



Appeal Decision

Hearing held on 19 April 2016

Site visit made on 19 April 2016

by Paul Singleton BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 May 2016

Appeal Ref: APP/A0665/W/15/3140241

Land at Park Farm, Rudheath, Northwich, Cheshire CW9 7HF

- 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 Andrew David Walker, Stuart Malcolm Walker, Michael Vernon, Kathleen Vernon and George Vernon against the decision of Cheshire West & Chester Council.
 - The application Ref 15/01318/OUT, dated 22 September 2014, was refused by notice dated 25 June 2015.
 - The development proposed is up to 180 dwellings, public open space, associated landscaping, and infrastructure with all matters reserved except for access.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 180 dwellings, public open space, associated landscaping, and infrastructure, with all matters reserved except for access, at Land at Park Farm, Rudheath, Northwich, Cheshire CW9 7HF in accordance with the terms of the application, Ref 15/01318/OUT, dated 22 September 2014, subject to the conditions set out in the schedule attached to this decision.

Preliminary Matters

2. A signed Unilateral Undertaking, dealing with financial contributions towards the provision of off-site sports playing pitches and the Council's costs of monitoring the proposed Travel Plan, and a signed Statement of Common Ground were submitted at the start of the hearing. I have had regard to these documents in my determination of the appeal.
 3. At my request, I was also provided with copies of various development plan policies that had been referred in the appeal statements but not included with the appeal questionnaire documentation. Additional documents were submitted at the hearing to assist me in understanding where development had already been permitted within the gap between Rudheath and Leftwich, and the context in which that permission had been granted, and in respect of the identified Flood Risk Zones within the Dane Valley. I have had regard to this information in my consideration of the appeal proposal.
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Main Issues

4. The main issues are:
 - (a) Whether the appeal site is an appropriate location for residential development, having regard to local and national planning policies concerning the location of new housing and the protection of the countryside;
 - (b) The effect on the character and appearance of the countryside and on the site's role as part of an Area of Significant Local Environmental Value; and
 - (c) Whether the benefits of the proposal are sufficient to outweigh any identified harm and resultant policy conflict.

Reasons

The site and surroundings and the proposal

5. The appeal site comprises approximately 9 hectares (ha) of land on the edge of Rudheath but separated from the existing built up area by the Mid Cheshire Railway line which forms its eastern boundary. Its boundary to the south is formed by the A556 and to the north and west by Shipbrook Road. Gad Brook, a tributary of the River Dane, flows through the site and its steeply sided and wooded valley divides the site into two distinct parts. The site sits within the broader expanse of the Dane Valley. The major part of the site is used as arable land.
6. The application was made in outline with all matters except access reserved for subsequent approval. The Parameter Plan identifies two main development parcels, either side of Gad Brook, with a combined area of around 5.2 ha and an indicative capacity for up to 180 houses. The Plan also indicates some 3.4ha of open space including land for formal and informal recreation and an amenity buffer to the site's frontages to Shipbrook Road. The existing woodland and habitat areas within and immediately adjoining the Gad Brook valley would be retained with their future management being secured by means of management plans. Two main site access points are proposed from Shipbrook Road with a third access for cycle and pedestrian use which would also serve as an emergency access when required. A series of pedestrian routes would run through the amenity areas and provide north to south public access through the site.

National and local policy context

7. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development and states that, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The Framework requires the Council to meet the full objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the Framework's policies, and advises that applications should be considered in context of the presumption in favour of sustainable development. Design is a key aspect of sustainable development and this includes consideration of the effect of development on the intrinsic character and beauty of the countryside and on biodiversity. Development should

