

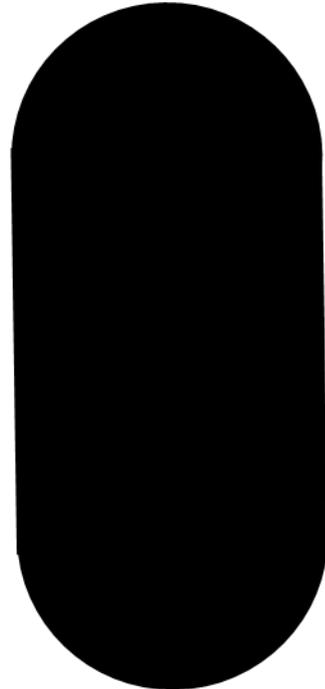
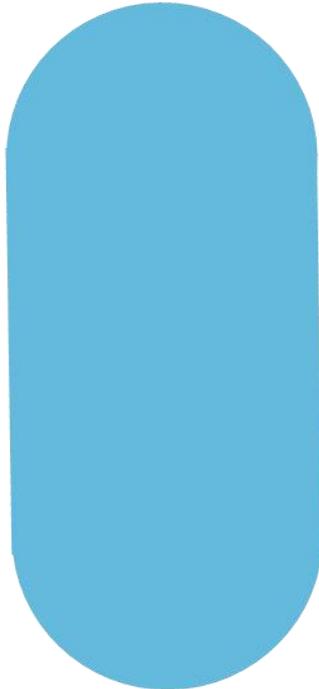
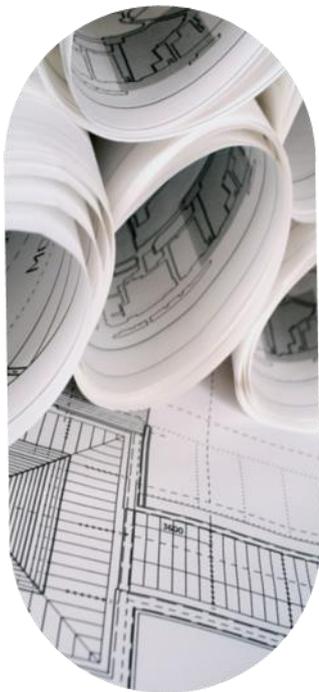
Kettering Site Specific Part 2 Local Plan Examination

Matter 4 – Delivering the Housing Requirement

Hearing Statement

Hallam Land Management Limited

Respondent Reference: 107





This Hearing Statement is submitted on behalf of the Hallam Land Management Limited (HLM) and supports representations submitted to the Publication Plan, February 2020.

Issue

Whether the Local Plan has been positively prepared and whether it is justified, effective and consistent with national policy in relation to the approach towards the supply and delivery of housing land to meet the JCS requirement for Kettering.

Q1. Does the Plan deliver the housing requirement of the JCS (for 10,400 dwellings net) and its timescale for delivery?

- 1.1. Policy 28 of the JCS requires local planning authorities to maintain a rolling supply of deliverable sites to provide 5 years' worth of housing (plus a buffer as required by national policy). For the reasons set out in response to Q.4 below, HLM do not consider the Plan delivers the housing requirement of the JCS in demonstrating 5 years' worth of housing supply from the point of adoption (2020/2021).
- 1.2. Paragraph 9.17 of the JCS explains what must happen in such circumstances.

“If the SUEs and other sites are not developed quickly enough to maintain a deliverable 5 year supply of housing land against the requirements set out in Policy 28, the local planning authorities will identify additional sources of housing, with the priority being the Growth Towns and Market Towns. Additional sites should be capable of quick delivery, make appropriate contributions to infrastructure and help to deliver the place shaping principles set out in Table 2.”
- 1.3. HLM are promoting land at Burton Latimer (Market Town) which would meet the requirements of paragraph 9.17, and contribute towards addressing the under delivery of the SUEs and maintaining a rolling supply.

Q2. Is it appropriate to apply a flexibility allowance? What is the justification for the plus 10% flexibility allowance and is it effective? Was consideration given to a higher or lower allowance? Should the allowance be applied across the board (including the rural areas)? Will the housing requirement plus the 10% allowance be met in the urban areas?

- 1.4. As noted in HLM's regulation 19 representations, the adopted JCS (Para 9.6) states that monitoring of the 5 year housing land supply will be undertaken using a 25% buffer, to provide an early warning of housing land supply running short. In such circumstances, where a five year housing land supply cannot be demonstrated using a 25% buffer, the JCS requires corrective action by the LPA in order to boost supply. The best means to boost supply would be through allocating additional sites within the Part 2 Plan, in order to ensure that there is a 25% buffer at all times during the plan period.



