



Appeal Decision

Inquiry held on 1-2 and 6 October 2009

Site visit made on 6 October 2009

by **Jean Russell MA MRTPI**

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

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Decision date:
3 December 2009

Appeal ref: APP/R0660/A/09/2105034

Cardway Premises, Linley Lane, Alsager, Cheshire, ST7 2UX

- 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 Mr John Redfern against the decision of Congleton Borough Council, now replaced by Cheshire East Council.
- The application (ref: 08/0731/OUT), dated 25 April 2008, was refused by notice dated 5 December 2008.
- The development proposed is four 5,000 square feet (B1/B2/B8) units and up to 108 dwellings (C3).

Decision

1. I dismiss the appeal.

Clarifications

2. The outline application included details of the proposed means of access to the site. The matters of appearance, landscaping, layout and scale were reserved for future consideration. The submitted drawings included a site location plan, a constraints and opportunities plan and an illustrative masterplan. A plan of the proposed accesses into (but not across) the site, BMT.123HTB-02/P2, was included in the appellant's Transport Statement.
3. A revised illustrative masterplan (Rev A – 13/5/08) was submitted during the course of the application, with a cover letter dated 12 May 2008. The letter indicates that a landscaped buffer between the proposed commercial units and dwellings would be best maintained by the owner of the former, to prevent it from being annexed into gardens. The effect of this would be to reduce the net developable area and the maximum number of dwellings – from 108 to 105 at a density of 45 dwellings per hectare (dph).
4. I understand that the Council determined the application on the basis of the revised plan. However, it is not mentioned in the relevant committee report or decision notice. Both the Council and the appellant referred to the 105 and 108 figures interchangeably in evidence. The revised Statement of Common Ground (RSCG)¹ confirms that neither party has sought to formally change the description of development. In my view, since layout and scale are reserved matters, and the description of development includes the phrase 'up to', the appeal should be assessed on the basis of the original figure of 108 dwellings. I take account of the revised plan, but it is illustrative only.

¹ ID15

5. The RSCG was submitted on the final day of the inquiry following discussion on housing supply figures. A Section 106 (S106) planning obligation, dated 13 October 2009,² was submitted after the inquiry following discussion on an earlier version. It is proffered in the form of an agreement with the Council and it includes a covenant to release the original agreement in full.

Main Issue

6. The second reason for refusal was that part of the site is greenfield land and insufficient information had been provided to show that the proposed development had been sequentially assessed. In a letter of 8 July 2009, the Council stated that it would not present evidence in support of this objection.
7. I therefore consider that there is one main issue in this case: the implications of the proposed development for the provision of employment sites in the area, having regard to the suitability of the appeal site for continued employment use and any planning benefits of the proposal.

Planning Policy

8. The development plan comprises the *North West of England Plan: Regional Spatial Strategy to 2021* (RSS) and policies in the *Congleton Borough Local Plan First Review* (LP) of 2005 that were saved by Direction of the Secretary of State. I consider the following policies of most relevance to this appeal.
9. RSS Policy DP1 sets out spatial principles to which all individual proposals should adhere; these include promoting sustainable communities and sustainable economic development, making best use of existing resources and managing travel demand. Policy DP4 indicates that development should accord with a sequential approach, prioritising the use of existing buildings and previously developed land within settlements. Policy RDF2 aims to concentrate development in rural areas within key service centres.
10. RSS Policy W3 requires provision to be made for a supply of employment land. Policy L4 requires local planning authorities (LPAs) to provide for housing by monitoring and managing the availability of land and through development control decisions. Policy L5 seeks to ensure the delivery of affordable housing.
11. LP Policy E10 indicates that the redevelopment of an existing employment site or premises to non-employment uses will not be permitted unless it can be shown that the site is no longer suitable for employment uses **or** there would be substantial planning benefit in permitting alternative uses that would outweigh the loss of the site for employment purposes.
12. LP Policy H1 sets out requirements for the provision of new housing. Although the policy has been saved, it is in my view superseded by RSS Policy L4. Policy H2 seeks to manage the distribution of housing across the former Congleton borough. Policy H13 sets out requirements for affordable housing.
13. I heard that the *Core Strategy and Land Allocations Development Plan Document* (DPD) for the new Cheshire East Council are at early stages of preparation. Work on the Local Development Framework for Congleton was abandoned when the local authorities were reorganised. However, the parties

² ID21

agree that there is relevant information in various background policy and research documents pertaining to the former borough, including those listed in Annex B to this decision.

14. I have had regard to the Council's *Supplementary Planning Document 6: Affordable Housing and Mixed Communities (SPD6)* and *SPD16: Manchester Metropolitan University, Alsager Campus Development Brief*. Relevant Government guidance is contained in *Planning Policy Statement 1: Delivering Sustainable Development (PPS1)*, *PPS3: Housing*, and *Planning Policy Guidance 4: Industrial, Commercial Development and Small Firms (PPG4)*.

Reasons

15. The appeal site is an irregularly-shaped parcel of land almost 3ha in size. It is bound by Linley Lane to the east; the Crewe-Stoke-Derby railway line to the north; open space and dwellings at Talke Road to the west; and the gardens of properties at Linley Grove to the south. The site lies within 1.2km of Alsager town centre and 800m of the local railway station.
16. The site includes a dual bay steel portal-framed building with approximately 6782m² of floorspace for unrestricted B2 (general industrial) uses. An access road from Linley Lane runs around the building, to and from a yard on the western side. Outbuildings on the site include a bungalow which contains some 145m² of office floorspace. The far western portion of the site comprises semi-overgrown land. This is designated as protected open space in the LP but there is no public access to it.
17. Just over half of the main building is occupied by Cardway Cartons Ltd (CCL), a packaging manufacturing company which also utilises the yard. CCL currently employs approximately 41 people, but the number has fluctuated. About a third of the remaining floorspace is occupied by Greenworld Technologies Ltd (GTL), which deals with computer hardware and employs some seven people. The rest of the building is vacant, but the bungalow is in use as a crèche on a temporary basis (and subject to planning permission).
18. The revised illustrative masterplan indicates that, following demolition of the existing buildings, the four proposed employment units would be sited on the eastern part of the site and accessed from Linley Lane. The proposed dwellings would be dispersed across the remainder of the land and accessed via a new road through an existing gate at the corner of Talke Road and Linley Road.
19. Since the proposed B1/B2/B8 units would provide some 1858m² of floorspace on about 20% of the site, there would be a net loss of employment land. In my view, it is therefore necessary to assess the proposed development against the criteria of LP Policy E10, which are set out as sub-headings below.