- contribute to the protection and enhancement of the natural and built environment.
8. Although a material consideration the Framework does not change the status of the statutory development plan which in this case comprises the Cheshire West and Chester Local Plan (Part One) Strategic Policies document (CWCLP Part One), which was adopted in January 2015, and the saved policies of the Vale Royal Borough Local Plan First Review Alteration (2006) (VRBLP). The Council is able to demonstrate a 5 year forward supply of housing land and the relevant development plan policies for the supply of housing should not therefore be regarded as being out of date having regard to paragraph 49 of the Framework.
 9. The explanatory text to Policy STRAT 9 of CWCLP Part One, concerning Green Belt and the countryside, explains that new settlement boundaries for the borough's four urban areas will be defined within Part Two of the CWCLP and that, until these have been defined, the retained policies of the VRBLP relating to settlement boundaries and development beyond them will continue to operate; the relevant saved policy is VRBLP Policy GS5. The appellant seeks to argue that Policy GS5 and the related settlement boundaries should be regarded as being out of date, because the boundaries were first defined some 14 years ago, and that the Framework's policies should be given greater weight in accordance with the final bullet of paragraph 14.
 10. The approach adopted in Policy STRAT 9 was introduced on the recommendation of the CWCLP Examining Inspector who stated that the modification was necessary to provide clarity and a clear basis for decision making (paragraph 162 of Examining Inspector's report December 2014). Of those Inspectors who have determined housing appeals in the borough since the adoption of CWCLP Part One the majority have given the saved VRBLP policies and settlement boundaries full weight. In respect of the Church Street, Davenham appeal decision (APP/A0665/W/15/3005148), issued on the 21 January 2016, the Inspector rejected the appellant's contention that the policies were out of date, noting that the issue had been specifically addressed by the CWCLP Part One Examining Inspector who found that the Plan was sound and, in making no stipulation as to when the Part Two plan should be published, had not set any time limit for the continued application of those boundaries.
 11. In the High Street, Tarporley appeal decision (APP/A0665/A/14/222785), issued some 4 weeks after the Church Street decision, the Inspector has given reduced weight to the relevant policies because of the age of the settlement boundaries. The Council has lodged a legal challenge to the Tarporley decision and, accordingly, it cannot at present be relied upon as setting any precedent as to the correct approach for a decision maker to take on these matters. Having regard to the above considerations I find that saved Policy GS5 is not out of date and that, given its consistency with the Framework's core principles with regard to the protection of the countryside, it should be afforded full weight.
 12. The site adjoins but lies outside of the settlement boundary for Rudheath as and is within the open countryside. VRBLP Policy GS5 states that the character and appearance of the open countryside will be protected and that new buildings will not be allowed unless provided for through other policies of the

Plan. CWCLP Part One Policy STRAT 9 states that the intrinsic beauty of the countryside will be protected by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. The appeal proposal does not fall within any of the exceptions to that general policy approach. Hence, the proposal would conflict with Policy GS5 and Policy STRAT 9 and, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, it is necessary to consider whether other material considerations indicate that planning permission should nonetheless be granted.

Spatial strategy and housing need

13. Policy STRAT 1 of CWCLP Part One states that proposals that are in accordance with relevant policies of the development plan and support a number of sustainable development principles, as set out in the policy, will be approved without delay, unless material considerations indicate otherwise.
14. Policy STRAT 2 sets a housing requirement for the period 2010-2030 of at least 22,000 dwellings (1,100 net dwellings per annum). Policy STRAT 5 identifies Northwich as the focus for development in the east of the borough and states that provision will be made for at least 4,300 new dwellings in this area. Northwich is defined as comprising the town of Northwich and the adjacent settlements including Rudheath.
15. As at 1 April 2015, a total of 687 dwellings had been completed within the Northwich spatial area, and existing commitments (sites with planning permission) had the potential to provide some 3,561 dwellings. In light of these figures and by including a 'small sites allowance' of 252 dwellings, the Council states that the planned level of development in Northwich over the plan period has effectively already been met. Other permissions have been granted since April 2015, further adding to the supply, and I accept that this represents a good level of progress in meeting the projected housing requirement in Northwich. However, the identified requirement of 4,300 is a minimum and not a ceiling figure and I note that Policy STRAT 7 states that Northwich is one of the towns within which the Council will investigate the longer term potential for further sustainable growth.
16. The Council's Strategic Housing Market Assessment (SHMA) of 2013 identified the need across the borough for 714 affordable dwellings per annum between 2013 and 2018 if the backlog in the provision of such housing is to be cleared over a 5 year period. The SHMA recommended the delivery of 136 units per annum, to meet affordable housing needs in Northwich which was identified as the second most popular location in the Borough for those seeking such accommodation
17. The Council's figures, at Table 7.5 of its appeal statement, show that only 733 affordable units were completed in 2013-2105, representing a significant shortfall against the 714 annualised figure and suggesting that the backlog has increased rather than decreased over the first two years of the five year period to 2018. There are some 2,600 affordable units on sites with planning permission and, together with completions, this potential supply would amount to more than four times the annualised requirement. However, it seems unlikely that all of these dwellings will be completed by the end of March 2018 and, if that is the case, there would still be a backlog in affordable housing provision at the end of the 5 year period referred to in the SHMA. Within the

Northwich area there are some 650 units on sites with planning permission. This roughly equates to 4.7 years supply against the 136 annualised requirement but, assuming a similar under-delivery in Northwich in the 2013 - 2105 period as for the borough as a whole, it seems likely that there will still be a backlog as at 1 April 2018.