Q3. Is the expected contribution from windfalls realistic and justified by evidence? What is the approach to windfalls in the urban area? Is there an undue reliance on windfalls to meet the rural housing requirement? How will the approach to housing in the Rural Areas meet the JCS requirement for 480 homes?

- 1.5. On the basis that the Council's method for a windfall allowance is to assume inclusion from the fourth year of the plan period (in order to avoid double counting with commitments), the windfall allowance should be adjusted to start at 2023/24 (removing 69 units in 2022/23) on the basis that 2019/20 has passed and the Plan may be adopted in 2020/21.

Q4. Is the housing trajectory at Appendix 1 of the Plan realistic? Does it demonstrate a supply of deliverable sites and developable sites that would meet the JCS housing requirement for Kettering? What progress has been made on the Sustainable Urban Extensions (SUEs) allocated in the JCS and how has this been monitored? What assumptions have been made in relation to delivery rates and are these justified?

(See initial Question 23 and the Council's response and position statements)

- 1.6. The housing trajectory at Appendix 1 of the Plan is not realistic.
- 1.7. Specifically, the housing delivery rates at the SUEs are overly optimistic and do not reflect delivery rates for large sites elsewhere within the area or national averages. This is particularly important given the contribution that the SUEs will purportedly make to housing land supply in the first 5 years post adoption.
- 1.8. The Council's response to initial question 12 notes that the 5 year land supply was tested at a public inquiry in September 2019, and the Council was found to have a five year supply. A copy of the Appeal decision is appended to this statement. A 5 year supply was found, however, the Inspector in this instance considered it unlikely that the supply was as high as the Council estimated at 6.9 years (para 19, APP/L2820/W/18/3215362), and that its estimations (informed by figures provided by developers) were best case scenarios (para 18, Ibid.).
- 1.9. This Appeal decision is now a year old. Another year's worth of housing monitoring data ought to be available to demonstrate the up-to-date position regarding completions and commitments, and especially housing delivery rates for this current year and future years in light of the slow down in planning and delivery as a consequence of Covid-19. The Council states that it is in the process of updating its housing monitoring, and it is noted that completions for 2019/20 for the Kettering East SUE are reported in EXAM 2G. It is assumed that a full update will be submitted by the Council in its Matter statements, which can then be scrutinised by other parties in advance of the hearings.
- 1.10. Regarding Kettering East, Exam 2G confirms that in terms of future supply (as at June 2020), 758 dwellings have reserved matters approval with a further 924



dwellings with the benefit of outline permission but awaiting reserved matters approval. The remainder of the allocation does not benefit from outline planning permission.

- 1.11. Of the 758 dwellings with reserved matters approval, these are controlled by 3 national housebuilders (Barratt/David Wilson, Persimmon and Taylor Wimpey). It is inconceivable that these 3 housebuilders alone will deliver 337 completions this monitoring year as projected in the trajectory in EXAM 2G. It would represent 110 dwellings each which is unrealistic, particularly since Taylor Wimpey had not completed any plots on the site at the start of the monitoring year. Further, this evidence now shows that the evidence within the Housing Land Supply Background Paper (which was the basis for 337 dwellings) which referred to 6/7 outlets in 2020/2021 is no longer robust.
- 1.12. Of the 924 dwellings awaiting reserved matters approval, these are still pending determination at the time of writing, with target decisions for some not expected until March 2021. These are therefore not going to deliver any completions this monitoring year, and potentially limited numbers in 2021/22. Achieving 425 completions in 2021/2022 therefore appears very ambitious if reliance is largely placed on the 3 housebuilders referred to above.
- 1.13. There is also no evidence that the Council has considered market absorption rates, and outlets reducing the amount they deliver each year as more outlets are opened on the site. There are local examples as to the likely delivery rates for SUEs. For instance, the SUE in nearby Corby at Priors Hall only reached 269 completions in year 5 of development on the basis of 9 separate outlets delivering 30 dwellings per annum (dpa).
- 1.14. Lessons can also be learned nationally. For instance, Lichfields published its second edition of 'Start to Finish' in February 2020. A wider range of sites have been surveyed since the first edition. Notably, Kettering East is included within the dataset. Start to Finish states that the average delivery rate for sites over 2,000 dwellings is 160 completions per annum, or around 4% of the total amount of dwellings. The report also finds that whilst some large sites may have a peak year over 300dpa no sites consistently deliver over this figure year on year.
- 1.15. Kettering East requires closer scrutiny given that it is expected to deliver around 37% of the Council's 5 year supply from adoption. The Council were only able to demonstrate 5.66 years supply against a requirement with a 25% buffer in 2019 (which equated to a supply of only circa 400 dwellings greater than the requirement). A more realistic assessment of Kettering East's trajectory would very easily remove the ability to demonstrate a 5 year supply.
- 1.16. It is noted from EXAM 2G the Council are updating its trajectory, and it is hoped this will be available in advance of the Hearings. In the absence of this evidence, the Council have not demonstrated the Plan is sound and consistent with national policy in so far as maintaining a supply of deliverable sites.
- 1.17. Regarding Rothwell North SUE, the Council claim a trajectory of 50 dwellings for 2020/21, leading to 100 in 2021/22 based on the developers submissions. At the



time of writing, reviewing the sales webpages for the site it is clear that for phase 1 there are 42 plots of which 4 are part of the sales suite and only 3 thus far have been reserved. This therefore casts doubt as to whether in the 7 months remaining of 2020/21 50 units will be completed.