Suitability of the Site

Location of the Site or Premises

20. Alsager is a small market town largely surrounded by Green Belt. The RSCG states that the working age population in the town is approximately 7810. However, the *Cheshire and Warrington Market Towns Investment Prospectus (CWMTIP)* records that there are only around 3200 jobs here, and the largest employers, BAE Systems and Twyford Bathrooms, are now downsizing.

21. I heard that most industrial occupiers seeking to locate in South Cheshire or North Staffordshire are drawn to larger urban areas, such as Middlewich, Sandbach, Crewe, Newcastle-under-Lyme or Stoke-on-Trent, the centre of which is some ten miles from the site. The Stoke-on-Trent conurbation has good road links, a large, flexible workforce and a substantial choice of sites. The Council's 2005 *Employment Land Study* (ELS) concedes that demand for cheaper manufacturing space in Alsager is generally pulled to the Potteries.
22. Thus, it is plain that Alsager is not a primary industrial location. However, it does act as a key service centre for a rural hinterland. The *Cheshire and Warrington Rural Workspace Study* (CWRWS) of March 2009 notes that small businesses represent the majority of rural firms; the ELS records a strong demand for manufacturing space from small companies. In my view, the location of the appeal site close to Alsager town centre (and Staffordshire) could make it attractive to local and secondary industrial firms.
23. Linley Lane, or the A5011, is a single carriageway, and the site is a few miles from the nearest dual carriageway. It is approximately six miles from Junction 16 of the M6. The appellant therefore suggests that the site lacks the strategic access that most commercial occupiers require, particularly those whose core business is warehousing. However, I saw several heavy goods vehicles (HGVs) on Linley Lane, and most were passing rather than visiting the site. As Cllr Jones pointed out at the inquiry, Linley Lane does not go through Alsager town centre, so it is relatively free from congestion. I consider that drive times from the site to major roads and settlements should normally be reasonably short.
24. Linley Lane drops and rises to the north of the site, where it passes under the railway bridge. When travelling from the south, drivers new to the area gain the impression of limited visibility. When passing the site, however, it becomes clear that forward views are in fact generally good. Again when approaching from the south, the entrance to the site is concealed. Yet, while there have been accidents at the nearby junction of Linley Lane and Linley Road in recent years, the site access has a good safety record. In my view, any works required to improve sight lines here would be minor and achievable.
25. The appellant suggests that the adjoining dwellings to the south make the site less suitable for employment uses. There is no constraint on the hours of working at the site, and there is a history of complaints from local residents regarding noise. The Council sought (unsuccessfully) in 1996 to serve a Noise Abatement Notice and instigate proceedings against a previous occupier.
26. However, PPG4 indicates that many businesses can be carried on in residential areas without causing unacceptable disturbance. The site is subject to a planning condition which restricts the levels of noise on its eastern, southern and western boundaries at all times, especially at night. There is also a high leylandii hedge along the residential boundary. I understand that there have been few noise complaints in recent years, although the building has had various tenants, and the last objection was resolved by adjusting equipment.
27. There is little concrete evidence that the issue of noise has seriously constrained existing or deterred prospective occupiers. In my view, the relationship between the site and nearby residential properties is such that

many industrial or warehousing uses could be carried out in accordance with the existing condition and without prompting complaints.

28. I find that the location of the site does not render it unsuitable for employment uses. It would be surprising for me to reach any other conclusion, since new industrial units are proposed. I have been told that CCL wish to vacate the site and prospective tenants ended contractual negotiations (matters discussed below). However, the reasons given are largely unrelated to location.

The Physical Nature of the Existing Buildings

29. Before considering the nature of the main building, I shall assess the layout of the site itself. There is a 'pinch point' in the south eastern corner of the access. By the side of the road in this area, there is some damage to a retaining wall and the appeal building. However, it does not appear extensive or serious. While the damage may have been caused by a few HGV drivers misjudging the space, I am not persuaded of significant access problems.
30. Due to the width of the access road, there is limited room in front of the loading doors on the northern and particularly the southern elevations of the main building. However, there is ample land in front of the doors facing east and west. Even on the north and south sides, I saw sufficient space for vehicles to be parked side-on to the building while others are driven past. I also saw a buffer strip by the northern boundary of the site, which could be developed to widen the road. In negotiations with prospective tenants such as Jarvis Plc, it was agreed that such works could be carried out and rentalised.
31. It has been suggested that there is insufficient space for manoeuvring HGVs on the site. I saw that the yard covers a generous area, and is used for moving goods via forklift truck as well as for parking and turning. I accept that the movement of large vehicles in the yard could be impeded by poor surfacing and outbuildings. However, there is little to suggest that the area could not be levelled and demarcated. Alternatively, I saw that the open land to the west provides ample space for manoeuvring and is already used for this purpose.
32. Turning to the main building, the appellant suggests that this is not of an appropriate size for modern commercial premises. Market demand is for smaller units, up to 1858m² (but mainly 464.5 or 929m²) for industrial uses – or larger units, from 7432m² for warehousing. I do not dispute this general trend, but individual businesses have different needs and may also be prepared to compromise on floorspace where the rent or location is right. The large yard on the site could be a significant asset for some companies.
33. In any event, the appellant has subdivided the existing building in recent years, not only into the two main bays, but also smaller units. At the time of the planning application, the Council recorded that approximately 75% of the building was occupied by five separate businesses. I understand that one of these companies (a short-term tenant, Dotshops Ltd) occupied up to 883m² from 2007-8.³ I consider that the premises could easily be partitioned into units of a size suitable for various industrial occupiers.

³ ID16

34. It is suggested that, since the building has a limited number of loading doors, this could inhibit subdivision. I am not convinced. Even if some doors needed to be shared, this would not necessarily cause different occupiers unacceptable operational problems. I understand that GTL requires a high level of privacy, but this is due to the specific nature of their work and not indicative of general business requirements. In any event, the creation of communal areas would not necessarily undermine the security of the premises or individual units.
35. I saw that the building is up to 6.75m high to the eaves and its usable height is reduced by a sprinkler system. Modern warehouses are generally up to 8m tall, so goods can be stacked higher and more efficient use made of less floorspace. However, it seems unlikely that 8m high buildings necessarily offer better value for money – the rent per square metre (psm) would normally reflect volume potential. In this case, I am not persuaded that the sprinkler would be uneconomic to replace. Any deficiency in the height of the building is minor and could be outweighed in tenants' eyes by competitive pricing.
36. In terms of condition, the building appeared at my visit to be in a reasonable state. There is no structural survey or schedule of required repairs to suggest otherwise. I understand that CCL had to make an expensive insurance claim recently: after a period of heavy rain, water leaked in through the central valley of the roof. However, there is little evidence that the problem was not satisfactorily addressed. I saw that CCL continue to make and store cardboard products at the site, despite their susceptibility to water damage.
37. A letter from CCL to the Council (of 22 August 2008) states that the cost of maintaining the site has risen over recent years and the premises are becoming less viable. In my view, this does not prove that the building is unviable. So far as I am aware, CCL have a full repairing lease, which was extended in 2006 until 2016.⁴ It may be that CCL would have been liable for repairs required by 2006 in any event. But I doubt that they would have voluntarily lengthened the period of liability if the building was deteriorating to an uneconomic extent. Overall, I consider that the site and premises remain physically suitable for continued employment use.

