1 Policy S3 of the WNJCS is entitled "Scale and Distribution of Housing Development" It is a strategic policy within the context of paragraph 20 of the Framework as it sets out the scale and distribution of housing development. Policy S3 states that provision will be made for about 42,620 net additional dwellings in the plan area between 2011 and 2029.
- 6.2 Policy S3 explains that the housing requirement of 42,620 will be distributed between the borough and district Councils as follows:
- Daventry = 12,730 dwellings;
  - Northampton = 18,870 dwellings; and
  - South Northamptonshire = 11,020 dwellings.
- 6.3 Therefore, the housing requirement set out in the adopted strategic policy for South Northamptonshire is 11,020 dwellings. This is the only housing requirement set out in strategic policies for South Northamptonshire. Over the plan period, the housing requirement equates to an average of **612 dwellings per annum**. As set out above, this is the figure that the HDT is measured against.
- 6.4 However, it is also relevant to note that the requirement set out in the WNJCS is essentially a "stepped requirement". Paragraph 68-026 of the PPG: "*How is 5 year land supply measured where authorities have stepped rather than annual average requirements?*" explains how the supply should be measured in these circumstances. It states:
- "Five year land supply is measured across the plan period against the specific stepped requirements for the particular 5 year period".*
- 6.5 The Middleton Cheney Inspector found that the housing requirement is stepped<sup>18</sup>. The specific stepped requirement for the 5 year period is set out in appendix 3 of the WNJCS as summarised in the table below.

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<sup>18</sup> For example paragraphs 52 and 53 (p.10) of **CD7.06**

**Table 6.1 – Five year housing requirement for South Northamptonshire 2020-25**

Plan period requirement	11,023
2020/21	725
2021/22	736
2022/23	755
2023/24	780
2024/25	805
<b>Total</b>	<b>3,801</b>

### The Local Housing Need for South Northamptonshire

6.6 Local Housing Need is defined in the Glossary on page 68 of the Framework as follows:

*"The number of homes identified as being needed through the application of the standard method set out in national planning guidance (or, in the context of preparing strategic policies only, this may be calculated using a justified alternative approach as provided for in paragraph 60 of this Framework)."*

6.7 Paragraph 2a-004 of the PPG explains how local housing need is calculated. It results in the local housing need figure of **511 dwellings per annum** in the following table for 2020:

**Table 6.2 – Local Housing Need for South Northamptonshire**

	Step 1	Step 2	Step 3	Step 4	
	Projected annual average household growth 2020-30	Adjustment factor	Should the cap be applied ?	Should the City and urban area uplift be applied?	Local housing need
South Northamptonshire	366.2	1.395	No	No	511.08

6.8 Therefore, based on the local housing need, the five year housing requirement for South Northamptonshire from 1<sup>st</sup> April 2020 would be 2,555 dwellings (i.e. 511 X 5 years = 2,555). It is of note that the local housing need in South Northamptonshire without any of Northampton's unmet need is significantly higher than the figure the Council considers its five year housing land supply should be calculated against.

## Has Policy S3 of the WNJCS been reviewed and found not to require updating?

6.9 Paragraph 5.3 of the Council's statement of case states:

*"In the context of NPPF paragraph 73 and footnote 37, the housing requirement for South Northamptonshire as set out in adopted strategic policies (the JCS) is more than five years old and has been subject to a joint review by Daventry District Council, Northampton Borough Council and South Northamptonshire Council. The Review of Policies found that the key strategic policies are up to date, consistent with the NPPF and the JCS should continue to be used for the purposes of calculating 5 year land supply."*

6.10 The Council's basis for claiming that policy S3 has been reviewed and found not to require updating is set out in a document entitled: "West Northamptonshire Joint Core Strategy Local Plan (Part 1) (WNJCS) – Review of Policies in accordance with Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) – December 2019<sup>19</sup>". This document states the following in relation to policy S3 under the title "Conformity with National Policy":

"Housing Need:

*The plan makes provision for 42,620 dwellings in the plan period 2011 to 2029. Paragraph 60 of the NPPF states that the housing requirement should now be assessed using the national methodology unless exceptional circumstances justify an alternative approach. Using the national methodology to calculate the housing requirement over the remainder of the plan period would identify a requirement for 22,210 which is 6,774 dwellings or 23% less than the residual JCS requirement. Thus the plan substantially exceeds the LHN and as such is consistent with the NPPF objective of boosting housing supply (para 59). See calculation at table 1 below."*

6.11 Under "recommendations", the report then states:

*"The WNSP will review the scale of housing provision using the national methodology to calculate Local Housing Need as a starting point.*

*In the interim, and having regard to the NPPF objective of boosting housing supply, it is considered that the housing provision set out in the JCS, which is 30% higher than LHN, provides some contingency during the transition period to the new plan.*

*For this reason policy S3 should continue to be used for the purposes of calculating 5 year land supply."*

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<sup>19</sup> Core document **CD6.02**

6.12 I respond as follows.

6.13 Firstly, the outcome of the review was to continue to use policy S3 for calculating the five year housing land supply. The outcome of the review was not that South Northamptonshire should measure its housing land supply against its OAN figure or a housing requirement which excludes the NRDA. Indeed, in accordance with paragraph 73 and footnote 37 of the Framework it would not be possible for the review to change the basis for which five year housing land supply should be measured to any figure other than the adopted housing requirement or the local housing need using the standard method.

6.14 Secondly, the review compared the housing requirement for the whole of the plan area of West Northamptonshire against the local housing need for the whole of West Northamptonshire. It did not compare the figures for the individual authorities even though the housing land supply and housing delivery test are measured across an authority level and not on a joint plan basis. Nevertheless, in doing so, the review compared the overall housing requirement – not the OAN – with the local housing need.

6.15 Thirdly, the matter as to whether there had been a footnote 37 review was recently considered in the Middleton Cheney appeal decisions. The Inspector concluded that the December 2019 review was a review for the purposes of footnote 37 of the Framework<sup>20</sup>. Therefore as the review found that the housing requirement does not need updating, the housing land supply should be measured against the housing requirement set out in the adopted policy S3 in accordance with paragraph 73 and footnote 37 of the Framework.

### **The Council's published position**

6.16 The HLAS claims the Council's five year housing requirement is just 1,100 dwellings. This figure is neither the adopted housing requirement nor the Council's local housing need. It is the Council's "objective assessment of housing need" (i.e. OAN) of 351 dwellings per annum minus the over-supply against the OAN since the start of the plan period.

6.17 The Council's Statement of Case (dated March 2021) states that the Council will submit evidence to support the HLAS, which indicates that it maintains that the five year housing requirement is that identified in the HLAS. It is surprising that until very recently the Council continued to maintain

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<sup>20</sup> For example paragraph 26 (pages 5 and 6) of **CD7.06**

that its five year housing land supply should be assessed against the OAN because there is no support in current national planning policy or guidance for such an approach. Whilst I note that this approach was accepted in the Potterspurty appeal decision<sup>21</sup>, that was within the context of a different version of the Framework. National planning policy on what a five year housing land supply is, how it should be calculated and how this leads to the tilted balance of the presumption in favour of sustainable development has changed since then.

6.18 As I have explained in section 3 of my proof of evidence above, paragraph 73 of the Framework sets out a binary position where the five year housing land supply should be measured against either the housing requirement set out in strategic policies or the local housing need. To assess the five year housing land supply against any other figure would not be in accordance with the Framework. As I also set out in section 3 of my proof of evidence, the failure to demonstrate a five year housing land supply against any other figure than an adopted housing requirement or the local housing need would not lead to the application of the tilted balance set out in footnote 7 of the Framework.

6.19 It is also surprising that the Council continued to measure the five year housing land supply against the OAN as this approach was considered and rejected at the Rothersthorpe appeal<sup>22</sup>. Within the context of the 2019 Framework and having been made aware of the Potterspurty appeal decision, the Rothersthorpe Inspector concluded that the five year housing land supply should be measured against the housing requirement set out in policy S3 in accordance with paragraph 73 of the Framework (p.3, paragraph 13).