18. The Council contends that the 714 dwelling per annum figure set out in the SHMA was not intended to represent a requirement over the period 2013 to 2018. However, the paragraphs in the CWCLP Part One Examining Inspector's report, referred to by the Council, give no indication that the Inspector intended that the backlog should be cleared over a longer period. I also note, and agree with, the comments made by the Inspector in the Church Street, Davenham appeal decision that it is difficult to understand why the Council would not seek to clear the backlog over the 5 year period given that it has adopted the 'Sedgefield' method in relation to dealing with its overall housing shortfall.
19. Taking the above matters into account I consider that there is a sizeable remaining need for affordable housing both within the borough as a whole and within the Northwich spatial area. The current supply position indicates that the Council is making good progress in meeting the identified requirement for market housing in Northwich but, provided that development proposals are acceptable in other respects, Policies STRAT 2 and STRAT 5 do not preclude the delivery of more than the minimum number of dwellings set out in those policies.

Character and appearance

20. The appeal site lies within an Area of Significant Local Environmental Value (ASLEV). Saved VRBLP Policy NE12 states that such areas are of special value because of the contribution that they make to the character of the district and the towns and villages within it and that development will only be permitted where there is no unacceptable harm to the value of the area. In relation to the Leftwich and Rudheath part of the ASLEV in which the appeal site is located, Policy NE12.A identifies that development pressures threaten the existence of an environmental buffer between the two settlements and that the area is important as it provides vital open space and a recreational function along the River Dane.
21. The supporting text to Policy NE12 notes that the then national planning guidance in PPS7 advised that this type of local landscape designation should only be maintained where it can be shown that criteria based policies cannot provide the necessary protection. I agree with the Inspector's comments in the Barnside Lane, Moulton appeal decision (APP/A0665/A/13/2198931), dated 30 December 2013, that the Framework only gives significant weight to national landscape designations and that its sole reference to the protection of gaps between settlements is in the context of Green Belts. For this reason I consider that NE12 is not fully consistent with the Framework and that limited weight should be given to it. Consideration does, however, need to be given to the relevant policies in CWCLP Part One.
22. Policy STRAT 5 states that the character and individuality of the settlements that form the wider built up area of Northwich will be safeguarded and Policy ENV 2 states that the Plan will protect landscape character and local distinctiveness by, amongst other things, the identification of key gaps

- between settlements to protect and maintain their character. An Advisory Position Paper¹, published in February 2016 includes the existing gap between Leftwich and Rudheath as a likely candidate for such designation.
23. Whilst the open land between Leftwich and Rudheath is being considered for designation as key gap in the Part Two Plan this work is at an early stage. In line with Policy ENV 2, the designation of a key gap will need to be made on the basis of its contribution to the protection of landscape character and local distinctiveness rather than simply for the purpose of maintaining the existing gap between the built up areas of the settlements.
24. In this context the Council's Supplementary Planning Document 5 (SPD5), adopted in 2007, provides a helpful summary of the key characteristics of the Dane Valley Landscape Character Area (LCA). The list includes a 'notable absence of built development' but also includes a number of other factors relating to land form, field sizes, woodland and other vegetation and recreational opportunities. Having regard to that summary and to the table set out on pages 37 to 39 of the Landscape and Visual Impact Assessment (LVIA), I agree with the appellant that, whilst the appeal site contains features which are representative of the Dane Valley LCA it does not contain any particular notable, rare or unique features. I also consider that, in its current condition and use, the site makes a very limited contribution to SPD5's overall management objectives of conserving the rural/pastoral character of the valley and of extending/enhancing woodland, unimproved grassland and wetland habitats.
25. The development of the site as proposed would result in a reduction in the physical extent of the existing gap between Leftwich and Rudheath. However, this narrowing would occur in a different part of the valley than that resulting from the Northwich Meadows development, and a substantial gap and environmental buffer would be maintained. In light of this, and in view of how much of the Dane Valley has been identified in the Council's Strategic Flood Risk Assessment as being within Flood Zones 2 and above, the development of the appeal site would not result in any significant risk of coalescence of the two settlements. Also, whilst I accept that the Mid Cheshire Railway currently provides a clear boundary to the built area of Rudheath, I see no reason why Shipbrook Road should not operate as a suitable and logical new boundary to the settlement.
26. Although much of the built development would be at a similar level to some existing areas of built development around the edge of the valley it would breach the valley crest in this location and cause some harm to landscape character. However, built development would be confined to the land currently in arable use which makes a very limited contribution to the landscape or ecological value of the site. The proposal would not only safeguard but also provides an opportunity to restore the existing woodland within the Gad Brook Valley and to extend woodland cover on the valley slopes. Some existing hedgerow would need to be removed to accommodate the proposed highway improvement works but would be replaced, and hedgerow elsewhere in the site would be retained and improved where necessary.