The Adequacy of the Supply of Suitable Employment Sites and Premises in the Area

The Quantity of Employment Sites and Premises in Cheshire

38. RSS Policy W3 and Table 6.1 indicate that, between 2005 and 2021, provision should be made – with a flexibility factor built in – for a supply of 874ha of employment land in Cheshire and Warrington. However, the amount of land already allocated for employment is such as to create an over-supply of 297ha.
39. RSS paragraphs 6.14 and 6.15 suggest, therefore, that employment sites in Cheshire should be de-allocated, particularly where they are poor quality, poorly located or large. In my view, the site does not fall within any of those categories. However, since it is an existing rather than allocated site, it could be seen as adding to the over-supply. In my view, the proposed development would not cause an inadequate supply of employment land in the sub-region.

⁴ The lease was more recently subject to a Deed of Variation, allowing the landlord to give CCL 12 rather than 24 months notice to quit – ID5

The Quantity of Employment Sites and Premises in the LP Area and Alsager

40. The Council suggests that, if the 874ha required by RSS Policy W3 is disaggregated to the former Cheshire boroughs, or if past completion rates in Congleton are projected forward, there could be insufficient employment land in the LP area. However, neither Policy W3 nor any saved LP policy makes provision for assessing the land supply on this basis; in my view it would be inappropriate to start to do so now when the Councils have been reorganised.
41. That said, RSS Policy W3 expects LPAs to ensure that at least 30% of sites are available at any one time, so new and existing businesses have the ability to grow successfully. In the supporting text, 'available' is defined as fully serviced and actively marketed, or likely to become so in the next three years. The appellant suggests that the *market* for employment sites is not normally based on administrative boundaries. Even so, it is necessary for me to consider the availability of sites in the LP area.
42. Neither the RSS nor the LP requires that a percentage of sites be available in specific settlements. However, LP Objective 8 seeks to ensure sufficient employment land and premises in locations that meet the needs of the local workforce, diversify the local economy and help to reduce the need to travel. In my view, it is reasonable for the Council to seek to retain employment sites within the communities that it serves. I shall assess the land supply in Alsager.
43. On the basis of figures in the *Former Congleton Borough Employment Land Monitoring Report for 1 April 2008 to 31 March 2009* (ELMR), the Council suggests that only 24% of employment sites are available in the LP area. The supply of employment land in Alsager amounts to 2.37ha, but none of this is available – it comprises committed sites at the Excalibur Industrial Estate, plus 0.5ha of allocated land at a Manchester Metropolitan University (MMU) campus.
44. However, it emerged at the inquiry that the amount of employment land likely to be available in Alsager may have been under-reported. Since the appeal site has an extant permission for employment uses and has been on the market since March 2006, it is unclear why (part of) it does not appear in the ELMR. I consider that it is currently 'available' as defined in the RSS.
45. The Twyfords Bathrooms site, some 26ha in size, lies to the north of the appeal site across the railway. It has been sold for redevelopment and Table 6 of the ELMR states that there is a potential future loss of 5ha of employment land here. However, the Council informed the inquiry that 10ha of land is already vacant at Twyfords. In July 2009, Lagan (Alsager) Ltd, the new land owner, told the Council that 24,800m² of floorspace at Twyfords has been actively marketed for commercial or employment uses since December 2006.⁵ I have doubts as to the quality and condition of the building but nevertheless, in supply terms, the evidence suggests that it is presently 'available'.
46. The ELMR notes that five sites are allocated for employment in the former borough. In terms of completions and commitments, however, land availability is described in terms of hectareage rather than site numbers. It is therefore unclear how the availability of land at the appeal site and Twyfords affects the

⁵ Lagan (Alsager) Ltd's submission to the Council's Strategic Housing Land Availability Assessment – contained with other such submissions in Appendix AW9 of Mr Wallace's proof of evidence

overall percentage of available sites. Thus, given the evidence put to the inquiry, I have serious reservations as to the reliability of the ELMR. I am unable to support the Council's view that insufficient employment land is available in the LP area or Alsager.

The Range of Sites and Premises in the LP Area and Alsager

47. RSS Policy W3 seeks to safeguard the most appropriate range of employment sites, in terms of market attractiveness and sustainability; and to ensure that these sites can meet the full range of needs. LP Objective 8 also seeks the provision of a range of sites. It is therefore necessary to assess the qualitative contribution of the appeal site to the supply of employment land and premises.
48. The main employment sites within Alsager are Twyfords and the Excalibur Industrial Estate. The vacant 24,800m² building at Twyfords is clearly of a different scale to the appeal premises. I saw that the Excalibur Industrial Estate includes medium-sized units which could be suitable for secondary industrial users. However, I understand that none are available. Nor are there premises available at the small Station Road Industrial Estate.
49. The Radway Green Business Centre is very close to Alsager but outside the LP area. It includes small modern units and a range of older premises. Based on evidence from the CWRWS, the Council and my site visit, I consider it likely that just a few small units are available here.
50. The appellant has identified available employment sites and premises, which offer more than 1858m² of floorspace, within five, ten and 25 miles of the appeal site. However, none are within Alsager. Of those available within the LP area, the three buildings at Sandbach are smaller than that on the appeal site. There are premises in Congleton and Middlewich of a comparable size, but little information is provided as to their age or condition.
51. Other employment land and premises within five miles of the appeal site include West Avenue and the Linley, the Nelson and Parkhouse Industrial Estates. The site at West Avenue has been cleared to facilitate 'design and build' developments. In my view, it would be risky to describe this vacant land as 'available'. I would not in any event expect a design and build scheme to be as affordable as an old industrial building.
52. The Council suggests that there are no units available at the Nelson Industrial Estate save for a small warehouse. The vacant buildings at Linley are seemingly different in size to the appeal premises. I accept that there are units available at Parkhouse of a similar size and rent to the appeal building, but again I have little information about their configuration or quality. All of these other sites are within Newcastle-under-Lyme.
53. In my view, therefore, the appeal site makes a positive contribution to the range of employment sites in the LP area and Alsager. There are few alternative premises of a similar size – or with such a known potential for subdivision and such a large yard. That said, the evidence is less clear as to whether retaining the site would ensure the most appropriate range in the policy terms described by RSS Policy W3 or LP Objective 8.