6.20 Despite this, the Council continued to measure the five year housing land supply against the OAN in the Middleton Cheney appeals. Again, this approach was rejected in the appeal decisions (dated 19<sup>th</sup> April 2021). The Middleton Cheney Inspector concluded that such an approach would be contrary to paragraph 73 of the Framework (p.8, paragraph 40)<sup>23</sup>.

### **The Council's case following the Middleton Cheney appeal decisions**

6.21 Following the Middleton Cheney appeal decisions, at a public inquiry into an appeal relating to land rear of 27 High Street, Paulerspury<sup>24</sup>, the Council signed a revised statement of common

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<sup>21</sup> Core document **CD7.01**

<sup>22</sup> Core document **CD7.04**

<sup>23</sup> Core documents **CD7.06** and **CD7.07**

<sup>24</sup> PINS ref: 3261692

ground (dated 19<sup>th</sup> April 2021), which confirmed that for the purposes of that appeal and without prejudice to any future position that the Council might take, it concluded that it could demonstrate a 5.14 year supply i.e. the same conclusion found in the Middleton Cheney decision.

6.22 Following correspondence regarding the Statement of Common Ground on Thursday 5<sup>th</sup> May 2021, the Council confirmed that for this appeal it would be relying on the requirement used in the Middleton Cheney appeal decisions. My understanding is that the Council no longer claims that the five year housing land supply should be measured against the OAN but it now considers that the five year housing land supply should be measured against the adopted housing requirement set out in policy S3 of the WNJCS minus the number of dwellings distributed to the part of the NRDA within South Northamptonshire. This figure is stepped and equates to 2,151 dwellings as shown in the following table:

**Table 6.3 – Five year housing requirement for South Northamptonshire excluding the NRDA 2020-25**

Total	7,173
2020/21	425
2021/22	436
2022/23	430
2023/24	430
2024/25	430
Total	2,151

6.23 This is not the housing requirement set out in an adopted strategic policy or the local housing need. It is significantly lower than the adopted housing requirement, which the Government uses to measure housing delivery against in South Northamptonshire. At an average of 430 dwellings per annum, it is significantly below the local housing need for South Northamptonshire of 511 dwellings per annum. In other words, the figure the Council claims its five year housing land supply should be measured against would not meet the need of South Northamptonshire excluding any unmet need from Northampton. This is relevant because the standard method for calculating local housing need is the Government's approach to ensuring that the right number of homes are delivered in the right places.

6.24 Whilst this approach was used by the Inspector in the Middleton Cheney decisions, it is not in accordance with paragraph 73 of the Framework. Having found that the policy S3 had been reviewed and found not to require updating, the Middleton Cheney Inspector then assessed the

five year housing land supply against a different figure (i.e. the adopted housing requirement minus the NRDA). That means that the Council's case is that five year housing land supply should not be assessed in a manner which accords with paragraph 73 of the Framework and nor should the trigger of the tilted balance be assessed in accordance with footnote 7 of the Framework.

6.25 There is no support for measuring the five year housing land supply in the way proposed by the Council in either the Framework or the PPG. Indeed, the associated guidance at Paragraph 68-028 of the PPG<sup>25</sup> clearly states that:

*“Areas which have a joint plan have the option to monitor their 5 year housing land supply and have the Housing Delivery Test applied over the whole of the joint planning area or on a single authority basis. The approach to using individual or combined housing requirement figures will be established through the plan-making process and will need to be set out in the strategic policies.*

6.26 In paragraph 34 of the appeal decision (**CD7.06**), the Middleton Cheney Inspector recognises that the approach she applies is inconsistent with the approach used by the Rothersthorpe appeal Inspector. The Middleton Cheney Inspector states that she was unaware of the precise information before the Rothersthorpe Inspector about whether the NRDA should be included in the housing requirement but recognised that the Rothersthorpe Inspector used the adopted housing requirement set out within policy S3. The Middleton Cheney Inspector states that there is a limited case for including the NRDA set out in the Rothersthorpe appeal decision.

6.27 I gave evidence at the Rothersthorpe appeal and can confirm that the case I presented at that appeal was that the five year housing land supply should be measured against the housing requirement set out in policy S3 of the WNJCS because that would be in accordance with paragraph 73 of the Framework. At that time, there was no need to consider whether there had been a review for the purposes of footnote 37 of the Framework because the adopted policies were less than five years old. I also explained that the Housing Delivery Test was measured against a figure that included Northampton's unmet needs and the Council would fail the HDT unless it identified sufficient supply to meet the number of homes the Government expects the Council to deliver. The Rothersthorpe Inspector agreed. In my view there was no need for the Rothersthorpe Inspector to elaborate any further – the five year housing land supply should be measured against

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<sup>25</sup> Paragraph: 028 Reference ID: 68-028-20190722

the adopted housing requirement set out in policy S3 because that is what paragraph 73 of the Framework requires.

6.28 As I have set out above, if five year housing land supply is measured in a different way than that set out in paragraph 73 of the Framework, then an assessment for the purposes of footnote 7 would not be possible. Nevertheless, to depart from national planning policy, there must be a good reason for doing so. The Middleton Cheney Inspector's reasons for not assessing the five year housing land supply against the adopted housing requirement are set out in paragraphs 27 to 34 of the appeal decision. Paragraphs 29 and 30 of the appeal decision states:

*"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."*

6.29 However, as I have set out in section 3 of my proof of evidence, there is no provision within the Framework for the tilted balance to be engaged in the NRDA by footnote 7 of the Framework, which clearly relates to an assessment of whether a "local planning authority" can demonstrate a five year housing land supply in accordance with paragraph 73 of the Framework. The "plan area" approach to assessing five year housing land supply is contrary to the Framework.

6.30 The Middleton Cheney Inspector then continues by stating that if the adopted housing requirement (including the NRDA) were used then this would mean the presumption in favour of sustainable development would apply across the authority, including in the rural areas. However, that is the reality of the absence of a five year housing land supply in any authority across the country.

6.31 Within this context, I refer to a recent decision regarding an appeal made by Custom Land Ltd against the decision of Malvern Hills Council to refuse to grant outline planning permission for up

to 42 dwellings at land south of Bransford Road, Rushwick (LPA ref: 19/00375/OUT, PINS ref: 3242098)<sup>26</sup>. Malvern Hills is covered by the South Worcestershire Development Plan (SWDP, adopted February 2016), which is similar to the WNJCS in that it covers the areas of Malvern Hills, Worcester City and Wychavon but instead of the NRDA, the SWDP includes the “Wider Worcester Area” (WWA). The South Worcestershire authorities measured their five year housing land supply against their requirement minus the WWA. In doing so, Malvern Hills claimed that it could demonstrate a supply against its housing requirement excluding the WWA and minus the oversupply of 8.17 years. However, by the time the appeal was determined, the SWDP was more than five years old and the policies within it had not been reviewed. Therefore, the five year housing land supply in Malvern Hills is now measured against the local housing need and the Inspector concluded that the Council could not demonstrate a deliverable five year housing land supply and noted that the appellant's case – as a worst case scenario – was 3.87 years.

- 6.32 This is relevant because due to the absence of a five year housing land supply, the application of the presumption in favour of sustainable development applies across Malvern Hills, and would potentially be against the objectives of the WWA.
- 6.33 In summary, the five year housing land supply should be calculated against the adopted housing requirement as set out within policy S3 of the WNJCS in accordance with paragraph 73 and footnote 37 of the Framework. The Government measures housing delivery in South Northamptonshire against the adopted housing requirement set out within policy S3 of the WNJCS.