- 1.18. For Desborough North SUE, the Council expect a 25 dwellings to be completed in 2020/21 and a build out of 120 units the following and most subsequent years. As it stands, there is no evidence that 25 dwellings will be built out this monitoring year.
- 1.19. In addition, as noted in HLM's Matter 6 statement, it is considered that BLA6 - Bosworth Nurseries and Garden Centre, for 69 units, is not deliverable (planning permission has lapsed and it is still in operation in its current use) and should therefore not be considered as part of the supply for the first 5 years.

Q7. Overall will the Plan realistically deliver the dwellings required over the plan period? What contingencies are in place should housing delivery fall below expectations? Are there any risks associated with the over-supply of land for housing? How have these been addressed?

- 1.20. As noted in response to Q2., the Plan should provide further flexibility now in order to ensure the 25% buffer for monitoring purposes is met.
- 1.21. In addition, whilst it is possible the Plan will meet its housing requirement over the Plan period, it is unlikely to do so to the degree that the Plan proposes given the amount and type of land allocated and unrealistic assumptions regarding the deliverability of the SUE's.

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Appendix

Appeal Decision for:

Land off Braybrooke Road, Desborough, Northamptonshire

APP/L2820/W/18/3215362

15 October 2019



Appeal Decision

Inquiry opened on 3 September 2019

Accompanied site visit made on 5 September 2019

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2019

Appeal Ref: APP/L2820/W/18/3215362

Land off Braybrooke Road, Desborough, Northamptonshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd against the decision of Kettering Borough Council.
 - The application Ref: KET/2018/0060, dated 22 January 2018, was refused by notice dated 25 October 2018.
 - The development proposed is the erection of up to 245 dwellings with public open space, landscaping, sustainable drainage system and vehicular access point from Braybrooke Road.
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Preliminary Matters

1. The application was made in outline with all matters reserved except the access from Braybrooke Road. Prior to the inquiry there was some discussion about which version of the access plan should be considered. At the inquiry it was confirmed by both main parties that the appropriate plan is that numbered 1577/10/A prepared by Ashley Helme Associates Ltd.
2. The initial decision notice included reasons for refusal relating to heritage matters and the completion of a S106 obligation. The Council did not contest reason for refusal No 3 on heritage in the light of information subsequently provided and I have no reason to disagree that this is a matter which is not now in dispute. In relation to the provision of a S106 obligation I deal with this below.
3. The inquiry was closed in writing following the receipt of closing submissions made on behalf of the Council and the Appellant.

Decision

4. The appeal is dismissed.

Main Issues

5. The main issues in the appeal are:
 - (a) Whether the Council can demonstrate a 5 year supply of deliverable housing land;
 - (b) Whether the proposed development would provide for a safe highway environment;

- (c) The effect of the proposal on the character and appearance of the surrounding area;
- (d) The planning balance.

Policy Background

6. The development plan includes saved policies from the Local Plan for Kettering Borough (LP) which was adopted in 1995, and the North Northamptonshire Joint Core Strategy (JCS) which was adopted in 2016. It is common ground between the parties that the policies which are most important to the determination of this appeal are LP Policy 7, and JCS Policies 11, 28 and 29.
7. Policy 7 was the subject of considerable debate at the inquiry. It is the type of policy which was common at the time of its preparation and adoption, and seeks to restrict development in the open countryside other than for specific exceptions (which do not apply in this case). There is no dispute that the policy responded to different housing requirements which fed into the identification of development limits around settlements. The appeal site sits outside the development limits which are defined in the LP and is therefore in the open countryside. As a result of this there is agreement that the proposal is, as a matter of fact, in conflict with Policy 7.
8. Policy 7 was drawn up when national policy and guidance was different, and the publication of the National Planning Policy Framework (NPPF) which is a significant material consideration, changed the policy perspective in relation to development in open countryside. Rather than national policy advising that the countryside should be protected for its own sake, the advice now is that decisions should protect and enhance valued landscapes (if so recognised by statute or in the development plan) and recognise the intrinsic character and beauty of the countryside. This current approach therefore requires a balanced approach to development in countryside locations with no formal designation. The need for balance is a common thread running through the NPPF.
9. That balanced approach inherent in the NPPF is not articulated in such terms in Policy 7. It is a policy principally designed to be restrictive other than in specific circumstances set out elsewhere in the LP, notably Policy RA5. A previous appeal decision¹ of June 2017 includes the judgement that Policy 7 does not provide a blanket ban on development in the open countryside, and indeed that must be so as it makes specific provision for exceptions. The supporting text also refers to protection from unjustified development, which implies a need for judgement. In other words a justified development can be permitted. In that appeal decision judgement was therefore reached that the policy was broadly consistent with the NPPF at that time, and that it was the settlement limits which were out of date, and not the policy itself. The High Court subsequently declined to interfere with that Inspector's judgement. The Council now accepts that the development limits of the LP are out of date in light of the housing requirements set out in the JCS, and that development is required in locations defined by the LP as being in open countryside. Indeed the Council has granted permissions in such locations. There is therefore an acknowledged policy void in relation to the location of some of the development required to satisfy the strategy of the JCS.