54. RSS paragraph 6.9 is clear that, as the economy of the North West continues to restructure, the demand for different land uses will change significantly. There will likely be a decline in the requirement of land for B2 uses but a significant increase in demand for B1 uses. The ELS similarly predicts a falling need for and over-supply of manufacturing land between 2005 and 2016.
55. The ELS notes that the market preference generally is for small to mid-sized low cost units of up to 464.5m² for offices and 929m² for manufacturing. There is a strong demand from small companies and a shortage of units up to 464.5m² in Alsager. Similarly, the CWRWS recommends the development of light industrial workshops – modern flexible units for B1/B2/B8 uses – which do not exceed 500m², to meet the needs of small, rural businesses.
56. The CWM TIP suggests that Alsager is underperforming in its role in providing local employment opportunities, because the employment base is restructuring and over-reliant on manufacturing. It is said that potential to deliver suitable employment provision – workspace of the type and scale suggested by the CWRWS – should be explored at the MMU and Twyford sites. I consider, therefore, that while an ‘appropriate range’ of employment sites should include larger buildings for secondary industrial users, the balance of provision in Alsager may well need to shift in favour of small modern units. Save for those at Radway Green, there are few such available premises within the area.
57. In terms of future provision at MMU and Twyfords, SPD16 requires that the former is redeveloped for a mix of uses, including employment. However, while part of the campus is vacated, no application for development had been made by the time of the inquiry. The amount of land allocated for employment at MMU is just 0.5ha and SPD16 indicates that it would be used for B1 purposes. It could serve a different market to the proposed units, which the appellant agreed should be precluded from B1a use (offices) on traffic grounds.
58. Lagan (Alsager) Ltd is promoting a mixed use, housing-led redevelopment at Twyfords. Their representation in July 2009 suggests that this would include the provision of employment uses across some 2.5ha. The ELMR put the figure at some 5ha. In either event, however, *new* employment buildings are not yet offered on this site – just part of the existing factory. The remaining 16ha of land at Twyfords will not be vacated for three to ten years. There is no planning permission for any phase of the scheme. It is common ground that the employment elements of the potential MMU and Twyford developments are unlikely to become ‘available’ within three years.
59. By contrast, and subject to a planning condition controlling the phasing of development, the four proposed 464.5m² industrial units could be made ‘available’ within three years. I consider that, in principle, they would be of a size and type that is attractive to the market, needed to assist restructuring of the local economy and in short supply in Alsager.

Conclusion on Supply

60. The Council suggests that more employment land in Congleton is likely to be lost to redevelopment than the forecast decline in demand for manufacturing space. However, I have noted that RSS Table 7.1 includes a flexibility factor. Changing market circumstances do not alter my view that there is a sufficient quantity of employment land in Cheshire, the LP area and Alsager. Given the

need for modern employment units, and although the existing building adds to the range in the area, I find that the proposed development would not create an inadequate supply of employment sites and premises.

Reasonable Attempts to Let or Sell the Premises for Employment Uses

61. The main building on the site has been on the market for let since March 2006. In February 2008, the single storey office building was also advertised for let. Neither of the buildings nor the land has been advertised for sale.
62. LP Policy E10 does not require landowners to attempt to let *and* sell land and premises for employment uses. The Council suggests that the policy should be read in a purposive manner and I can understand this view. If developers are expected to show whether sites are suitable for employment uses, then it is hard to see what could be gleaned from an attempt only to let existing buildings. Equally, however, the appellant cannot be held responsible for a tension in the wording of Policy E10. It would be unreasonable, in my view, to refuse permission on the basis of a more onerous test than is actually set out.
63. The marketing campaign involved the placing of letting boards outside the site. Particulars were mailed to occupiers of local industrial premises, companies on the agent's distribution lists, other agents and matched 'live' enquiries. They were also entered onto commercial property websites and advertised in the *Evening Sentinel*, a local newspaper for the Stoke-on-Trent area. I understand that 'a minimum' of six adverts were placed in the paper.⁶ Invoices indicate that the number may have been higher, but not significantly so.
64. In my view, while the various means of promotion were appropriate, the level of marketing was insufficient. Notwithstanding the importance of mailings and website listings, the number of press adverts seems low for a campaign lasting more than three years. Moreover, while the *Evening Sentinel* may be the best place to advertise properties across the wider area, it seems to me that local businesses might have been better reached by publicity in a Cheshire paper. South East Cheshire Enterprise (SECE) offered to help market the site locally.
65. The marketing particulars indicated that 1858-6782m² of industrial/warehouse premises was available to let. As noted, however, the building has been subdivided into smaller units. At least one short-term tenant took less than 1858m² over 2007-8. In my view, although the particulars described it as flexible, they did not reflect the true nature of the accommodation; this could have put the premises outside the search criteria used by potential occupiers.
66. The asking rent was 'from £3.50 psf' [£37.67 psm] and I understand that SECE considered this reasonable. However, between March 2006 and the inquiry, market forces changed in favour of lessees. The downturn led to more sites becoming available and, following changes to Business Rates legislation, landlords became liable for void rates. In my view, the appellant and his agent should have reconsidered the advertised rent. At the very least, the phrase 'from' £3.50 psf should have been re-worded to indicate flexibility downwards.
67. Indeed, the appellant was prepared to accept a rent of £21.53 psm [£2 psf]. I understand that he would not set out the bottom line on the particulars, since it

⁶ ID16

is normal for parties to negotiate rental levels. Nevertheless, the differential between £21 and £37 psm seems substantial. To my mind, the asking rent did not adequately reflect the economic climate or the appellant's expectations, and it could again have deterred local businesses.