¹ Cheshire West and Chester Local Plan (Part Two) Local Landscape Designation Review Advisory Position Paper February 2016. Part 2: Identification of Key Settlement Gaps outside the Green Belt in Cheshire West and Chester.

27. Existing habitats would be safeguarded or sensitively replaced and, as a result of the increase in the overall number of trees on the site and the restoration of parts of the intensively farmed arable land to seasonal meadows and other ecologically led land uses, the proposal would provide the potential for the biodiversity of the site to be enhanced. The appeal scheme would also create a network of paths running through the proposed areas of recreational and amenity space providing public access where no such access currently exists. These paths would provide opportunities for passive recreation within the site itself and, by providing a safe north-south pedestrian route linking to the existing public footpaths, would support and provide additional opportunities for recreational use of the landscape of the wider Dane Valley. All of these potential benefits would help to further key land management objectives for the Dane Valley LCA as set out in SPD5.
28. As accepted by the Council, views of the proposed development from the A556 and from Rudheath to the east of the railway would be heavily screened by existing vegetation and the proposal would not have substantial landscape or visual impacts on the wider landscape character of the valley. Some views would be possible from points along Shipbrook Road itself but I am satisfied that the planned replacement and improvement of hedgerows and the proposed design approach to site levels and the arrangement of blocks of houses within the site would minimise the effect of the development in those views.
29. I recognise that the proposal is in outline form. However, the opportunity exists, through the means of the Parameter Plan and the landscape and urban design frameworks and character area approach set out in the appellant's Design and Access Statement, to achieve a development which respects and enhances the main features of landscape and ecological value within the site. Woodland, landscape and ecology management plans would provide additional means of control to ensure that agreed restoration and enhancement works are carried out and maintained over the medium term. I also accept the appellant's submission that, if developed in accordance with those frameworks and principles, the proposal has the capacity to result in an overall improvement in the landscape and ecological value of the appeal site.
30. Having regard to these various matters, I find that the proposal would comply with CWCLP Policy ENV 2 in that the appellant's landscape and design frameworks take full account of the characteristics of the site and its surroundings and that the outline proposal both recognises and seeks to incorporate features of landscape quality into the scheme design. The proposal would not result in significant harm to landscape character or the landscape value of the valley or to the individuality or local distinctiveness of Rudheath and Leftwich; accordingly it would not conflict Policy STRAT 5 or saved VRBLP Policy NE14 in that regard. The proposal would not cause unacceptable harm to the value of the Leftwich and Rudheath ASLEV nor give rise to any conflict with saved VRBLP Policy NE12, albeit that I give that policy reduced weight for the reasons set out above.

Benefits of the proposal

31. Given its close proximity to Rudheath and Northwich town centre the site enjoys a good level of accessibility by non-car modes of travel to schools, employment opportunities, shops and other facilities and services and, for

these reasons, can be considered to be a sustainable location. The new homes proposed would make a valuable contribution to meeting housing needs in Northwich and to the provision of a range and choice of accommodation. In view of my conclusion regarding the ongoing need for affordable housing within the borough and the Northwich spatial area, the provision of up to 54 affordable dwellings would be a significant benefit to which I attach considerable weight. The proposal would also bring substantial economic benefits in terms of New Homes Bonus payments, construction employment and expenditure, and additional spending by the future occupants of the proposed dwellings on goods and services. The future residents could also provide an additional pool of potential recruits for business in Gadbrook Park and other local employment areas to draw upon.

32. I note the Council Highway Officer's comments that all of the proposed highway improvement works are required to accommodate the additional traffic generated by the development and to mitigate its potential effects on highway safety. Whilst it may be the case that the development could not reasonably be progressed without those works, I consider that the improvement of the junction of Shipbrook Road with the A556, and the provision of improved forward visibility splay on what are currently almost blind bends in Shipbrook Road, would be likely to have some wider public benefits. I also consider that the provision of off-street parking for visitors to the cemetery would be of benefit in terms of increasing the safety of those visitors and other users of Shipbrook Road.
33. The open space provision within the site is likely to be used mostly by residents of the new housing development. However, the creation of a network of paths through this area would have the dual benefit of creating a north-south pedestrian route as a safer alternative to walking in the carriageway on Shipbrook Road and of facilitating and encouraging increased recreational use of the Dane Valley. The restoration and future management of the site's woodland and ecological features would also make an important contribution to the enhancement of the environmental value of this part of the Valley and should be regarded as significant benefits of the proposal.