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<sup>26</sup> PINS ref: 3242098 – core document **CD7.15**

## 7. Stage 3: Identifying the past shortfall or oversupply

7.1 The HLAS claims there is an “over-supply” of 1,178 dwellings. This is the excess number of dwellings that have been delivered above the OAN, not the adopted housing requirement. It is calculated as follows:

**Table 7.1 – Council’s claimed over-supply as set out in the HLAS**

Year	OAN (dwellings p.a. net)	Completions (net)	Over / under provision	Cumulative over / under provision
2011/12	304	304	0	0
2012/13	226	226	0	0
2013/14	385	333	-52	-52
2014/15	385	343	-42	-94
2015/16	385	465	80	-14
2016/17	385	589	203	189
2017/18	385	832	446	635
2018/19	351	786	435	1,070
2019/20	351	459	108	1,178
<b>Total</b>	<b>3,157</b>	<b>4,337</b>	<b>1,178</b>	
<b>Average</b>	<b>351</b>	<b>482</b>		

7.2 Following the Middleton Cheney appeal decisions, I understand that the Council's case is that the over-supply has reduced to 721 dwellings as shown in the following table:

**Table 7.2 – Council’s claimed over-supply following the Middleton Cheney appeal decisions**

Year	Housing requirement excluding the NRDA (dwellings p.a. net)	Completions (net)	Over / under provision	Cumulative over / under provision
2011/12	304	304	0	0
2012/13	226	226	0	0
2013/14	250	333	83	83
2014/15	325	343	18	101
2015/16	390	465	75	176
2016/17	559	589	30	206
2017/18	620	832	212	418
2018/19	502	786	284	702
2019/20	440	459	19	721
<b>Total</b>	<b>3,616</b>	<b>4,337</b>	<b>721</b>	
<b>Average</b>	<b>402</b>	<b>482</b>		

7.3 I have reviewed the completions data and have found that 29 dwellings should be removed due to double counting or incorrect counting (e.g. a replacement dwelling has been recorded as 1 dwelling or ancillary accommodation has been included as 1 dwelling). These 29 dwellings are set out in appendix **EP1**. I have sought to agree this with the Council but have not received a response at the time of writing. Therefore, the oversupply against the housing requirement excluding the NRDA reduces to 692 dwellings (i.e. 721 – 29 = 692).

7.4 Paragraph 68-032 of the PPG is entitled: “How can past over-supply of housing completions against planned requirements be addressed?” (my emphasis). Notably, this paragraph refers to completions against the planned requirement, not the OAN or any other figure. The first part of 68-032 of paragraph states:

*“Where shortfalls in housing completions have been identified against planned requirements, strategic policy-making authorities may consider what factors might have led to this and whether there are any measures that the authority can take, either alone or jointly with other authorities, which may counter the trend. Where the standard method for assessing local housing need is used as the starting point in forming the planned requirement for housing, Step 2 of the standard method factors in past under-delivery as part of the affordability ratio, so there is no requirement to specifically address under-delivery separately when establishing the minimum annual local housing need figure. Under-delivery may need to be considered where the plan being prepared is part*

*way through its proposed plan period, and delivery falls below the housing requirement level set out in the emerging relevant strategic policies for housing. (my emphasis).*

7.5 The third part of paragraph 68-032 of the PPG states:

*“The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5 year period (the Sedgefield approach), then the appropriate buffer should be applied. If a strategic policy-making authority wishes to deal with past under delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal.”*

7.6 Similarly, paragraph 68-032 of the PPG is entitled: *“How can past over-supply of housing completions against planned requirements be addressed?”* (my emphasis). It does not provide any guidance on an over-supply against an OAN or any other figure.

7.7 As the planned requirement is the adopted housing requirement set out in policy S3, there is no “over-supply” as shown in the following table:

**Table 7.3 – Delivery against the housing requirement set out in adopted strategic policy S3**

Year	Requirement (dwellings p.a. net)	Completions (net)	Over / under provision	Cumulative over / under provision
2011/12	304	304	0	0
2012/13	226	226	0	0
2013/14	250	333	83	83
2014/15	365	343	-22	61
2015/16	450	516	66	127
2016/17	619	671	52	179
2017/18	800	842	42	221
2018/19	772	864	92	313
2019/20	830	490	-340	-27
<b>Total</b>	<b>4,616</b>	<b>4,606</b>	<b>-27</b>	
<b>Average</b>	<b>513</b>	<b>512</b>		

7.8 The table above includes 252 completions on NRDA sites that fall within South Northamptonshire between 2011 and 2020. Including the 29 dwellings I have removed from the completions data as set out in appendix **EP1**, this means the shortfall against the planned requirement is 56 dwellings (i.e. 29 + 27 = 56).

## 8. Stage 4: Addressing the past shortfall or over-supply

- 8.1 The Council seeks to reduce the five year requirement by deducting the claimed over-supply against the housing requirement excluding the NRDA. It claims that the over-supply of 721 dwellings should be spread over the remainder of the plan period. This means that the five year requirement of 2,151 dwellings is reduced by 401 dwellings (i.e.  $721 / 9 \text{ years} \times 5 \text{ years}$ ).
- 8.2 As I have set out above, the five year housing land supply should be measured against the adopted housing requirement and against this there is no over-supply. In fact there would be a shortfall of 56 dwellings. In accordance with paragraph 68-032 of the PPG, this should be added to the five year housing requirement.
- 8.3 Nevertheless, if the Council's approach were used, firstly the "over-supply" is 692 dwellings as I have set out above, which spread over the remainder of the plan period would mean the five year housing requirement is reduced by 384 dwellings (i.e.  $692 / 9 \text{ years} \times 5 \text{ years} = 384 \text{ dwellings}$ ). The five year housing requirement would be 1,767 dwellings (i.e.  $2,151 - 384 = 1,767$ ) and the annual requirement would be 353 dwellings (i.e.  $1,767 / 5 = 353$ ).
- 8.4 Secondly, there is an even greater prospect that the Housing Delivery Test will not be passed. On the one hand the Council would be seeking to demonstrate a forward supply against an annual housing requirement of just 353 dwellings and on the other the Government is measuring housing delivery against 612 dwellings through the Housing Delivery Test.
- 8.5 Thirdly, an annual average housing requirement of 353 dwellings per annum does not assist South Northamptonshire in meeting its local housing need of 511 dwellings per annum, excluding any unmet need from Northampton.

## 9. Stage 5: Applying the appropriate buffer

9.1 Paragraph 73 of the Framework states:

*“The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:*

- *5% to ensure choice and competition in the market for land; or*
- *10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or*
- *20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.”*

9.2 Footnote 39 of the Framework explains that from November 2018 “significant under delivery” of housing will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement.

9.3 As set out in section 3 of my proof of evidence above, the HDT was passed in South Northamptonshire and therefore the 5% buffer applies. The following table sets out the five year housing supply which needs to be demonstrated at 1<sup>st</sup> April 2020 against the adopted housing requirement plus 5% buffer.

**Table 9.1 – Summary of five year requirement plus buffer**

	The housing requirement set out in adopted strategic policy S3
Plan period requirement	11,023
2020/21	725
2021/22	736
2022/23	755
2023/24	780
2024/25	805
<b>Subtotal</b>	<b>3,801</b>
<b>Plus shortfall</b>	<b>56</b>
<b>Total</b>	<b>3,857</b>
<b>5% Buffer</b>	<b>193</b>
<b>Total</b>	<b>4,050</b>
<b>Annual average</b>	<b>810</b>

## 10. Stage 6: Identifying a Realistic and Deliverable Supply

### What constitutes a deliverable site?

#### National Planning Policy and Guidance

10.1 The definition of “deliverable” is set out on page 66 of the Framework states:

*“Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:*

*a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*

*b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”*

10.2 The PPG was most recently updated on 22<sup>nd</sup> July 2019. Paragraph 68-007 of the PPG<sup>27</sup> provides some examples of the types of evidence, which could be provided to support the inclusion of sites with outline planning permission for major development and allocated sites without planning permission. It states:

*“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:*

- have outline planning permission for major development;*
- are allocated in a development plan;*

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<sup>27</sup> Paragraph 007 Reference ID: 68-007-20190722: “What constitutes a ‘deliverable’ housing site in the context of plan-making and decision-taking?”