68. Notwithstanding the deficiencies in the marketing campaign, the site attracted some interest. 87 enquiries were received, and while I allow that most were made as part of wide-ranging property searches, this still indicates to me that the site could potentially meet some common tenant requirements. I agree with the Council that the appellant has not provided a sufficiently thorough breakdown of the enquiries as to show why few progressed.
69. There were two enquires for long leases which led to advanced stages of negotiation, including heads of terms being signed. In 2006 (before the 'credit crunch'), Jarvis plc and Boalloy Fastruck Ltd agreed to ten year leases, on the basis of rent at some £34.98 psm [£3.25 psf] with building and roadworks rentalised. Neither company signed contracts in the end; the reasons for this are not entirely clear. However, there is little evidence that Jarvis or Boalloy would have made unreliable tenants or found the site inherently unsuitable. Discussions would scarcely have progressed so far had that been the case.
70. I have seen correspondence signifying tentative interest in the site from Jarrob Engineering Ltd and Carillion Construction Ltd, but there is insufficient information for me to speculate as to why the enquiries led no further.
71. I have noted that, while it was on the market, parts of the building were let to various short-term tenants including Dotshops Ltd. These were taken on by the appellant without involving his agent in order to reduce his liabilities. Some of the lettings proved insecure and to the appellant's eventual cost. That those businesses could use the site, however, confirms in my mind its general suitability for small firms. It seems that GTL moved in on a short lease during 2007, yet have proved dependable tenants that the appellant wishes to retain.
72. Despite the length of time that the site has been advertised, I conclude that the appellant did not make reasonable attempts to let it. That the site attracted some interest proves its appeal to small businesses, rather than any robustness of the marketing campaign.

Conclusion on Suitability

73. I have found that the proposed development would not cause an inadequate supply of employment sites and premises in the area. However, this is just one criterion of the 'suitability' test of LP Policy E10. Overall, I consider that the appeal site remains suitable for employment use, because of its physical nature and location. That reasonable attempts were not made to let the premises for employment uses adds considerable weight to this view.

Substantial Planning Benefits

Traffic Generation, Noise or Amenity

74. The appellant suggests that the proposed development would lead to reduced levels of traffic and numbers of HGVs using the substandard site access. The existing building could generate some 93 two-way trips during the morning peak hour and 56 in the evening. The figures for the proposed units, however,

would be 26 and 15. If the units were used for B2 purposes, there would be a net reduction of traffic using the Linley Lane/Linley Road junction.

75. However, I have already suggested that the existing access could be readily improved. Safety measures are now in place at the Linley Road/Linley Lane junction. Moreover, it is predicted that the proposed housing would generate up to 62 and 69 two-way vehicular trips in the morning and evening rush hours. These are maximal figures, based on the provision of 108 dwellings, but even so it seems that the amount of traffic in the wider area would be unlikely to fall. For reasons given below, I am satisfied that the proposed development would not cause an unacceptable loss of highway safety. The absence of such harm, however, would not amount to a substantial planning benefit.
76. The appellant also suggests that the proposed development would reduce the potential for disturbance to nearby occupiers. Conditions could be imposed not only to limit noise on the boundaries but also, for example, to restrict delivery hours at the new industrial units. However, I have found that noise from the site can already be adequately controlled. In my view, the development would offer a minor but not substantial planning benefit in relation to this issue.

Impact on the Environment and Economy

77. The appellant suggests that the proposed development would deliver benefits in relation to sustainability; I consider these below. It is not claimed that there would be substantial benefits specifically relating to the environment.
78. In terms of the economy, I have found that the proposed development would not unacceptably reduce the supply of employment sites in the area. Although it would cause the loss of a flexible building, the proposed commercial units could be of a type that would help the local economy to restructure. However, their likely market attractiveness would not in my view automatically translate into a substantial planning benefit.
79. Since the proposed development would cause the loss not only of a suitable building but also employment land, I need to be clear as to why only four units are proposed. A large part of the site is currently open space. In my view, even if small industrial units are low value, there could be scope to build a housing-led mixed use development without such a reduction in commercial floorspace. It is not necessary for the appellant to demonstrate viability. For me to find a substantial benefit, however, a case for the scheme is required.
80. The appellant's agent indicates that four units would be in keeping with latent demand for Alsager. I heard that this assessment is based on information about the market, the local population and indigenous businesses. It was also suggested that the units could be filled in approximately 15 months – but that more would take longer to build and could be difficult to let in this economic climate. I have seen little specific market research to verify these statements.
81. It has also been suggested, with reference to correspondence between the agent and Priority Sites Ltd (a company that develops new business space) that it would be only viable to redevelop a limited part of the site for employment. However, the letter from Priority Sites Ltd appears to concern the Linley Trading Estate. There is little explanation of the actual extent of their interest.

82. The appellant suggests that the proposed units could support a comparable number of jobs as the existing building. As noted above, some 48 people are employed on the site by CCL and GTL (I am discounting the nursery as a temporary use). The appellant estimates, using employment density ratios recommended by the Housing and Communities Agency (HCA)⁷ that the proposed development could create some 50-60 posts. However, that figure is predicated on an assumption that the units would be fully occupied. In my view, this is not assured.
83. The Council suggests that, if the existing building was fully occupied to the existing density, some 80-90 people would be employed. If it was occupied to the same HCA ratio used by the appellant, there would be some 135 full-time equivalent jobs. I do not dispute these figures. As a general point, I allow that the proposed units might be better suited to high density employment uses than the existing building, and in greater demand long-term. Even so, I find that the loss of floorspace at the site would reduce employment potential.
84. Moreover, it is necessary to consider what would happen to the existing jobs at the site were the appeal to succeed. GTL has stated that if a proposed unit was available and could be made secure, they would 'definitely consider moving in'.⁸ To my mind, there is no guarantee that the units would meet the needs of GTL or a rent could be agreed. Seven jobs per unit would also equate to a lower job density than the HCA ratio cited by the appellant. In principle, however, I accept that the development might not cause GTL to relocate.
85. The situation is different, in my view, with respect to CCL. This is an established local company which continues to occupy a substantial part of the site. I understand that CCL's turnover rose continuously between 2005 and 2008, despite the 'credit crunch'. The company has expanded and invested in new equipment since the lease was renewed in 2006. The proposed units, however, even if taken together, would provide less floorspace than CCL use.
86. The appellant suggests that CCL wish to vacate the site. This may be the case, but CCL have no tenant's break clause in the lease. They are committed to the site until 2016 and I have seen no convincing evidence that they are actively looking for new premises. Moreover, and having regard to the alternative sites identified, I consider that CCL would be unlikely to find another building in Alsager. There is accommodation available within five miles of the site, but I cannot comment on its suitability, as I have insufficient information as to its condition or CCL's requirements.
87. I am not aware of how many CCL workers are Alsager residents. It would be rash to pre-judge the impact of any relocation on their job security or travel patterns. Even so, while CCL remain on the site, I consider that they will contribute to the local economy and be a potential source of work for local people. I conclude that the proposed development would likely cause CCL to move to an unknown location and the loss of 41 jobs from Alsager. This would be a material disbenefit, particularly in the current economic climate and given the loss of (replacement) employment-generating floorspace. Temporary jobs in construction would not recompense for those displaced.