¹ APP/L2820/W/16/3149835

10. That previous appeal was determined in the light of the evidence presented to the Inspector. I was not party to that evidence but I do agree that in not amounting to a blanket ban on development Policy 7 can be seen to include an element of freedom to permit development in the countryside. In other words I can agree that Policy 7 requires judgement, although the restrictive nature of that judgement by reference to other policies in the LP means that its consistency with the inherent balance implicit in the NPPF is diluted to an extent. However, the assessment required to permit development can be exercised, and indeed has been so exercised, in order to recognise the limitations of the LP development limits and the need to permit development on green field land in advance of the LP Part 2. Put simply, it is possible to recognise that development limits set in parallel with Policy 7 are out of date, but reach a judgement that development is justified in a specific case.
11. Time and circumstances have moved on since that appeal decision was taken, but in my judgement circumstances have not changed sufficiently to alter the balance of considerations in relation to Policy 7. The policy can be operated with a degree of flexibility and judgement such that justified development is permitted even though it is outside defined settlement limits. On balance I cannot disagree with the previous appeal finding that Policy 7 is broadly consistent with the NPPF because it has a requirement to undertake an assessment of development proposals against the background where open countryside is to be recognised for its intrinsic character and beauty. As such it is not out of date.
12. I turn then to the other most important policies, which are acknowledged as being up to date. Policy 11 is a general policy which simply explains that development will be concentrated in the urban areas, of which Desborough is one. Policies 28 and 29 set out housing requirements and distribution. The requirement for Kettering is uncontested at 10400 in the period 2011 – 2031. The expected delivery for Desborough (as in Policy 29) is 1360. That is not a limit to development, and Policy 29 indicates that housing will be accommodated in line with the JCS spatial strategy. The question of whether 'in line with' relates to the overall Borough requirement of 10400 or the specific Desborough aspiration of 1360 is not dealt with explicitly. However, the fact that Policy 29 indicates that housing will be accommodated (rather than provided) in line with the spatial strategy, suggests to me that the distribution (in which the accommodation of housing is effectively set out) means that the expectation of policy is that Desborough will deliver some 1360 homes.
13. There is no dispute that planning permission already exists for over 1600 dwellings in the Desborough area, so the 1360 requirement has already been exceeded. However, there is nothing substantive before me which specifically indicates that any further development should be turned away if other matters are satisfactorily dealt with. Nor would I expect there to be given the national imperative to provide housing. Policy 11 indicates that any significant growth beyond that set out in Policy 28 (the 10400 figure for Kettering Borough) will be tested through Part 2 Local Plans. The Part 2 Local Plan is acknowledged to be some distance away and that testing cannot be carried out here. Development decisions must therefore be made in response to planning applications. The JCS is a recently examined and adopted part of the development plan and Policies 11, 28 and 29 are not out of date. Therefore the whole 'basket' of most important policies fall into that category and the

'tilted' balance pursuant to paragraph 11 of the NPPF is not engaged in that respect.

14. I deal with how these most important policies affect the outcome of the planning balance in due course. However, it is worth noting here that the suggestion made at the inquiry that one of the most important policies (Policy 7) should be regarded as the most, most important, is not something with which I agree. Were that the case then the pre-eminent (most, most important) policy would logically be the single most important policy.