- *have a grant of permission in principle; or*
- *are identified on a brownfield register.*

*Such evidence, to demonstrate deliverability, may include:*

- *current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;*
- *firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers' delivery intentions and anticipated start and build-out rates;*
- *firm progress with site assessment work; or*
- *clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.*

*Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites."*

## **Assessment**

- 10.3 Whilst the previous definition in the 2012 Framework considered that all sites with planning permission should be considered deliverable, the revised definition in the 2019 Framework is clear that only sites with detailed consent for major development should be considered deliverable and those with outline planning permission should only be considered deliverable where there is clear evidence that housing completions will begin in five years.
- 10.4 As above, the PPG has been updated to provide some examples of the type of evidence which may be provided to be able to consider that sites with outline planning permission for major development, allocated sites and sites identified on a brownfield register are deliverable.

## **Relevant appeal decisions**

- 10.5 There have been several appeal decisions which have considered the definition of "deliverable" as set out in the 2018 and 2019 versions of the Framework and whether "clear evidence" has been provided for the inclusion of sites which only have outline planning permission for major development or are allocated without planning permission. Whilst each appeal has been

determined on a case by case basis on the evidence before the decision-maker, several themes have arisen in appeal decisions, which I discuss below.

### **The absence of any written evidence**

10.6 Where no evidence has been provided for the inclusion of category b) sites, the Secretary of State and Inspectors have concluded that these sites should be removed. For example:

- In an appeal decision regarding land off Audlem Road, Stapeley, Nantwich and land off Peter De Stapeleigh Way, Nantwich<sup>28</sup>, the Secretary of State removed 301 dwellings from Cheshire East Council's supply from sites including: *"sites with outline planning permission which had no reserved matters applications and no evidence of a written agreement"* (paragraph 21 of the decision letter dated 15<sup>th</sup> July 2020); and
- In an appeal decision regarding land to the south of Cox Green Road, Surrey<sup>29</sup> an Inspector removed 563 dwellings on 24 sites from Waverley Council's supply because the Council had not provided any evidence for their inclusion (paragraphs 22 to 24 of the appeal decision dated 16<sup>th</sup> September 2019).

### **The most up to date evidence**

10.7 Paragraph 68-004 of the PPG<sup>30</sup> explains that for decision-taking purposes, an authority will need to be able to demonstrate a five year housing land supply when dealing with applications and appeals. They can do this in one of two ways:

- *"using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);*
- *'confirming' the 5 year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework)."*

10.8 In this case, the Council's five year housing land supply has not been confirmed through a recently adopted plan or an annual position statement and therefore the latest available evidence should be used. As above, paragraph 68-007 of the PPG also states that *"robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions"*. It also states that the "current" planning status of a site is one example of the

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<sup>28</sup> PINS refs: 2197532 and 2197529 – core document **CD7.09**

<sup>29</sup> PINS ref: 3227970 – core document **CD7.22**

<sup>30</sup> Paragraph: 004 Reference ID: 68-004-20190722: *"How can an authority demonstrate a 5 year supply of deliverable housing sites?"*

type of evidence that could be used to support the inclusion of category b) sites. Therefore, the latest available evidence should be used.

10.9 In an appeal regarding land to the east of Newport Road and to the east and west of Cranfield Road, Woburn Sands (Milton Keynes)<sup>31</sup>, the Secretary of State agreed with Inspector Gilbert-Woolridge that the latest available evidence should be used when considering deliverability. Paragraph 12 of the Secretary of State's decision letter dated 25<sup>th</sup> June 2020 states:

*"For the reasons given at IR12.8-12.12 the Secretary of State agrees with the Inspector that it is acceptable that the evidence can post-date the base date provided that it is used to support sites identified as deliverable as of 1 April 2019 (IR12.11)".*

10.10 Indeed, the Inspector in that case relied on evidence which post-dated the publication of Milton Keynes' housing land supply statement in June 2019 in considering the disputed sites and the Secretary of State agreed with the Inspector's assessment of the supply in that case.

10.11 Similarly, in a decision regarding land off Darnhall School Lane, Winsford<sup>32</sup>, the Secretary of State agreed with Inspector Middleton that it is appropriate to take into account information received after the base date if it affects sites included in the supply<sup>33</sup>.

10.12 This means for example that sites with outline planning permission at the base date can be included in the five year supply even if there was no clear evidence at the time the position statement was published but an application for reserved matters has since been made. It also means the latest position can be taken into account where sites have not progressed as the evidence suggested they would at the time the position statement is published.

10.13 in the Audlem Road appeal<sup>34</sup>, the Secretary of State removed from Cheshire East Council's supply;

*"a site where there is no application and the written agreement indicates an application submission date of August 2019 which has not been forthcoming, with no other evidence of progress". (paragraph 21 of the Decision Letter dated 15<sup>th</sup> July 2020)*

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<sup>31</sup> PINS ref: 3169314 – core document **CD7.18**

<sup>32</sup> PINS ref: 2212671 – core document **CD7.20**

<sup>33</sup> Paragraph 344 of the Inspector's Report and paragraph 15 of the Decision Letter.

<sup>34</sup> PINS refs: 2197532 and 2197529 – core document **CD7.09**

10.14 Cheshire East Council's Housing Monitoring Update (HMU) had a base date of 31<sup>st</sup> March 2019 and was published in November 2019. Representations by both parties on the HMU were received with the final comments received on 12<sup>th</sup> February 2020 (DL paragraph 7). Therefore, whilst the written evidence for this site explained a planning application would be made on this site in August 2019 because the application was not forthcoming by the time the decision was made and no other evidence of progress had been provided, the Secretary of State removed the site from the supply.

### **The form and value of the evidence**

10.15 In the Woburn Sands appeal decision referred to above, the Secretary of State agreed with the Inspector that a proforma can, in principle, provide clear evidence of a site's deliverability (please see paragraph 12 of the decision letter and paragraphs 12.13 to 12.15 of the Inspector's Report). However, the evidential value of the written information is dependent on its content. The Secretary of State and Inspectors have concluded that it is not simply sufficient for Councils to provide agreement from landowners and promoters that their intention is to bring sites forward. The evidence needs to provide a realistic prospect that housing will be delivered on the site within five years.

10.16 For example, in allowing an appeal for 120 dwellings at land east of Gleneagles Way, Hatfield Peverel<sup>35</sup>, the Secretary of State found Braintree Council could not demonstrate a five year housing land supply.

10.17 Braintree Council claimed that it could demonstrate a 5.29 year supply. In determining the appeal, the Secretary of State concluded that the Council could only demonstrate a 4.15 year supply. The reason for this is set out in paragraph 41 of the decision letter (page 7), which states:

*"Having reviewed the housing trajectory published on 11 April, the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more, and sites without planning permission do not meet the requirement in the Framework Glossary definition of "deliverable" that there be clear evidence that housing completions will begin on site within five years. He has therefore removed ten sites from the housing trajectory"*

10.18 The ten removed sites are listed in a table provided at Annex D on page 24 of the Secretary of State's decision letter. Of the ten sites removed from Braintree's supply, 9 had outline planning

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<sup>35</sup> PINS ref: 3180729 – core document **CD7.21**

permission and the remaining site was an allocated site with a hybrid planning application pending determination. For these sites, Braintree Council had submitted completed forms and emails from landowners, developers and their agents providing the timescales for the submission of reserved matters applications and anticipated build rates. However, the Secretary of State removed these sites because he did not consider they met the definition of “deliverable” as set out in the Framework. It is of note that the Secretary of State did not remove any of the sites with outline planning permission for major development where a reserved matters application had been made.