⁷ Formerly English Partnerships

⁸ ID17

Need for the Proposal and Potential Contribution to the Local Area

Housing Supply

88. The key goal set out in PPS3 is to ensure that everyone has the opportunity of living in a decent home, which they can afford, in a community where they want to live. To achieve this, the Government is seeking a necessary step-change in housing delivery. PPS3 expects LPAs to identify sufficient, specific deliverable sites to achieve a five year supply of housing land. To be 'deliverable', sites should be available and in a suitable location now, and have a reasonable prospect of being achieved within five years.
89. RSS Policy L4 and Table 7.1 require the provision of 5400 dwellings in Congleton between 2003 and 2021, equating to an annual average provision of 300 dwellings, net of clearance. The parties agree that, despite the local government reorganisation, it is appropriate to consider the housing supply situation on the basis of the former borough, to accord with Policy L4 and because Congleton has been identified as a Housing Market area.
90. The latest housing supply position, set out in the RSCG, is based on figures from the Council's draft *Strategic Housing Land Availability Assessment* (DSHLAA), which incorporates information from public consultation. I consider the figures in the RSCG likely to be the most accurate of those before me.
91. The RSCG indicates that 1443 dwellings were completed in the first six years of the RSS period (2003-4 to 2008-9). This represents an under-supply of 357 dwellings on the RSS target of 1800 (6 x 300). The Council suggests that the shortfall should be made up over the remaining 12 years of the RSS to 2021, meaning that the annual average requirement would be increased from 300 to about 330. This approach is described as Method A in the RSCG.
92. However, the Government's advice note, *Demonstrating a Five Year Supply of Deliverable Sites* (DFYSDS) sets out a different approach. It recommends that LPAs adjust the housing provision figures in adopted development plans, to reflect the level of housing that has already been delivered, as they identify the level of housing to be delivered over the *following five years* (my emphasis). I support this approach, named as Method B in the RSCG. In my view, there is a need for 1857 dwellings in this five year period (5 x 300 + 357), equating to an annual average requirement of 371.4.
93. It is now necessary to assess the existing supply. The RSCG suggests that by 30 June 2009 there was a deliverable supply of 1079 dwellings in the LP area. The figure is based on commitments (including an allocation for 90 dwellings at MMU) and sites awaiting a planning obligation, which have been assessed for deliverability on the basis of information in the DSHLAA. I accept this.
94. The Council also contends, in accordance with DFYSDS, that specific, unallocated brownfield sites in the former borough have the potential to deliver up to 261 dwellings in five years (including 100 at Twyfords). The figure is based on DSHLAA representations and an assessment of deliverability. The appellant suggests that not all of the sites will be deliverable or make a significant contribution to the housing supply. However, there is little by way of critique to show which sites should be discounted or why. In my view, it is reasonable to take account of the 261 figure.

95. In conformity with SPD16, a DHSLAA representation confirms that 150 dwellings could be delivered at MMU within five years, if the site is sold in 2011 and reserved matters are approved in 2012. Neither SPD16 nor the DSHLAA submission sets out likely actual progress in relation to land ownership or planning matters. However, I understand that part of the MMU site has already been vacated. Since a development brief is in place, and although employment uses might not be 'available' within three years, I am persuaded that 150 (60 more than the allocated 90) dwellings could be delivered at MMU by 2014.
96. The owner of the Twyfords site has suggested to the Council, in its DSHLAA representation, that 126 rather than 100 dwellings could be delivered in five years, based on an aspirational density of 60dph. I have seen little to show whether this would be realistic or acceptable. With regard to this appeal, a condition has been recommended to limit the density of development to 35-45 dph, in part because of the prevailing characteristics of the area. I am not aware of why or whether development at Twyfords should be considered differently. I cannot support the maximal aims of Lagan (Alsager) Ltd.
97. Supporting guidance to PPS3, *Strategic Housing Land Availability Assessments: Practice Guidance*, allows LPAs to include small sites not currently in the planning process in their five year supply calculations. The Council suggests that some such sites are identifiable, but there is insufficient information for me to agree. I find that there is a total deliverable supply of 1400 dwellings (1079 + 261 + 60) in the former borough, equating to a 3.8 year supply of housing on the basis of Method B.
98. In some respects, calculations of housing supply are academic. Whatever approach is used, the Council accepts that it lacks a five year supply. PPS3 does not indicate that the extent of any shortfall should affect the weight attached to it. However, that the under-supply of housing in this area is sufficiently great as to be indisputable must be an important consideration. The proposed development would materially increase the housing land supply and could be delivered within five years. This would be a planning benefit.

Distribution of Housing

99. In seeking to ensure that the supply of dwellings is suitably distributed across the former borough, LP Policy H2 indicates that no more than 15% of dwellings should be provided in Alsager. The appellant suggests that the figure should be increased, on the basis of actual population distribution across Congleton, but I see no reason to undermine this saved policy in advance of a local development framework for the reorganised LPA.
100. The Council suggested to the inquiry that housing at the MMU and Twyfords sites could represent 16.8% of the required five year supply. However, the assessment seems to be based on two assumptions which I would reject: that the under-supply of housing from the previous six years is disaggregated over the remaining RSS period, and 276 dwellings are built at MMU and Twyfords.
101. The Council's *Former Congleton Borough Housing Monitoring Report to 31st March 2009* (HMR) indicates that there is a deliverable supply of 167 dwellings in Alsager, comprising 150 at MMU and other commitments. If 100 dwellings at Twyfords could be added to that figure, I estimate that 14.4% of the 1857 five year supply target for the former borough could be delivered in Alsager.

This would not fall far short of the maximal 15% target in my view. If the proposed development was added to the equation, even with an assumed low density, the 15% target would likely be exceeded.

102. However, the HMR also indicates that just 56 dwellings were completed in Alsager between 2003 and 2009; to my calculation, this equates to some 3.8% of the completions across the former borough. It seems, therefore, that there has been an unmet local need for housing in Alsager; the balance might need to be redressed. This finding adds some weight to my view that the proposed development would beneficially increase the supply of housing in Congleton.