Reasons

Housing Land Supply

15. On the Council's evidence the supply of housing land amounts to some 6.9 years, whereas the Appellant asserts it is about 4.99 years. As such, as the Appellant acknowledges, the number of dwellings required to bring the supply to 5 years or above is very small. At the housing round table session held all parties agreed that predictions of housing delivery are not an exact science but require judgements based on evidence and experience.
16. It is agreed that the annual requirement is 520 dwellings, and that a 5% buffer should be applied. Taking into account completions and resultant shortfall to March 2019 the requirement for the period to 2024 is 3026 dwellings. Much of the dispute relating to future delivery surrounds the timing of planning applications, lead in times, or the build out rates when development does commence. I heard representations about the state of pre-application discussions being ongoing and the expectation of applications being submitted in the near future. I have also been provided with evidence of achieved and expected build rates at various sites.
17. Because the Appellant has reached a situation where the supply position is so close to 5 years I do not think it is necessary to forensically examine the differences on each disputed site. As is usual in cases such as this I find there to be substantive evidence from both parties on different land parcels in relation to the various matters. The differences on major sites such as Desborough South, Desborough North or Kettering East are such that it would take only a few delivered dwellings to make a difference. I accept that on major strategic sites it is often the case that development starts at a modest pace but builds up speed over time. Sustainable urban extensions in this case have followed that pattern but now seem to be coming on stream at a greater pace.
18. In general the build out rates of the Appellant are probably more realistic than those asserted by the Council, but the Council is largely working on figures provided by developers. As such those figures should be given some credence whilst recognising that they are likely to be best case scenarios. The eventual outturn will more than likely fall somewhere between the expectations of each party and the predictability of the outturn is not so refined that it can be wholly accurately narrowed down to a few dwellings on major sites.
19. What I noted from the discussions at the inquiry is that the Council is actively engaged in discussions to bring forward a number of sites and is clearly intending that delivery should meet its requirements. Consequently, on the basis of what I have heard I am satisfied that the Council's position is

sufficiently convincing to enable me to conclude that it is currently able to demonstrate a 5 year supply of deliverable housing land, albeit that it is unlikely to be as high as the 6.9 years it has calculated. The tilted balance is therefore not engaged by a failure to demonstrate sufficient housing land provision.

20. On that basis the Council is concerned that granting permission for this proposed development would not be appropriate and would take housing provision for Desborough well beyond what is acceptable in light of the strategy set out in the JCS. As it was described at the inquiry this development would take housing supply in Desborough beyond an acceptable tipping point. On the other hand the Council is not running an argument that this proposal would be premature; there is no suggestion that the development would prejudice the proper preparation of future plans.
21. I have noted the comments of the Inspector in the Martock appeal². In that case he clearly expressed the position that development which runs counter to a carefully prepared development plan strategy, as opposed to more tangible or visible harm, can of itself be harmful and in conflict with the development plan. That is undoubtedly correct in my judgement, but the circumstances of that case are specific to it, and do not necessarily translate to this proposal. In short, I must make a judgement as to whether the further provision of housing in Desborough would be harmful to the spatial strategy and in conflict with the development plan. I turn to that matter later.

Highway Matters

22. Matters between the parties have narrowed significantly and no issue is taken with regard to traffic impact on nearby junctions, site access visibility, or the location of the site in relation to services and facilities. The principal remaining matter of dispute relates to the provision of a footway/cycleway along the site frontage, and its configuration.
23. The vehicular access to the site would be provided in a position relatively close to the built up part of Desborough, close to the existing footpath into the town, and within the current 30mph speed limit. As such it would only take a short length of new footway to enable safe pedestrian access into the site. The provision of the dual purpose footway/cycleway along the entire frontage would therefore be an additional facility which would offer improved access to the few residents to the west as well as to the site.
24. It was agreed by the Council's witness that the provision of the footway/cycleway to the west of the site access would be a benefit, but would not be necessary to make the proposal acceptable in planning terms. Details of the internal layout of the development would clearly remain with the Council and as such it could be ensured that safe pedestrian and cycle access for site residents and others could be provided.
25. Notwithstanding this agreement there was some discussion regarding the design of the footway/cycleway along the site frontage as requested by the highway authority. Whether or not the 30mph speed limit is extended as proposed it seems to me that a 3m footway/cycleway provision would be adequate to meet the needs of those who would be likely to use it. Various

² APP/R3325/W/15/3131336

guidance and design standards were addressed in evidence but each must be considered in the light of the circumstances of the highway in question. Braybrooke Road is not particularly heavily trafficked, and there would not be many (in relative terms) users of the footway/cycleway. Hence, although in different circumstances a more comprehensive design including a verge between the road and footway/cycleway would be desirable or necessary, I see no reason to conclude that such a design would be necessary here.