10.19 As part of its case in seeking to defend an appeal against its decision to refuse to grant outline planning permission for up to 140 no. dwellings at land off Popes Lane, Sturry<sup>36</sup>, Canterbury City Council claimed that it could demonstrate a 6.72 year supply. For there to be a shortfall in the supply, Canterbury Council claimed that some 1,654 dwellings (out of 6,455 dwellings) would have to be removed from the “deliverable” supply.

10.20 The Inspector however found that the Council could not demonstrate a five year housing land supply. The Inspector concluded that the deliverable supply was 4,644 dwellings, which equates to 4.8 years. The reason why the Inspector concluded that the deliverable supply was 1,811 dwellings (28%) less than the Council claimed was because he found that 10 sites should be removed from the supply because:

*“there is insufficient clear evidence to show that they meet the NPPF’s definition of deliverable. Sites which are not deliverable cannot be counted as part of the supply for the purposes of meeting the 5-year requirement.” (paragraph 23)*

10.21 In this case, Canterbury Council had provided statements of common ground between the Council and the developer or landowner to support the inclusion of several of the disputed sites. However, the Inspector found that the statements of common ground did not demonstrate that the development prospect was realistic. Paragraph 23 of the appeal decision states:

*“For a number of the disputed sites, the Council’s evidence is founded on site-specific SCGs which have been agreed with the developer or landowner of the site in question. I appreciate that the PPG refers to SCGs as an admissible type of evidence, and I have had full regard to that advice. But nevertheless, the evidential value of any particular SCG in this context is dependent on its content. In a number of cases, the SCGs produced by the Council primarily record the developer’s or landowner’s stated intentions. Without any further*

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<sup>36</sup> PINS ref: 3216104 – core document **CD7.23**

*detail, as to the means by which infrastructure requirements or other likely obstacles are to be overcome, and the timescales involved, this type of SCG does not seem to me to demonstrate that the development prospect is realistic. In addition, most of the site-specific SCGs are undated, thus leaving some uncertainty as to whether they represent the most up-to-date position."*

10.22 Similarly, as part of its case in seeking to defend an appeal made by Parkes Ltd against its decision to refuse to grant outline planning permission for up to 53 dwellings at land to the south of Cox Green Road, Rudgwick<sup>37</sup>, Waverley Council claimed it could demonstrate a supply of 5,708 dwellings, which equated to just under 5.2 years against its housing requirement and buffer.

10.23 The Inspector concluded that the supply should be reduced by 928 dwellings and therefore that Waverley Council could only demonstrate a "deliverable" supply of 4.3 years. The reasons why the Inspector considered the supply should be reduced are set out in paragraphs 10 to 27 of the appeal decision. I note that whilst Waverley Council's assumptions of delivery on a site at Dunsfold Park relied on estimated numbers of delivery from a pro-forma returned by the site's lead developer, the Inspector however considered that the details contained within it were "scant". There was no explanation as to how the timings of delivery could be achieved including the intended timescales for submitting and approving reserved matters, applications of discharge of conditions, site preparation and installing infrastructure. The Inspector therefore did not include the site.

10.24 Finally, in allowing an appeal for up to 181 dwellings at land at Caddywell Lane / Burwood Lane, Great Torrington, Devon<sup>38</sup>, Inspector Harold Stephens concluded that Torrington Council could not demonstrate a five year housing land supply. Paragraphs 56 and 57 of the appeal decision state:

*"56. I have also had regard to the updated PPG advice published on 22 July 2019 on 'Housing supply and delivery' including the section that provides guidance on 'What constitutes a 'deliverable' housing site in the context of plan-making and decision-taking.' The PPG is clear on what is required:*

*"In order to demonstrate 5 years' worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions."*

*This indicates the expectation that 'clear evidence' must be something cogent, as opposed to simply mere assertions. There must be strong evidence*

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<sup>37</sup> PINS ref: 3227970 – core document **CD7.22**

<sup>38</sup> PINS ref: 3238460 – core document **CD7.19**

*that a given site will in reality deliver housing in the timescale and in the numbers contended by the party concerned.*

57. Clear evidence requires more than just being informed by landowners, agents or developers that sites will come forward, rather, that a realistic assessment of the factors concerning the delivery has been considered. This means not only are the planning matters that need to be considered but also the technical, legal and commercial/financial aspects of delivery assessed. Securing an email or completed pro-forma from a developer or agent does not in itself constitute 'clear evidence'. Developers are financially incentivised to reduce competition (supply) and this can be achieved by optimistically forecasting delivery of housing from their own site and consequentially remove the need for other sites to come forward" (my emphasis)

### **Land south of Kislingbury Road, Rothersthorpe<sup>39</sup>**

10.25 As explained above, Inspector Philip Major agreed with the Appellant that South Northamptonshire Council could not demonstrate a deliverable five year housing land supply. In terms of the clear evidence required, the Inspector concluded the following:

- It is insufficient to rely on the fact that outline planning permission exists. The PPG indicates that the assessment of housing land supply should go further and seek evidence that completions are likely to be forthcoming (paragraph 16); and
- Whilst the LPA had assumed that further phases of development on large sites would come forward in the five year period on the basis of delivery of current phases, there was no real evidence to back up the position (paragraph 17); and
- A short email from a developer confirming build rates on one of the sites does not amount to the clear evidence of deliverability, which is now required (paragraph 17).

10.26 In summary, the above appeal decisions found that sites with outline planning permission for major development and allocated sites should not be included in the deliverable supply where the respective Councils had failed to provide the clear evidence required.

### **Has the Council provided the "clear evidence" required for allocated sites without planning permission and sites with outline planning permission for major development to be considered "deliverable"?**

10.27 The change to the definition of deliverable is particularly relevant to South Northamptonshire Council because the HLAS removed 374 dwellings from category b) sites (i.e. sites with outline

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<sup>39</sup> PINS ref: 3206346 – core document **CD7.04**

planning permission for major development and allocated sites) because they cannot be considered “deliverable”. These sites are set out in the following table:

**Table 10.2 – Sites removed from the HLAS because they are not “deliverable”**

Site	Potential contribution to the 5YHLS	“Clear evidence” provided?	Included in the deliverable supply?
Towcester Vale, Towcester (remaining)	210	No	No
Land west of Rothersthorpe Road, Kislingbury	44	No	No
Land at Hayes Road, Deanshanger	18	No	No
Daniaud Court, Brackley	47	No	No
Stuart Road (York Road), Brackley	55	No	No
<b>Total</b>	<b>374</b>		

10.28 As I explain in the following section of my proof of evidence, the Council now includes additional dwellings at Towcester Vale. I now assess the Council’s deliverable supply within the context of the definition of deliverable set out in the Framework and the appeal decisions I have referred to above.

## 11. South Northamptonshire sites outside the NRDA

11.1 The HLAS identifies a deliverable five year supply within South Northamptonshire excluding the NRDA of 1,908 dwellings. However, at the recent Middleton Cheney appeals, the Council's case was that the supply had reduced to 1,891 dwellings. The reasons why this was the case are summarised below:

- Firstly, the Council adjusted the housing trajectory for the site at Turweston Road, Brackley so that 191 dwellings were removed from the five year housing land supply ( $332 - 141 = 191$ ); and
- Secondly, the Council included 174 additional dwellings at Towcester South Sustainable Urban Extension.

11.2 These amendments were accepted in the Middleton Cheney appeal decisions. I make the following deductions on sites in South Northamptonshire outside of the NRDA. For the avoidance of doubt, as far as I am aware, none of these sites were considered at the Middleton Cheney public inquiry.

## Direct Legal, Buckingham Road, Brackley

**Capacity = 60 dwellings, Council's 5YHLS = 60 dwellings**

11.3 This site is located within the built up area of Brackley to the west of the Town Centre. The site forms part of a much larger employment park. The site contains four office blocks with the three more modern blocks having granted planning permission in the early 2000s and the older building having been granted permission in the 1980s. A copy of the aerial photo from the cover letter for the prior approval applications is shown below.