Conditions

34. A number of conditions agreed between the parties were discussed at the hearing and I have used these as the basis for drafting of the conditions set out in the schedule. Standard conditions relating to the submission of reserved matters and the timescales for the making of such applications and the commencement of development are needed.
35. I have imposed conditions requiring that the reserved matters should accord with the Site and Parameter Plan in order to ensure that built development is limited to the less environmentally sensitive parts of the site and that there is an appropriate balance between built development, formal and informal open space and retained and extended woodland, and other vegetation. The landscape, visual and ecological impacts have been assessed having regard to the landscape and design frameworks and other key design principles and I have found the proposals to be acceptable on this basis. Hence a condition I is needed requiring that the reserved matters details should generally accord with the landscape and design frameworks and sustainability principles set out in

- the appellants' Design and Access Statement and with recommendations set out in the Atmos tree report.
36. As the site is divided into two distinct parts and in view of the need, in of the need, for highway safety reasons, to construct the site accesses and associated highway improvements before works commence within the main body of the site, it is appropriate that a condition be imposed which requires the submission and approval of a development phasing plan before any part of the development is commenced. In order to ensure that satisfactory provision is made for affordable housing it is also necessary that a condition be imposed which requires the submission and approval of a detailed scheme for affordable housing before any development takes place.
37. Given the need to minimise inconvenience to users of Shipbrook Road, and to avoid unnecessary noise or disturbance to nearby residents, a condition is needed to require a Construction Method Statement to be submitted and approved before development is commenced. A condition requiring the submission and approval of a Construction Environmental Management Plan is also needed to ensure that all works, including access and highway improvement works, are carried out in a manner that minimises the risk of damage to trees, hedges and other vegetation to be retained and to areas of habitat value. A condition is needed to require that a scheme for on site parking provision for visitors to the cemetery, and for a programme for the completion of those works, is submitted and approved before development is commenced. This is required to ensure that the necessary mitigation for the loss of the existing on-street parking is provided at an appropriate point in the construction programme.
38. In the interests of safeguarding the site's ecological value I have imposed conditions that require the submission of updated survey reports in relation to otters and badgers and the agreement of appropriate mitigation measures if evidence of these species is found. The conditions suggested by the Council included one requiring the sharing of information in the event of ground contamination being discovered during the course of development but, in line with the recommendations in the Phase 1 Desk Top Study, I have replaced this with a condition which requires that a Phased 2 Site Investigation is carried out and that its findings are submitted to the local planning authority. The updated and additional information in relation to otters, badger and site contamination risks is required prior to any development being carried out in order to ensure an acceptable standard of development and to minimise the risk of harm to construction workers, future occupiers of the development and to ecological interests.
39. Means of access is approved as part of the outline permission and the approved locations of the three access points are shown on the Parameter Plan. However, that plan is not of sufficient scale to confirm the detailed geometry of the site accesses and related visibility splays. Further detail is shown on Jacobs drawing No UN60148-ECC-DG-0004 but that drawing is labelled 'Preliminary Issue' and is not an approved plan. In the interests of certainty I have therefore imposed a condition which requires the submission and approval of detailed construction plans for the access and highway improvement works. In order to minimise congestion and disruption to the highway the condition also requires that the agreed works are completed prior

- to the commencement of others works on the site or in accordance with a phasing plan agreed by the Council.
40. There are a number of other details which will need to be submitted and approved by the local planning authority prior to commencement of development in order to ensure that the development can be carried out in a satisfactory manner and with minimum harm to the environment. Conditions have been imposed in respect of the preparation and approval of surface and foul water drainage systems, management plans for the existing and proposed woodland, landscape and habitat within the site, and the provision of open space and play space. In the interests of proper planning, and to avoid any potentially abortive works, it is appropriate that all of these details should be approved prior to the commencement of any works within the main body of the site.
41. In the interests of ensuring the protection of trees which are to be retained and minimising the risk to nesting birds, conditions have been imposed which require the submission of a tree protection scheme and for vegetation works to be undertaken outside of the nesting season. Conditions have also been imposed which restrict the hours of working and for deliveries to or from the site during the construction period, and precluding any piling works on the site in order to avoid unnecessary noise and disturbance to the occupants of nearby residential properties.
42. Although details of the layout and design of the proposed dwellings are to be dealt with at reserved matters stage there will be a need for appropriate control over the site levels at which development is positioned in order to minimise its effects in landscape and visual terms and a condition has been imposed to require that finished floor and garden levels of the proposed dwellings are approved. For similar reasons a condition is needed to provide control over any external lighting which would not form part of the reserved matters submissions. I have not attached the Council's suggested conditions with regard to soft landscaping, cycle and car parking provision, external materials, hard surfacing and boundary treatments as I consider that these can be dealt with as part of the reserved matters submissions.
43. In order to ensure a satisfactory standard of development a condition is needed to provide that all roads, footpaths and cycle paths should be constructed to the Council's standard specification and that those works giving access to or servicing any individual dwelling should be completed before that dwelling is first occupied. In the interests of safeguarding and enhancing the site's ecological value I have imposed a condition requiring that a scheme for the provision of bat and bird boxes be submitted and approved before any dwelling on the site is occupied and that the scheme is implemented as agreed. Finally, in order to ensure that the development is carried out in a sustainable manner and that future residents are provided with a range of sustainable travel options, a condition is needed to require the submission and approval, prior to any part of the development being occupied, of a Travel Plan.

