



# Summary 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 summary 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 summary and my main proof of evidence specifically address matters relating to housing land supply. They 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**.

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

- 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 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 this summary, my main proof of evidence and a set of appendices. I also refer to several core documents.

## 2. South Northamptonshire's Five Year Housing Land Supply

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

- 2.1 The base date is the start date for the five year period for which both the requirement and supply should relate. 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.

### Stage 2: Identifying the housing requirement

- 2.2 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.
- 2.3 Footnote 7 of the Framework explains that the tilted balance to the presumption in favour of sustainable development will be triggered where the local planning authority cannot demonstrate a five year supply of deliverable housing sites in accordance with paragraph 73. Paragraph 73 of the Framework then explains that local planning authorities should identify a minimum of five years' worth of housing against the housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. Footnote 37 of the Framework explains that where the strategic policies have been reviewed and found not to require updating the adopted housing requirement should continue to be used as the basis for assessing five year housing land supply. Where local housing need is used, this is to be calculated using the standard method set out in the Planning Practice Guidance.

- 2.4 The Framework therefore presents a binary position where the five year housing land supply is measured against either an adopted housing requirement or the local housing need using the standard method. There is no provision in the Framework to calculate the five year housing land supply against any other figure. There is also no provision in the Framework to calculate the five year housing land supply anywhere other than within a local planning authority. Indeed, paragraph 68-028 of the PPG is clear that the option for areas with joint plans 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).
- 2.5 The adopted housing requirement for South Northamptonshire is set out within policy S3 of the West Northamptonshire Joint Core Strategy (WNJCS). It is (about) 11,020 dwellings over the plan period 2011 to 2029. Whilst the annual average housing requirement is 612 dwellings, the requirement is stepped, which means that the housing requirement over the five year period 2020 to 2025 is 3,801 dwellings.
- 2.6 Policy S3 of the WNJCS is more than five years old but has been reviewed for the purposes of footnote 37 of the Framework and found not to require updating. This was the conclusion of the Middleton Cheney Inspector in the recent appeal decisions<sup>2</sup>. As the policy has been reviewed and found not to require updating, in accordance with paragraph 73 of the Framework, the five year housing land supply should be measured against the adopted housing requirement.
- 2.7 Despite the clear wording in the Framework, the Council's Housing Land Availability Study (HLAS, published July 2020 – notably two years after the 2018 Framework was published)<sup>3</sup> does not measure the five year housing land supply against the adopted housing requirement (or the local housing need using the standard method). Instead it measures the five year housing land supply against the Objectively Assessed Housing Needs (OAN) excluding the Northampton Related Development Area (NRDA) minus the over-supply against this figure since the start of the plan period plus the 5% buffer. The HLAS refers to an appeal decision relating to land east of Poundfield Road, Potterspury<sup>4</sup> to support its position. However, this appeal decision is dated 26<sup>th</sup> June 2015 and was clearly issued before the 2018 and 2019 Frameworks were published. There is no support for measuring the five year housing land supply against an OAN in the current Framework. The

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<sup>2</sup> For example paragraphs 14 to 26 of core document **CD7.06**

<sup>3</sup> Core document **CD6.10**

<sup>4</sup> PINS ref: 2224285 – core document **CD7.01**

approach set out in the HLAS is contrary to paragraph 73 and footnote 37 of the Framework. This was the conclusion of the Inspector in the recent Middleton Cheney appeal decisions<sup>5</sup>.

- 2.8 Following correspondence regarding the Statement of Common Ground on Wednesday 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 and minus the over-supply against that figure plus a 5% buffer.
- 2.9 This is not the housing requirement set out in an adopted strategic policy (or the local housing need using the standard method). Indeed, it is significantly lower than the adopted housing requirement, which the Government uses to measure housing delivery against in South Northamptonshire through the Housing Delivery Test. 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.
- 2.10 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 number of dwellings to be distributed to the part of the NRDA within South Northamptonshire). That means that the Council's case is that five year housing land supply should not be assessed in a manner which accords with the Framework and nor should the trigger of the tilted balance be assessed in accordance with footnote 7 of the Framework.
- 2.11 In paragraph 34 of the appeal decision, the Middleton Cheney Inspector Raygen recognises that the approach she applies is inconsistent with the approach used by the Rothersthorpe appeal

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<sup>5</sup> For example paragraph 40 (p.8) of **CD7.06**

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 (Inspector Philip Major) 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 in the Rothersthorpe appeal decision.

2.12 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 the five year housing land supply against the local housing need using the standard method or whether there had been a review of policy S3 in accordance with 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 the adopted housing requirement set out in policy S3 because that is what paragraph 73 of the Framework requires.

2.13 As I have set out in my main proof of evidence, if five year housing land supply is measured in a different way than that set out in paragraph 73 of the Framework, then a different assessment for the purposes of footnote 7 would have to be made. 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."*

- 2.14 However, as I have set out in section 3 of my main proof of evidence, there is simply 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. Indeed there would be no way for the buffer in the NRDA to be increased from 5% to 10% because the NRDA is not a local planning authority that can produce either an annual position statement or have its supply tested through a local plan or to 20% because the Housing delivery Test does not measure housing delivery within the NRDA. The "plan area" approach to assessing five year housing land supply is clearly contrary to the Framework.
- 2.15 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.
- 2.16 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). 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.

- 2.17 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.
- 2.18 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. This is the same approach used by the Government in measuring housing delivery in South Northamptonshire through the Housing Delivery Test.

### **Stage 3: Identifying the past shortfall or oversupply**

- 2.19 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.
- 2.20 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 table 7.2 of my main proof of evidence.
- 2.21 I have reviewed the completion 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.  $721 - 29 = 692$ ).
- 2.22 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)*

- 2.23 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.
- 2.24 As the planned requirement is the adopted housing requirement set out in policy S3, there is no “over-supply”. In fact there is an undersupply of 56 dwellings.

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

- 2.25 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.  $721 / 9 \text{ years} \times 5 \text{ years}$ ).
- 2.26 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.
- 2.27 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.  $1,767 / 5 = 353$ ).
- 2.28 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.
- 2.29 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.

## Stage 5: Applying the appropriate buffer

2.30 The Housing Delivery Test was passed in South Northamptonshire and therefore the 5% buffer applies in accordance with paragraph 73 of the Framework.

## Stage 6: Identifying a Realistic and Deliverable Supply

2.31 For the reasons set out in my main proof of evidence, I conclude that the five year housing land supply in South Northamptonshire excluding the NRDA is 1,740. This is the Council's supply figure of 1,891 dwellings minus 90 dwellings on 8 disputed sites and minus 61 dwellings from the windfall allowance. I conclude that the deliverable supply on sites in South Northamptonshire within the NRDA is 130 dwellings.

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

2.32 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 2.1 – 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>

2.33 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 2.2 – 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>