11.4 I understand that the site was occupied by DLC, a debt collections agency. However, I understand that DLC vacated the site in 2018 leaving the four buildings vacant. On 18<sup>th</sup> December 2018, the owner of the site (Albion Land) applied for confirmation as to whether prior approval is required for the change of use of all four offices to residential as follows:

- S/2018/2825/PA – 18 dwellings (14 no. 1-bed flats and 4 no. 2-bed flats) – building 3;
- S/2018/2824/PA – 16 dwellings (10 no. 1-bed flats and 6 no. 2-bed flats) – building 2;
- S/2018/2804/PA – 14 dwellings (5 no. studios, 8 no. 1-bed flats and 1 no. 2-bed flat) – building 1; and
- S/2018/2826/PA – 12 dwellings (6 no. 1-bed flats and 6 no. 2-bed flats) – building 4.

11.5 On 15<sup>th</sup> February 2019, the Council confirmed that prior approval was required but granted prior approval for all 4 buildings, subject to conditions including condition 3 which required the completion of the development within three years of the date of the decision (i.e. by 15<sup>th</sup> February 2022)<sup>40</sup>.

11.6 The HLAS confirms that at the base date (1<sup>st</sup> April 2020), some 13.5 months after it had been approved and only 22.5 months before the prior approval would expire a start on the site had not been made.

11.7 The HLAS states:

*“Prior Notification applications. Site sold to a developer. Condition in the Prior Notification approval that development has to start within 3 years. 60 dwellings anticipated to be completed by 2023/24”.*

11.8 No details of the developer are given. I have undertaken a Land Registry search and this confirms that the site has not been sold to a developer<sup>41</sup>. As above, the wording of the condition requires the completion of the development within 3 years of the permission, not a start within 3 years.

11.9 I have undertaken a search of the Council's building control. I have not found any applications relating to the conversion of the buildings to residential use.

11.10 Therefore, at the base date there was clear evidence that the buildings were not going to be converted to residential use:

- The HLAS confirms that the site was not under construction with less than 2 years remaining before it needed to be completed;
- Contrary to the position set out in the HLAS the site had not been sold to a developer; and
- No building control applications had been made.

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<sup>40</sup> Appendix **EP2**

<sup>41</sup> Appendix **EP3**

11.11 Furthermore, at the base date, the owners of the site were marketing the buildings for office use rather than residential use<sup>42</sup>. The marketing strategy was successful and a press release dated 9<sup>th</sup> November 2020<sup>43</sup> confirms the following:

- The whole campus has been upgraded and successfully let to three substantial companies employing a combined 1,270 people in the town;
- Avara Foods will occupy building 1 (9,210 sq ft);
- EKFB (HS2 contractors) will occupy buildings 2 and 3 (22,707 sq ft); and
- Neighbourly UK will occupy building 4 (14,548 sq ft).

11.12 The fact that the whole campus has been upgraded also means that investment was made into the use of the site as offices presumably so they could be successfully let for that purpose rather than converted to residential use.

11.13 There is clear evidence that the prior approval permissions will not be implemented. The site should not be included in the five year supply. This results in a deduction of **60 dwellings**.

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<sup>42</sup> Appendix **EP4**

<sup>43</sup> Appendix **EP5**

## **Catch Yard Farm, Silverstone**

### **Capacity = 220 dwellings, Council's 5YHLS = 70 dwellings**

11.14 This site has planning permission for 220 dwellings (LPA ref: S/2015/0080/MAR) and is being developed by Bovis Homes. The HLAS states that 150 dwellings had been completed by 1<sup>st</sup> April 2020, leaving 70 dwellings in the five year supply. However, the completions data reveals that 160 dwellings had been completed by 1<sup>st</sup> April 2020:

- 25 dwellings in 2016/17;
- 72 dwellings in 2017/18;
- 59 dwellings in 2018/19; and
- 4 dwellings in 2019/20.

11.15 This leaves 60 dwellings and therefore **10 dwellings** should be removed from the five year supply.

## **Wood Burcote Court (Phase 2, Redrow)**

### **Capacity = 90 dwellings, Council's 5YHLS = 85 dwellings**

11.16 Along with the adjoining site, this site has outline planning permission for up to 210 dwellings (LPA ref: S/2012/0799/MAO as amended by S/2015/1592/MAO). The first phase is located north of Besses Lane and has reserved matters approval for 120 dwellings (LPA ref: S/2015/2464/MAR) with 117 dwellings already completed by Redrow before 1<sup>st</sup> April 2020. The 3 remaining dwellings on phase 1 are undisputed and included in the five year supply.

11.17 This leaves 90 dwellings. The HLAS refers to three sites within phase 2 – 77 dwellings for Redrow Homes (LPA ref: S/2018/0924/MAR), 8 dwellings (not started) and 5 dwellings under construction.

11.18 The approved reserved matters for phase 2 only includes 77 dwellings (LPA ref: S/2018/0924/MAR). Five of these dwellings were completed before 1<sup>st</sup> April 2020, which leaves 72 dwellings in the five year supply.

11.19 The five dwellings referred to are approved under permissions S/2019/1059/RES and S/2017/2018/RES and relate to dwellings around Earls Farm.

11.20 In terms of the 8 dwelling scheme, this refers to the reserved matters approval S/2017/2057/RES located around Wood Burcote Court. However, this site is already included separately within the supply under Minor Towcester sites. Therefore, **8 dwellings** should be removed from the five year supply.

### **Wood Burcote Court, Besses Lane**

**Capacity = 8 dwellings, Council's 5YHLS = 8 dwellings**

11.21 As discussed above, this site has a reserved matters approval for 8 dwellings (LPA ref: S/2017/2057/RES). However, a subsequent permission (LPA ref: S/2020/1878/RES) means only 6 dwellings will be delivered on this site. Therefore, **2 dwellings** should be removed from the five year supply.

### **Kingfisher House, Kingfisher Country Club**

**Capacity = 1 dwelling, Council's 5YHLS = 9 dwellings**

11.22 The site has planning permission for: "*Refurbishment and redevelopment of existing building to accommodate a change of use from a bed and breakfast to 9 self contained HMO studio units with shared kitchen facilities*" (LPA ref: S/2019/0094/MAF, approved 12<sup>th</sup> April 2019)<sup>44</sup>. The bedrooms are en-suite and as described in the description there is one kitchen and dining area for the occupants to use<sup>45</sup>. The site should be included for 1 HMO dwelling, meaning **8 dwellings** should be removed.

### **2 Bridge Street, Brackley**

**Capacity = 5 dwellings, Council's 5YHLS = 5 dwellings**

11.23 The site has planning permission for 5 dwellings (LPA ref: S/2012/0099). However, 1 dwelling was already completed in 2014/15. Therefore **1 dwelling** should be removed from the five year supply.

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<sup>44</sup> Appendix **EP6**

<sup>45</sup> Appendix **EP7**

## Hayes Farm, Abthorpe

### Capacity = 0 dwellings, Council's 5YHLS = 1 dwelling

11.24 The site has planning permission for ancillary accommodation (LPA ref: S/2019/0119/FUL). Condition 4 of the permission states: *"The additional accommodation hereby permitted shall be used solely as ancillary accommodation to the existing dwellinghouse, currently known as The Grange, Hayes Farm, and as such shall not be sold, leased, let, sub-let or used as an independent dwelling unit."* Therefore, **1 dwelling** should be removed.

## Wakefield Lodge Estate, Potterspury

### Capacity = 0 dwellings, Council's 5YHLS = 1 dwelling

11.25 The permission at this site is for a replacement dwelling with ancillary accommodation (LPA ref: S/2017/0140). Therefore **1 dwelling** should be removed.

## Windfall allowance

11.26 The Council includes a windfall allowance of 209 dwellings in the five year supply (69 dwellings in year 3 and 70 dwellings in years 4 and 5). This is in addition to the 291 dwellings the Council already includes in the supply on small sites.