Other Matters

44. The Unilateral Undertaking has been submitted by the appellant contains obligations with regard to the payment of a financial contribution to the costs of providing or improving paying pitch facilities in the Council's area and for the costs of monitoring by the Council of the implementation of the Travel Plan. I

am satisfied that the undertaking meets the requirements of S106 of the Act² and would be capable of being enforced by the Council.

45. These obligations are necessary to make the development acceptable having regard to the Council's policies relating to playing pitch provision and sustainable transport; are directly related to the development; and are fairly and reasonably related in scale and kind to the development proposed. They therefore meet the tests set out within Regulation 122(2) of the Community Infrastructure Regulations 2010 (as amended) and should be taken into account in the determination of the appeal.
46. A number of third party representations have raised concerns with regard to the effects of the traffic generated by the proposed development but I accept the Highway officer's conclusions that, with the various improvements proposed, there will be no significant effects on the safe operation of the local highway network. Although some concerns have also been raised with regard to flooding, the ability of the bridge over the railway to carry HGV traffic and the availability of school places I have seen no evidence to substantiate any of those concerns.

Conclusions

47. For the reasons set out above I find that the proposal would make a positive contribution to meeting market and affordable housing needs in the borough and within the Northwich spatial area and, as the housing requirement figures in CWCLP Part One are minimum figures, there would be no conflict with Policies STRAT 2 or STRAT 5. Having regard to its likely landscape and visual effects, I conclude that the proposal would comply with CWCLP Part One Policies ENV 2 and STRAT 5 and with saved VRBLP Policies NE12 or NE14. The proposal would comply with some of the principles of sustainable development set out in CWCLP Part One Policy STRAT 1 with regard to the site's accessible location for new homes and the protection and enhancement of the natural environment but would conflict with the principles concerned with encouraging the use of previously developed land and minimising the loss of greenfield sites. Clear conflict would also arise with saved VRBLP Policy GS5 and CWCLP Part One Policy STRAT 9 with regard to development outside of the defined settlement boundary and in the open countryside.
48. Having regard to the conflict with STRAT 9 and Policy GS5 I conclude that the proposal would be contrary to the development plan when considered as a whole. However, that conflict would be clearly outweighed by the significant benefits of the proposal with regard to the provision of market and affordable housing within Northwich, economic and landscape/ ecological benefits, and the scheme's contribution to improved highway safety on Shipbrook Road and the A556. I therefore conclude that the appeal should succeed.

Paul Singleton

INSPECTOR

² Town and Country Planning Act 1990

APPEARANCES

APPELLANT

Mike O'Brien	WYG
Elinor George	WYG
Andrew Roberts	Planit-IE
Gillian Webb	Planit -IE
Nigel Robson BD MSc MCILT MIHT	SWECO

COUNCIL

Jill Stephens	Senior Planning Officer
Gill Smith	Planning Policy Manager
Beth Fletcher	Senior Planning Officer

DOCUMENTS SUBMITTED AT THE HEARING

Notification Letter in respect of the date, time and venue for the hearing

Signed Statement of Common Ground

Signed Unilateral Undertaking

Copies of Vale Royal Borough Local Plan Policies and extract from Proposals Map

Copies of Cheshire West and Chester Local Plan Policies

Supplementary Planning Document 5

Cheshire West and Chester Local Plan (Part Two) Local Landscape Designation Review Advisory Position Paper February 2016 – Part 2: Identification of Key Settlement Gaps Outside the Green Belt in Cheshire West and Chester

A3 Plan from the Cheshire West and Chester Strategic Flood Risk Assessment 2016

Officer Report re Application No 13/03676/OUT relating to land at Dane Valley, Northwich

Note setting out the Council's grounds of challenge to Appeal Decision Ref: APP/A0665/A/14/2227851