Affordable Housing

103. PPS3 aims to improve affordability across the housing market. The appellant has referred to two decisions that underline the importance of the issue to the Secretary of State.⁹ It is also common ground that there is a pressing need for affordable housing in this area: house prices are high in Alsager relative to the former borough and Cheshire. I understand that the identified need is for 130 affordable two bedroom homes in the town; there are over 100 people on the housing list looking to socially rent such a house here.
104. SPD6 indicates that, in settlements with a population of over 3000, and in proposals for 15 dwellings or more, a minimum of 30% of units should comprise affordable housing. On this basis, and depending on the eventual density of development, the proposed development could provide up to 32 affordable homes. The appellant argues that these would be secured by the S106 planning obligation and so there would be a substantial planning benefit.
105. I have assessed the obligation against the tests set out in *Circular 05/2005: Planning Obligations* (C05/2005); the Planning Inspectorate's *Checklist for Planning Obligations* (the Checklist); and SPD6. Although it takes the form of an agreement with the Council, I consider the obligation problematic in various respects. Firstly, the term 'Affordable Housing Provider' (AHP) seems too broadly defined; it is unclear how the Council could assess 'any other organisation that owns or manages affordable housing stock' (paragraph 1.2).
106. More seriously, perhaps, there is no direct provision for the affordable housing to be built or the timing of construction. Paragraph 5(b) of the agreement prevents occupation of more than 40% of the market value housing until the subsidised housing has been constructed, completed and transferred or made available. As the Checklist suggests, however, restricting occupation does not necessarily prevent the construction or sale of market value housing. In the event of a breach of such a restriction, the enforcing authority could be faced with taking legal action against individual buyers of dwellings on the site.
107. The proposed affordable housing would include Shared Ownership (SOH) and Socially Rented Housing (SRH), which would be transferred to an AHP. It is stated, however, in paragraphs 10 and 15 of the obligation that any disposal of the SOH or SRH would be conditional upon the AHP entering into a service level agreement with the Council. Since no AHP is party to the agreement, these positive covenants could be open to challenge. Negative wording of the

⁹ References APP/U5360/A/03/1127996 and APP/P3040/A/07/2050213

clauses, preventing the development from proceeding until an AHP and terms of agreement are secured, would be the correct approach in my view.

108. The obligation also sets out a cascade arrangement: if the SOH and SRH cannot be transferred to an AHP, it shall then be treated as Discounted Sale Housing (DSH). DSH comprises subsidised low cost market accommodation provided through a re-sale covenant scheme. SPD6 indicates that DSH should normally be provided by a private developer and subject to a satisfactory arrangement to ensure that the benefit of its low cost is available in perpetuity.
109. In this case, paragraph 20 of the obligation suggests that each transfer of the freehold or leasehold interests of the DSH units shall contain an application to the Chief Land Registrar to place a specified restriction in the Proprietorship Register of the title. This measure is unlikely to be enforceable because the Chief Land Registrar is not party to the agreement. Given the cascade arrangement, it is therefore possible that no affordable housing could be secured or retained in perpetuity. Overall, I find that its delivery could not be assured through the obligation submitted. This is a serious concern.
110. Where a sound obligation is not provided, affordable housing can sometimes be secured by condition. I would be cautious about that approach in this case, because LP Policy H13 and SPD6 are clear that the Council expects affordable housing to normally be secured by obligation. PPS3 indicates that development plans should set out the approach to seeking developer contributions for affordable housing (albeit with regard to where the housing is located). Even so, the option of imposing a condition is open to me and I do not dispute the appellant's ability or intention to provide affordable housing. I consider the matter further in my Conclusion.

Unsubsidised Low Cost Housing

111. SPD6 requires that at least 25% of units in developments of ten or more dwellings comprise unsubsidised low cost market housing. The Council agrees that proposed development would provide up to 27 such units which could be secured by a planning condition. This would be a planning benefit in my view.

Other Relevant Local Plan Policies

112. As indicated above, the appellant suggests that the proposed mixed use scheme would be a sustainable form of development in accordance with PPS1 and PPS3. It would make more efficient use of a (mainly) brownfield site, which is in a sustainable location for new housing.
113. I have observed that the yard on the site is used by CCL and could be an asset to other firms. However, the land to the west is under-used. Even if part of it was used as a turning area, there would still in my view be space surplus to the requirements of the current or prospective occupiers. Despite its possible status as greenfield land and the LP designation, I agree with the appellant that the land serves no material 'open space' purpose. Visually if not functionally, it could be reasonably described as part of the developable area of the site.
114. As indicated above, subject to conditions and a reserved matters application, the proposed housing would be built at a density of 35-45 dph. The proposed industrial units would also be clustered together. I allow, therefore, the

proposed development would make more efficient use of the site than that existing. It seems to me, however, that other mixed use developments with a greater amount of employment floorspace could be equally intensive.

115. In terms of location, various background documents, including the abandoned *Revised Preferred Options Land Allocations DPD* for the former borough, have scored the site highly on sustainability criteria. It is close to schools and local amenities as well as the shops in the town centre and the railway station. It also lies on a bus route, although services are not frequent. I accept that developing housing on the site could generally reduce pressure on the Green Belt around Alsager. However, these facts do not point to any substantial planning benefit. I consider the site as sustainably located for 100% employment as much as mixed uses. PPS1 and PPG4 both seek to ensure suitable and accessible locations for development for jobs.
116. A condition could be imposed to require the provision of a foot/cycleway across the site, facilitating easy access between the proposed industrial units and dwellings with the station and town centre. In my view, such a measure could reduce the reliance of future residents and workers on use of the car. However, a footpath link from the existing premises to the station could be created, since there is an existing gate at the corner of the site by Talke Road. The suggested condition would not amount to a substantial planning benefit.
117. Moreover, since there are fewer jobs in Alsager than residents, many local people travel out of town to work – and use their cars to do so. Most such residents are professionals and will be drawn to larger urban centres whatever decision is made on this appeal. Even so, I agree with the Council that reducing the amount of employment land in Alsager, in favour of more housing, could exacerbate the need for out-commuting and unsustainable travel.
118. There is little evidence to quantify the extent of any such harm, so it would be unreasonable to refuse permission on this ground alone. Nevertheless, LP Objective 5 seeks to create a sustainable balance between housing and employment within towns, and in my view this is consistent with the aim of PPS1 to facilitate sustainable patterns of development. I find that the proposed development would not deliver a substantial benefit in relation to sustainability, although it would make efficient use of land and be sustainably located.