11.27 The windfall allowance assumes that currently unknown sites will become available, secure planning permission and deliver housing in the five year period.

## National Planning Policy and Guidance

11.28 Paragraph 70 of the Framework states:

*"Where an allowance is to be made for windfall sites as part of anticipated supply, there should be 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 delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area."*

11.29 The definition of "windfall sites" is provided on page 73 of the Framework as follows:

*"Sites not specifically identified in the development plan".*

11.30 Paragraph 3-023 of the PPG<sup>46</sup> states:

*“A windfall allowance may be justified in the anticipated supply if a local planning authority has compelling evidence as set out in paragraph 70 of the National Planning Policy Framework.”*

11.31 Whilst it relates to Annual Position Statements, paragraph 68-014 of the PPG<sup>47</sup> is relevant in terms of the information annual position statements are expected to include in relation to windfall sites. It states (amongst other things) the following needs to be provided:

*“Permissions granted for windfall development by year and how this compares with the windfall allowance”.*

## Assessment

11.32 Appendix 2 of the HLAS provides the following completions on small windfall sites in the plan period:

**Table 11.1 – Completions on small windfall sites according to the HLAS**

Year	Windfall completions – sites less than 10 dwellings
2011/12	101
2012/13	79
2013/14	92
2014/15	88
2015/16	79
2016/17	102
2017/18	103
2018/19	114
2019/20	88
<b>Total</b>	<b>846</b>
<b>Average</b>	<b>94</b>

11.33 The Middleton Cheney appeal decisions concluded that a rate of 100 dwellings per annum was in accordance with past rates of delivery on small windfall sites<sup>48</sup>. However, I have reviewed the completions data and note that the number of dwellings completed on small windfall sites is

<sup>46</sup> Reference ID: 3-023-20190722: “How should a windfall allowance be determined in relation to housing?”

<sup>47</sup> Reference ID: 68-017-20190722: “What information will annual position statements need to include?”

<sup>48</sup> See for example paragraph 72 on page 13 of **CD7.06**

lower than that recorded in the HLAS. It is unclear why this is the case. Whilst I have sought agreement from the Council I have received no response at the time of writing. My conclusions are set out in the table below.

**Table 11.2 – Completions on small windfall sites according to the HLAS**

<b>Year</b>	<b>HLAS recorded</b>	<b>Actual recorded</b>
2011/12	101	93
2012/13	79	64
2013/14	92	89
2014/15	88	88 <sup>49</sup>
2015/16	79	76
2016/17	102	84
2017/18	103	103
2018/19	114	80
2019/20	88	88
<b>Total</b>	<b>846</b>	<b>765</b>
<b>Average</b>	<b>94</b>	<b>85</b>

11.34 In addition, I remove 29 dwellings from the Council's supply on small sites due to double counting (EP1). Therefore, 736 dwellings have been completed on small windfall sites in the plan period to date, an average of 82 dwellings per annum, not 100. Based on past trends, 82 dwellings would be completed on small windfall sites each year, meaning 410 dwellings in the five year supply (i.e.  $82 \times 5 = 410$ ).

11.35 The Council includes 291 dwellings on small windfall sites already. From this, I remove 13 dwellings from the supply and 16 dwellings which is the Council's lapse rate as set out in the following table:

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<sup>49</sup> The completions data for this year do not provide a description of the development so I make no adjustment

**Table 11.3 – Deductions made on small windfall sites**

<b>Ref:</b>	<b>Location</b>	<b>Difference</b>
S/2017/2057/RES	Wood Burcote Court, Brackley	2
S/2019/0094	Kingfisher House, Kingfisher Country Club	8
S/2012/0099	2 Bridge Street, Brackley	1
S/2019/0119	Hayes Farm, Abthorpe	1
S/2017/0140	Wakefield Lodge Estate, Potterspury	1
	Lapse rate	16
	<b>Total</b>	<b>29</b>

11.36 This means that 262 dwellings are included on small sites with planning permission (i.e. 291 – 29). Based on past trends, the windfall allowance should therefore be 148 dwellings, not 209 (i.e. 262 + 148 = 410). This means a deduction of **61 dwellings** in the five year supply.

11.37 Within this context, I refer to a decision regarding an appeal made by Morris Homes against the decision of Shropshire Council to refuse to grant outline planning permission for the erection of up to 125 dwellings at land at Longden Road, Shrewsbury, Shropshire<sup>50</sup>. In that appeal, the Inspector commented on Shropshire's windfall allowance in paragraphs 39 to 42 as follows:

*“39. Historically small windfall sites have represented an important component of housing land supply in Shropshire. In the 10 year period between 2003/4 and 2012/13 an average of 299 dwellings per annum were completed on small windfall sites.*

*40. Given the nature of the County, which includes Shrewsbury, 18 other settlements identified as market towns or key centres and a large number of other villages and hamlets, I consider that it is legitimate to assume that small sites will continue to make a significant contribution to housing supply. In the absence of any material to demonstrate that the supply of such sites is reducing it is reasonable to expect that the contribution will be at a similar level to that which has occurred in the recent past. Consequently I believe that the Council's assumption of an average of 299 dwellings per annum being provided on small windfall sites over the next 5 years is not unrealistic. On the basis of this assumption over the 5 year period some 1,495 dwellings would be provided on small windfall sites.*

*41. The Council does not include any allowance for windfalls on small sites in the first three years of the supply as it is held that such sites will already be included within the supply figures (i.e. recorded as sites with planning permission etc.). Consequently the Council only includes 2 years of windfall supply from small sites, or 598 dwellings, within its supply figures.*

<sup>50</sup> PINS ref: 3011886 – **CD7.24**

*42. It is apparent, however, that the Council's housing land supply figures already anticipate 1,232 completions on small sites for the 5 year period. If the Council's suggested windfall figure of 598 dwellings is added in this would increase the supply on small sites to 1,830. This would represent 366 dwellings per annum or 67 dwellings per annum more than the past annual completion rate on windfall sites of 299 dwellings. Consequently I believe that 335 dwellings (i.e. 67 x 5) should be discounted from the windfall allowance, leaving a total of 263 dwellings."*

11.38 In summary, I conclude that the five year housing land supply in South Northamptonshire excluding the NRDA is 1,740 (i.e. 1,891 – 90 – 61 = 1,740).

## 12. Northampton Related Development Area sites

12.1 The NRDA Housing Land Supply Position Statement (core document **CD6.25**) provides the supply position within the NRDA at 1<sup>st</sup> April 2019. The position on supply in the NRDA at 1<sup>st</sup> April 2020 has not been published. Nevertheless, the position was considered at the Middleton Cheney inquiry. However, because the Middleton Cheney Inspector excluded the NRDA from the requirement, no conclusions were made on the sites in the NRDA<sup>51</sup>

12.2 The Council's position at the Middleton Cheney inquiry was that the following sites in the NRDA within South Northamptonshire are deliverable as follows:

**Table 10.1 – NRDA sites within South Northamptonshire**

Ref:	Location	Number of deliverable dwellings within South Northamptonshire
	Wootton Fields Phase 2	33
	Wootton Fields Phase 3	97
WNJCS Policy N4	Northampton West SUE Land off Whites Lane	30
WNJCS Policy N9A	Northampton Norwood Farm/Upton Lodge SUE Upton Lodge Farm Weedon Road	180
WNJCS Policy N6	Northampton S of Brackmills SUE Northampton South of Brackmills SUE Newport Pagnell Road	0
		<b>340</b>

12.3 I accept the two Wootton Fields sites should be included in the deliverable supply. They are under construction and have delivered dwellings. I disagree with the inclusion of the remaining two sites for the reasons set out below. Therefore, I consider the deliverable supply in the NRDA within South Northamptonshire is 130 dwellings.