SCHEDULE OF CONDITIONS FOR APPEAL REF: APP/A0665/W/15/3140241

- 1) Details of the appearance, landscaping (including details of trees and hedgerows to be retained), layout, and scale of the development hereby permitted, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The reserved matters submitted pursuant to condition No 1 above shall accord with the following approved plans:
 - Location Plan (Drawing No PL1170.2.P.101 Revision A)
 - Parameter Plan (Drawing No PL1170.2.P.103 Revision C)
- 5) The reserved matters submitted pursuant to condition No 1 above shall be in general accordance with the Landscape and Design Frameworks and Sustainability Principles set out in the Planit-IE Design and Access Statement dated September 2014, and with the recommendations set out in the Atmos Consulting Tree Survey Report dated 17th September 2014.
- 6) No development, shall take place until a Development Phasing Plan, setting out the details of the proposed phasing of development, related site accesses, infrastructure and associated works, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved plan.
- 7) No development shall take place until a scheme for the provision of affordable housing has been submitted to and approved in writing by the Local Planning Authority.

The affordable housing shall be 30% of the total number of dwellings to be provided on site and shall meet the definition of affordable housing in the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

 - i) the numbers, tenure and location on the site of the affordable housing provision to be made;
 - ii) the type and mix of affordable dwellings, which shall be a split of 50:50 intermediate/affordable rent unless otherwise agreed in writing by the local planning authority.
 - iii) the timing of the construction of the affordable housing and its phasing in relation to the occupation of the market housing;
 - iv) the arrangements for the transfer or management of the affordable housing;

- v) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing, so far as is consistent with the tenure type of the affordable housing; and
- vi) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced;

All parts of the approved scheme for the provision of affordable housing shall be implemented in full.

- 8) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the routes to be used for HGVs delivering plant and materials to the site or removing waste or other materials from the site
 - ii) site compounds and offices and the parking of vehicles of site operatives and visitors
 - iii) loading and unloading of plant and materials
 - iv) storage of plant and materials used in constructing the development
 - v) the erection and maintenance of any security hoarding proposed including decorative displays and facilities for public viewing, where appropriate
 - vi) wheel washing facilities
 - vii) measures to control the emission of dust, dirt, noise and light during construction
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 9) No development shall take place until a Construction Environmental Management Plan, indicating details for the protection of habitats and species during the construction works, has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period.
- 10) No development shall take place until a scheme including full details and a programme for the provision within the site of 10 car parking spaces for use by visitors to Rudheath cemetery has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the agreed details and programme and the parking spaces shall be retained for the exclusive use for parking for visitors to the cemetery at all times thereafter
- 11) No development shall take place until an updated otter survey, carried out by a licensed ecologist to best practice guidelines, has been submitted to the local planning authority. If evidence of the presence on or use of the site by otters is found, a mitigation plan (to be shown on proposed site/elevation plans) and a method statement of works shall be submitted to and approved in writing by the local planning authority. All works shall subsequently be carried out in strict accordance with the approved mitigation plan.
- 12) No development shall take place until an updated badger survey, carried out by a suitably qualified ecologist to best practice guidelines has been

submitted to the local planning authority. If evidence of the presence on or use of the site by badgers is found, a mitigation plan (to be shown on proposed site/elevation plans) and method statement of works to include details of the landscaping to the east-west access corridors in the northern half of the site shall be submitted to and approved in writing by the local planning authority. All works shall subsequently be carried out in strict accordance with the approved mitigation plan.

- 13) No development shall take place until a Phase 2 site investigation has been carried out as recommended in the ROC Phase 1 Desk Top Study dated August 2014 and in accordance with a methodology which shall have previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development takes place. If any land contamination issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development takes place. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 14) No development shall take place until detailed plans for the construction of the site accesses and highway improvement works, as indicated in Jacobs Drawing No. UN60148-ECC-DG-0004, dated 22 May 2014, have been submitted to and approved in writing by the local planning authority and the works shall be carried out in strict conformity with the approved details. The construction the site accesses and agreed highway improvement works shall be completed and be available for use prior to the commencement of any other development or construction works within the site, or in accordance with a phasing plan agreed in writing by the local planning authority. The approved visibility splays to the vehicular access points shall thereafter be kept free of any structure or other obstruction above 1 metre in height.
- 15) No development, other than works involved in the construction of the approved site accesses, highway improvements or on-site parking provision for visitors to the cemetery, shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. The scheme shall implemented in accordance with the approved details prior to any part of the development hereby approved coming into use.

The scheme to be submitted shall:

- i) incorporate infiltration testing in accordance with the BRE 365 guidance to clarify whether or not infiltration into the ground is a viable means of disposing surface water from the site.