26. I have noted that there is agreement in principle to move the speed limit to a position further west, but the new position is unknown. Be that as it may any reduction in traffic speeds on approach to the site access must be beneficial to both emerging traffic and users of the footway/cycleway. Whilst there is some evidence that speeds in this locality can be above 30mph this does not mean that the Appellant's preferred option for the footway/cycleway would result in an unacceptable impact on highway safety. In any event it has already been agreed that the footway/cycleway across the site frontage, subject to reserved matters design, would not be strictly necessary to make the development acceptable.
27. Taking this issue in the round I am satisfied that the proposed development would not have an unacceptable impact on highway capacity and safety, and that any minor impact can be addressed by condition or the S106 obligation which I turn to later. There would therefore be no conflict with JCS Policies 8 or 15 as referred to in the Council's second reason for refusal. Those policies (amongst other things) deal with the creation of safe and well connected streets through strengthened connectivity and making provision for pedestrians and cyclists.

Character and Appearance

28. The Council's decision notice made little of the effect of the proposal on the character and appearance of the countryside – indeed it was not framed in those terms. The Council does not reference any landscape policies in the reasons for refusal. However, the decision notice did refer to the character of Desborough and the unjustified loss of open countryside, and on that basis an argument was run dealing with the impact of the proposal on the character and appearance of the area. The site has no national or local landscape designations.
29. The appeal site consists of 3 fields of moderate size currently used for grazing. They are relatively flat and bounded largely by hedgerows which in some locations have been allowed to grow unchecked. To the south are 2 areas of existing development which front onto Braybrooke Road. These are a traveller site known as Spinney Close, and properties around Humfrey's Lodge (which include relatively large industrial type buildings). Immediately to the north of the appeal site is a railway in a shallow cutting. The site is separated from the built up part of Desborough to the east by a byway known as Straight Furlong.
30. Countryside to the west of the site falls away gently and merges into undulating and attractive countryside as it approaches Braybrooke village. Such is the attractiveness of parts of that area that it has been judged to be a valued landscape in another appeal³ determined some years ago. However, such a judgement is not promoted in relation to the appeal site.

³ APP/L2820/W/15/3139293

31. At a national level the site is within the Northamptonshire Vales national character area (NCA) and at a more local level is within the Wooded Clay Plateau landscape type (LT), and the Geddington Chase character area (CA). The descriptors and characteristics of all these areas include elements which can be seen at and around the appeal site. These include gently undulating landform, mixed agricultural regime, some woodland cover, hedgerows, scattered towns and villages, and large to medium field sizes. The character of the appeal site is also influenced by development on 3 sides as noted above, but also by the large-scale industrial complex further to the north, which is a prominent feature of the local landscape.
32. The character of the site is therefore one of 'ordinary' countryside, with some features typical of the NCA, LT and CA, but with some detractors. That is not to say that it has no intrinsic attractiveness. Indeed it has a rural character, with some attractive hedgerows and trees, and small ponds. There is some perception of tranquillity, but this is not a strong characteristic. The rural character deepens to some extent with distance from Desborough, but at no point are the influences of urban and other developments wholly eliminated.
33. In this context it is indisputable that a housing development would materially affect the underlying character of the immediate locality. I see no reason to differ from the suggestion that the impact on the NCA as a whole would be very small, or negligible as suggested by the Appellant. Clearly the impact on the more localised character would be greater. But the very ordinariness⁴ of the existing landscape reduces its susceptibility to change and tempers any impact and harm to character. In relation to the Council's methodology I assess the susceptibility here to be moderate and landscape value to be low. This results in a low to medium landscape sensitivity.
34. The magnitude of change would fall in the medium category, resulting in a minor to moderate effect. In my judgement the effect would tend towards the moderate end of the spectrum, but note that the opportunities for enhancement of green space within the development would offer the scope for this impact to be reduced over time within the site. However, conversely, changes necessitated by access provision, and subsequent increased perception of urban development, would be difficult to mitigate.
35. Turning next to visual impact I agree that the most highly sensitive receptors (or viewers) in this instance are those using local leisure rights of way or those with properties enjoying uninterrupted views across the land. Users of roads are of a lower sensitivity.
36. Dealing with road users first, there is already no more than a moderate appreciation of the site when approaching Desborough along Braybrooke Road. Peripheral attention to the north is mainly caught by Spinney Close and the buildings around Humfrey's Lodge. If the development were to proceed there would be a noticeable change to this perception, with access point(s) and housing visible over the boundary and behind other development. This visual change would be no more than moderate in magnitude and over time it may be capable of being reduced to a degree by a well-designed development. Overall, though, it is my judgement that there would be a moderate visual effect. The impact on user of the A6, Arthingworth Road and Harborough Road, however, would be less severe; here the impact would be minor to

⁴ That is: normal, not exceptional, not above the usual, with no special or distinctive features.

moderate, and would be likely to reduce over time. Any views from other roads would be almost imperceptible when driving.