<sup>51</sup> For example paragraph 55, page 11 of **CD7.06**

## **N4 – Northampton West SUE Land off Whites Lane (capacity 2,550 dwellings, Council's 5YHLS = 30 dwellings in SNC)**

12.4 This site is 83 ha in area and is located to the west of Northampton. Part of the site is located in Daventry and part of the site is located in South Northamptonshire. It is allocated in the WNJCS for 2,550 dwellings.

### **Planning history**

12.5 In September 2017, an outline planning application was made by Bloor Homes to Daventry Council for:

*“the demolition of existing barns and the erection of up to 1750 dwellings, a primary school, a mixed use Local Centre (Uses A1-A5, D1) together with associated public open space, landscaping, highways sustainable drainage systems, and all ancillary infrastructure works, including a new primary sub-station.”*

12.6 The application was validated on 13<sup>th</sup> September 2017 and given the reference: DA/2017/0889. It was approved over three years later on 17<sup>th</sup> December 2020<sup>52</sup> subject to 52 conditions including a series of pre-commencement conditions and condition 1 which requires the submission of reserved matters within 11 years of the outline planning permission and condition 5 which requires the submission of a phasing plan and condition 7 which requires a design code.

12.7 A subsequent outline planning application for up to 600 dwellings within part of the site already included in the area for the application for 1,750 dwellings was also submitted by Bloor Homes to Daventry Council and made valid on 13<sup>th</sup> September 2017 (LPA ref: DA/2017/0890). That application was withdrawn on 24<sup>th</sup> March 2021.

### **Council's position**

12.8 The Council's trajectory for the site in terms of deliverable dwellings within South Northamptonshire is as follows:

Year	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Projected completions	0	0	0	0	30	30

<sup>52</sup> Appendix EP8

### **Assessment**

12.9 As set out on page 66 of The Framework (2019), the onus is on the Council to provide “clear evidence” that housing completions will begin on this site in the next five years. Paragraph 68-007 provides some examples of the types of evidence that could be provided, as discussed below.

### **Current planning status**

12.10 At the base date, the site was an allocation without planning permission. It has since secured outline planning permission for up to 1,750 dwellings which will be delivered in Daventry and South Northamptonshire. Applications for the discharge of conditions and reserved matters applications have not been made.

### **Firm progress being made towards the submission of an application**

12.11 No evidence has been provided to suggest that progress has been made towards the submission of a reserved matters application.

### **Written agreement between the LPA and the developer confirming their anticipated start and build out rate**

12.12 No evidence has been provided.

### **Firm progress with site assessment work**

12.13 No evidence has been provided including how the pre-commencement conditions are to be discharged.

### **Clear relevant information about viability, ownership constraints or infrastructure provision**

12.14 No evidence has been provided.

### **Summary**

12.15 The Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework and therefore should be removed from the supply. This results in a deduction of **30 dwellings** from the Council's supply.

## **N9A – Upton Lodge Farm (capacity = 3,500 dwellings, Council's 5YHLS = 180 dwellings in South Northamptonshire)**

12.16 This site is located to the west of Northampton. It is located in South Northamptonshire and is allocated in the WNJCS for 3,500 dwellings.

### **Planning history**

12.17 In May 2016, a hybrid planning application was made by Barwood Land to South Northamptonshire Council for:

*“Hybrid planning application seeking both full and outline planning permission for:*

*Part A: Outline planning permission for a sustainable urban extension comprising: Up to 1,900 dwellings (use class C3); Public open space and children's play areas;*

*Landscape areas, new landscape planting and hydrological attenuation features and sustainable drainage systems; Primary school (use class D1); and Mixed use local centre which may include residential (use class C3), retail (use classes A1, A2, A3, A4 and A5), and health and community facilities (use class D1).*

*Part B: Full planning permission for: Demolition of any on site buildings or structures; and Routing of Sandy Lane Relief Road and associated vehicular access points.*

*Application is accompanied by an Environmental Impact Assessment.”*

12.18 The application was validated on 8<sup>th</sup> June 2016 and given the reference: S/2016/1324/EIA. It was approved over four years later on 30<sup>th</sup> June 2020<sup>53</sup> subject to 38 conditions including a series of pre-commencement conditions including condition 5 which requires the submission of a phasing plan.

12.19 A reserved matters application to provide site wide infrastructure was submitted in November 2020 but has not been determined (LPA ref: S/2020/2126/MAR).

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<sup>53</sup> Appendix EP9

### **Council's position**

12.20 The Council's trajectory for the site in terms of deliverable dwellings within South Northamptonshire is as follows:

Year	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Projected completions	0	0	0	60	120	180

### **Assessment**

12.21 As set out on page 66 of The Framework (2019), the onus is on the Council to provide "clear evidence" that housing completions will begin on this site in the next five years. Paragraph 68-007 provides some examples of the types of evidence that could be provided, as discussed below.

#### **Current planning status**

12.22 At the base date, the site was an allocation without planning permission. It has since secured outline planning permission for up to 1,900 dwellings. However, applications for the discharge of conditions and reserved matters applications in relation to residential development have not been made.

#### **Firm progress being made towards the submission of an application**

12.23 No evidence has been provided to suggest that progress has been made towards the submission of a reserved matters application.

#### **Written agreement between the LPA and the developer confirming their anticipated start and build out rate**

12.24 No evidence has been provided. It is not known who the developer is.

#### **Firm progress with site assessment work**

12.25 No evidence has been provided including how the pre-commencement conditions are to be discharged.

#### **Clear relevant information about viability, ownership constraints or infrastructure provision**

12.26 No evidence has been provided.

## Summary

12.27 The Council has not provided any “clear evidence” of the type referred to in paragraph 68-007 of the PPG that housing completions will begin on the site within the next five years. The site fails to meet the definition of “deliverable” as set out on page 66 of the Framework and therefore should be removed from the supply. This results in a deduction of **180 dwellings** from the Council's supply.

## 13. Conclusions - five year housing land supply at 1<sup>st</sup> April 2020

13.1 In conclusion, against the housing requirement set out in adopted strategic policy S3, I conclude that the five year supply equates to **2.31 years**.

**Table 13.1 – South Northamptonshire’s Five Year Housing Land Supply at 1<sup>st</sup> April 2020**

A	Plan period requirement	11,023
B	Five Year Requirement	3,801
C	Shortfall	56
D	Total five year requirement (B + C)	3,857
E	5% Buffer (5% of D)	193
F	Total Supply to be demonstrated (D + E)	4,050
G	Annual average (F / 5)	810
H	Five Year Supply in SNC excluding NRDA at 1 <sup>st</sup> April 2020	1,740
I	Five Year Supply in NRDA within SNC	130
J	Total five year supply at 1 <sup>st</sup> April 2020 (H + I)	1,870
K	Years supply (J / G)	<b>2.31</b>

13.2 The implications of this are addressed by Mr Lomas. For comparison I also show that a five year housing land supply cannot be demonstrated against the requirement found in the Middleton Cheney decisions:

**Table 13.2 – South Northamptonshire’s Five Year Housing Land Supply at 1<sup>st</sup> April 2020 against the approach to the requirement used in the Middleton Cheney decisions**

A	Five Year Target	2,151
B	Oversupply (721 – 29 = 692)	692
C	Proportion of oversupply applied in the 5 year requirement	384
D	Total five year housing requirement (A – C)	1,767
E	5% Buffer (5% of D)	88
F	Total Supply to be demonstrated (D + E)	1,855
G	Annual average (F / 5)	371
H	Five Year Supply in SNC excluding NRDA at 1 <sup>st</sup> April 2020	1,740
K	Years supply (H / G)	<b>4.69</b>

## 14. Appendices

- EP1. List of disputed completions
- EP2. Decision notices relating to Buckingham Road, Brackley
- EP3. Land registry searches relating to Buckingham Road, Brackley
- EP4. Marketing details for Buckingham Road, Brackley
- EP5. Press notice relating to Buckingham Road, Brackley
- EP6. Kingfisher House decision notice
- EP7. Kingfisher House approved plans
- EP8. Decision notice relating to N4
- EP9. Decision notice relating to N9A