- ii) demonstrate that the surface water drainage system(s) are designed in accordance with CIRIA C697 and C687 and the National SuDS Standards, should the latter be in force when the detailed design of the surface water drainage system is undertaken.
 - iii) demonstrate no detriment to the hydrological regime of Gad Brook.
 - iv) limit the discharge rate generated by all rainfall events up to and including the 100 year plus 30% (allowance for climate change) critical rain storm to the Greenfield run-off rates for the site.
 - v) demonstrate the provisions of surface water run-off attenuation storage in accordance with the requirements specified in 'Science Report SC030219 Rainfall Management for Developments'.
 - vi) demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation system, and outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
 - vii) where the development is completed in phases, the calculations should demonstrate that the designed system performs at all phases of development and link together to form an effective system during each phase as well as on final completion. The drainage system for a particular phase shall be implemented before the completion of that phase of the development.
 - viii) confirm how the on-site surface water drainage systems will be adopted and maintained in perpetuity to ensure long term operation at the designed parameter.
- 16) No development, other than works involved in the construction of the approved site accesses, highway improvements or on-site parking provision for visitors to the cemetery, shall take place until a detailed foul water drainage scheme for the development has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.
- 17) No development, other than works involved in the construction of the approved site accesses, highway improvements or on-site parking provision for visitors to the cemetery, shall take place until 15 year Management Plans, for the management of existing and proposed woodland, principal landscape features, habitats and species within the site have been submitted to and approved in writing by the local planning authority. The Plans shall subsequently be implemented in accordance with the agreed details.
- 18) No development, other than works involved in the construction of the approved site accesses, highway improvements or on-site parking provision for visitors to the cemetery, shall take place until full details of on-site open space/play space provision have been submitted to and approved in writing by the local planning authority. Details shall include the programme for the provision of the open space/ play space in accordance with the agreed phasing plan for the development and the proposed arrangements for the future management and maintenance of

- the open space. The open space and play space shall be provided in strict accordance with the approved details and agreed programme.
- 19) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
 - 20) Vegetation clearance works shall take place outside of bird-nesting season (1st March to 31st August inclusive). If this is not possible, vegetation should be checked prior to works by an ecologist and details submitted for approval with an appropriate mitigation scheme.
 - 21) No development, including demolition and/or construction works, shall take place outside the hours of 08.00 to 18.00 Mondays to Fridays, 08.00 to 13.00 on Saturdays or at any time on Sundays or Bank Holidays. Any variation to the hours of operation shall be submitted to and agreed in writing by the local planning authority prior to any agreed change being implemented.
 - 22) No deliveries relating to the construction of the development hereby permitted shall be taken at or despatched from the site outside the hours of 08.00 to 18.00 Mondays to Fridays, 08.00 to 13.00 on Saturdays or at any time on Sundays or Bank Holidays.
 - 23) No piling shall be carried out as part of the development hereby permitted, other than in accordance with a scheme which has previously been submitted to and approved in writing by the local planning authority.
 - 24) Prior to the construction of any dwelling in any agreed phase of development full details of existing levels and proposed finished floor (slab) and site (garden) levels for all the dwellings in that phase shall be submitted to and approved in writing by the Local Planning Authority. All submitted details must relate to adjoining land. Development shall be carried out in accordance with the approved details
 - 25) Prior to the commencement of construction of any dwellings in any agreed phase of development a scheme showing full details of all external lighting within that phase plan shall be submitted to and approved in writing by the local planning authority. The lighting scheme should seek to minimise lighting adjacent to tree, hedgerow and woodland boundaries. The scheme shall be implemented in accordance with the approved details prior to the occupation of any dwelling within that phase.
 - 26) All highways, footways and cycleways within the approved development shall be designed and constructed in accordance with the highway authority specification and shall be constructed to the satisfaction of the local planning authority. No dwelling/building shall be occupied until that part of the highway/footway/cycleway network which provides access to it has been constructed in this way and up to binder-course level. The

surface course shall then be completed within a timescale which has to be agreed in writing by the local planning authority prior to the occupation of any part of the development.

- 27) No dwelling shall be occupied until a scheme for the provision of bat and bird boxes has been submitted to and approved in writing by the local planning authority. The scheme shall include details and numbers of boxes to be provided, their proposed locations and a programme for their installation. The boxes shall be provided in accordance with the approved scheme.
- 28) No dwelling shall be occupied until a Travel Plan has been submitted to and agreed in writing by the local planning authority. The Travel Plan shall include provision for the appointment of a Travel Plan Co-ordinator.

END OF SCHEDULE OF CONDITIONS

Richborough Estates