37. Straight Furlong to the east of the site is clearly used by local people for dog walking and/or leisure. Views into the site are restricted by existing vegetation, but there is nonetheless a clear impression of fields beyond the hedgerow. The development would, subject to detailed design, allow filtered views into the site. The perception of open countryside would be replaced with the perception of built development. This would be a moderate and adverse impact on the experience of using Straight Furlong, though the impact could be mitigated over time by good design. Users of rights of way further afield would have little impression of the development, and any visibility of rooftops on site would be against the backdrop of Desborough. I do not regard the effect on these users to be more than minor to negligible.
38. There is of course no right to a view. I have carefully considered whether any local residents would be harmfully affected by the proposal such that their properties would be unpleasant places in which to live. I accept that there would be changed views from residential property, and that views or glimpses of fields would become views or glimpses of housing, roads and associated open space. However, it is my judgement that, subject to future design proposals, there would be no unacceptable impact on residential receptors. The Council would retain sufficient control to ensure such an outcome.
39. One other matter was raised at the inquiry which I deal with here. This relates to the fact that the development would extend Desborough beyond Straight Furlong, which as its name implies, is a straight highway. I do not agree that development beyond that highway would be incongruous or damaging to the form of the town. Desborough has a varied pattern of development and the proposed development would continue that theme. There is no perception on the ground that Straight Furlong forms a natural and unbreachable barrier to further expansion. I note also that the appeal site has been considered by the Council for allocation in the past, and that the industrial development to the north already punctures the line of the continued Straight Furlong.
40. To summarise on this issue I find that the proposed development would result in moderate impact on landscape character, and a moderate impact in visual terms. This carries moderate weight against the proposal.

Conditions and Obligation

41. Before turning to the planning balance I briefly address the matters of conditions and the submitted planning obligation. It is uncontested that conditions could be imposed dealing with matters which would require to be addressed were the appeal to succeed. However, those conditions would not make the proposal acceptable in principle.
42. I am satisfied that the S106 obligation would allow for the necessary contributions and include the necessary procedures to enable the development to proceed. All the matters contained in the obligation would be necessary to make the development acceptable were I to grant planning permission and I am satisfied that each would accord with the tests set out in the Community Infrastructure Levy Regulations. However, in light of my final decision on this case it is not necessary for me to consider this further.

The Planning Balance

43. As will be noted above, this is a case in which the tilted balance is not engaged. The most important development plan policies are not out of date and the Council is able to demonstrate a 5 year supply of deliverable housing land. A 'standard' balance is therefore appropriate and the starting point is that the decision should be made in accordance with the development plan unless material considerations indicate otherwise.
44. The benefits of the proposal include both market and affordable housing. This scheme would deliver up to 74 affordable homes and I afford this significant weight given the relatively slow rate of provision in recent years. The proportion of new affordable homes meets the terms of the development plan and is a benefit with regard to the social strand of sustainable development. The delivery of new market homes is also of significant weight, though this is in the context of the fact that the Council can demonstrate a 5 year housing land supply.
45. It is also the case that economic benefits would flow from the development by providing construction jobs and associated supply business, as well as receipts of council tax and residents' spending. What seems to me to be difficult to quantify is the degree to which those economic benefits would simply be moved from other locations in the Borough rather than being entirely new. The evidence before me has not been wholly substantiated and I therefore afford this matter limited weight.
46. Green infrastructure on site would be provided, and would be publicly available, in contrast to the current private nature of the appeal site. But this benefit is of limited weight in view of the fact that the dwellings and roads associated with the scheme would extend into what is currently an open and undeveloped area. I regard this principally as mitigation rather than a benefit. Similarly the matters relating to biodiversity and drainage are mitigating factors rather than benefits of the scheme.
47. As I have set out above the proposal would be acceptable in terms of highway capacity and safety. The provision of a 3m footway/cycleway would bring some benefit, but the development does not need to rely on this to be acceptable. The proposal accords with the development plan in this respect.
48. Turning to the most important policies, in this case the proposal conflicts with LP Policy 7, which seeks amongst other things to protect the countryside from unjustified development. There would be a moderate adverse impact on the character and appearance of the area if development were to proceed, as I have set out above, and as a result the weight I afford to the conflict with this policy is moderate.
49. In relation to housing provision it seems to me that the thrust of the JCS (in housing terms) is to provide housing in a balanced manner in the plan led system strongly advocated by the NPPF. That the Council can demonstrate a 5 year housing land supply is important. In order to reach that position the Council accepts that some development beyond historic development limits will be necessary. Even in the light of the national imperative to boost housing supply the Appellant acknowledges that this does not mean that all development should necessarily be permitted until the Part 2 LP is adopted.

The concept of there being a tipping point beyond which there would be a harmful impact on the spatial strategy is recognised.

50. Policy 28 sets the overall housing requirement for the Borough which is then further divided in Policy 29 to guide distribution of development. So, whilst there is no conflict with the overall figures in Policy 28 and development in the Borough as a whole is now proceeding largely in line with the requirement, allowing this appeal would not be in line with the expectations of Policy 29. The degree to which the proposal would exceed requirements in Desborough is a significant factor. In this instance the housing provision for Desborough already exceeds the requirement for housing to 2031 by some distance. To further increase it to a point of about 39% supply exceeding requirement would take it, in my judgement, beyond a reasonable point. I therefore regard the proposal as being in conflict with Policy 29 as provision would be out of step with the intentions of the policy. In saying that I accept that exactitude in supply to requirement could not be expected to be achieved, but a very significant oversupply as here would clearly have the potential to distort the current up to date strategy. Common sense indicates that there must be a point at which development proposals cannot be permitted without unacceptable distortion of a recently adopted spatial strategy. In my judgement the proposal for up to 245 dwellings here would move beyond that point. This resultant development plan conflict carries very significant weight.
51. It is right that the appeal site would be regarded as being part of the urban area for the purposes of Policy 11 and no conflict arises there.
52. In overall terms the proposal is in accordance with some development plan policies but is in conflict with others, notably Policy 7 and Policy 29 as set out. These are 2 of the most important policies. Taking this matter in the round I am satisfied that the proposed development is in conflict with the development plan taken as a whole. This is a finely balanced case, but the material considerations advanced in favour of the proposal do not outweigh this development plan conflict and do not indicate a decision other than in accordance with the development plan.
53. Even were I to have determined that Policy 7 is out of date and the tilted balance should apply, the conflict with Policy 29 is decisive in this case. The harm caused by the unacceptable impact on the operation of the adopted spatial strategy, when combined with the moderate harm to the character and appearance of the area, is sufficient to clearly and demonstrably outweigh the benefits in this case. Consequently, the appeal must fail.
54. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr K Garvey	Of Counsel
He called:	
Ms J Baish BSc(Hons) MSc MRTPI	Development Team Leader, Kettering Borough Council – for housing round table session
Mr R Hall BSc(Hons) PgDip	Director, Hall Highway Services Ltd
Mr I Dudley BSc(Hons) MICFor CEnv CMLI	Director, Lockhart Garratt Ltd
Ms T Nicholl DipTP MRTPI	Development Team Leader, Kettering Borough Council
Mr P Chaplin	Development Manager, Kettering Borough Council – also took part in the housing round table session and other discussions

FOR THE APPELLANT:

Ms T Osmund-Smith	Of Counsel
She called:	
Mr M Johnson MRICS MRTPI	Johnson Mowat Planning and Development Consultants – for housing round table session
Mr B Jackson BEng MSc MCIHT	Director, Ashley Helme Associates Ltd
Mr G Holliday BA(Hons) MPhil CMLI	Director, FPCR Environmental and Design Ltd
Ms H Roberts BSc(Hons) MSc MRTPI	Gladman Developments Ltd

INTERESTED PERSONS:

Mr G Thomson	Clerk to Desborough Town Council
Mr P Meurisse	Member of 'Voice of Desborough in Action'

DOCUMENTS

Documents handed in by the Council

- 1 Opening submissions on behalf of the Council
- 2 High Court refusal of permission for a judicial review – Claim No CO/3484/2017
- 3 Northamptonshire County Council Speed Limit Review Panel decision No 322
- 4 Extract from Northamptonshire Cycling Strategy
- 5 Interim Advice Note 195/16 – Cycle Traffic and the Strategic Road Network
- 6 Local Transport Note 1/12 – Shared Use Routes for Pedestrians and Cyclists (DfT 2012)
- 7 CIL Compliance note
- 8 North Northamptonshire JCS Review July 2019

- 9 Email with information on housing delivery - Westhill
- 10 Appeal decisions – Martock and Gretton
- 11 Additional suggested conditions
- 12 Email with reasons for suggested condition 27

Documents handed in by the Appellant

- 13 Opening statement on behalf of the Appellant
- 14 Photograph of traffic measurement locations
- 15 Joint Core Strategy July 2016
- 16 Draft conditions
- 17 Part 2 Local Plan timetable
- 18 Appeal decisions – Brimington and Ambrosden
- 19 Supreme Court Practice Direction (Citation of Authorities)
- 20 Response Note on Westhill housing delivery
- 21 Closing submissions relating to the appeal at Rushton Road, Desborough
- 22 Executed S106 Obligation

Other documents handed in

- 23 Submission by Mr G Thomson

Documents submitted after the final adjournment by agreement

- 24 Closing submissions on behalf of the Council
- 25 Closing submissions on behalf of the Appellant

PLANS

- A East Kettering, Phasing Plan – Phase 1
- B LP extract of Desborough Town Inset
- C Detailed access plan 8084-A-05