Conclusion

119. To briefly recap, I consider that the proposed development would not cause an inadequate supply of employment land. (That the Council seems prepared to countenance the release of land at Twyfords for housing adds weight to this assessment.) However, that finding does not alter my view that the appeal site is suitable for employment use in its location and physical nature. Reasonable attempts were not made to let the existing building, and I support SECE's view that the site has a good history of occupation.
120. In terms of benefits, I have found a significant shortfall in the supply of housing, both in the former borough and potentially in Alsager. This is a matter to which the Government attaches considerable weight. That the proposed development would help to meet local needs for housing, including low cost market housing, would be clearly beneficial. The development would also offer minor benefits in relation to noise control, the efficient use of land

and the provision of a foot/cycleway. While not compelling advantages in themselves, they add to the planning balance in favour of the appeal.

121. However, the proposed development would likely displace an existing local business and 41 jobs from Alsager. It would not offer the same employment potential as the existing building. RSS Policy W3 requires full consideration to be given to the scope for mixed use development, but does not encourage the loss of employment land in active use. I have found that the impact of the proposed development on the local economy would be a material disbenefit, especially given the recent recession.
122. Moreover, the required affordable housing could not be secured through the planning agreement submitted. A condition could be imposed to that end, but only against the expectations of the LP. The proposed development would not deliver a substantial planning benefit in relation to sustainability and could indeed promote an increase in out-commuting from Alsager.
123. I heard considerable discussion as to the relationship between LP Policy E10 and PPS3. LP Policy E10 was saved after PPS3 was published; in my view, there is no inherent conflict between the two. The letter with the Saving Direction indicates that, where extended policies were adopted some time ago, new national and regional policy, particularly PPS3, will likely be afforded considerable weight in relevant decisions. However, paragraphs 71 and 69 of PPS3 are clear that, even where there is no up-to-date five year supply, applications for housing should only be considered favourably so long as they would not undermine wider policy objectives.
124. To assist in the creation of a sustainable community, it will be necessary to tackle the under-supply of market and low cost housing in this area. In my view, however, the benefits offered by the proposed development in those and other respects would be outweighed by the threat to existing local jobs and the under-provision for replacement employment. Imposing a condition to secure affordable housing would not overcome that overriding objection. Moreover, in the context of an unacceptable loss of employment floorspace, the potential increase in out-commuting from Alsager must weigh against the proposal.
125. I conclude, therefore, despite my views on the supply of employment land, that the proposed development would cause the unacceptable loss of a suitable employment site and jobs in Alsager. It would comply with RSS Policies DP4, RDF2 and L4, and LP Policy H2. Subject to an affordable housing condition, it need not conflict with RSS Policy L5 or PPS3. However, it would conflict with the aims of RSS Policies DP1 and W3, LP Objectives 5 and 8, LP Policy E10, PPS1 and PPG4 to ensure continued and sustainable economic development and to safeguard suitable employment sites. In my view, these key policy objectives should prevail in this case. That the proposal would conflict with LP Policy H13 and SPD6, while not a decisive consideration, adds to my concern.

Other Considerations

The S106 Planning Obligation

126. As well as affordable housing, the planning obligation is intended to provide for the submission of a Travel Plan Framework (TPF) and Travel Plan (TP), and

contributions towards children's, young persons' and amenity greenspace, and highway works.

127. *PPG13: Transport* encourages the use of TPs to deliver sustainable transport objectives. *Good Practice Guidelines: Delivering Travel Plans through the Planning Process* (TP Good Practice Guidelines) sets out a checklist for planning obligations that are intended to deliver TPs. Matters to be set out should include a timetable for preparation, implementation, monitoring and review of the TP; the process and funding for the first 'x' years of the development; arrangements for involving occupiers; parking controls and management; and outcomes sought, performance targets and amelioration measures.
128. In this case, the obligation indicates that the TPF and TP would promote, manage, encourage and secure a choice of sustainable travel modes for the proposed development. The TPF would include key objectives, measures and a monitoring regime. However, I consider that there is insufficient information on those matters to ensure the delivery of a robust document. The agreement includes clauses related to the process of obtaining approval for the TPF and TP, but little to show what they would aim to achieve. There is provision in paragraph 31 for 'reasonable fees' for monitoring the implementation of the TP but it is unclear what this would involve. The vagueness of this clause and lack of specific undertakings could in my view make the obligation open to dispute.
129. I realise that, as the appeal relates to an outline application, parts of the TP would be agreed at a later date. However, the TP Good Practice Guidelines suggests that even with an outline application, an interim TP which specifies some (provisional) measures, targets, a timetable and a basis for completion may be required. In my view, the lack of detail regarding these matters means that the obligation could not be relied upon to promote sustainable travel. That the Council is party to the agreement does not alter that view.
130. PPG13 indicates that TPs can be made binding through conditions. However, the TP Good Practice Guidelines suggests that these should be used in limited circumstances which in my view do not apply to this case. Given the scale of development and lack of information before me, I see little scope to frame a precise and enforceable condition requiring the submission, approval and implementation of a TP for the proposed development. This reinforces my view that it would not deliver substantial planning benefits in terms of sustainability.
131. Turning to the other provisions of the obligation, there is no indication as to the location of the greenspace or which highway works are required. This increases my concern that the agreement is unsound. Having regard to C05/2005, I consider that it would fail to make the provisions necessary to make the development acceptable in planning terms – and this adds weight to my finding against the proposal in relation to the main issue.

Other Matters

132. As recommended by the appellant's ecologist, a bat survey was carried out at the site. Some evidence was found of foraging and that the existing outbuildings could potentially support roosts. In my view, conditions could be imposed to safeguard habitat where appropriate and ensure the supervised demolition of buildings. On that basis, the proposed development need not cause unacceptable harm to any protected species.

133. Turning to the objections of local residents, I have previously suggested that the proposed development would cause no unacceptable loss of highway safety. It would serve to increase traffic on the Talke and Linley Roads, but not to the extent of causing congestion. Subject to conditions, the proposed access to Talke Road would incorporate adequate sight lines. Parking requirements would be considered at reserved matters stage.
134. I consider that nearby occupiers – even those adjoining the access – would be unlikely to experience unacceptable levels of noise or pollution from the proposed development. In relation to matters such as privacy and light, the revised illustrative masterplan indicates that adequate separation distances could be maintained between the proposed and existing properties. The design of the proposed dwellings would be considered at reserved matters stage. The site is higher than nearby houses, but floor levels could be controlled.
135. I understand that the site is near to a culverted brook, and flooding occurs in the area at times of heavy rain. However, conditions controlling surface water drainage could prevent an unacceptable increase in run-off or flood risk.
136. My findings on these matters do not outweigh my conclusion on the main issue. I have had regard to all the other matters raised but none alter my decision to dismiss the appeal.

Jean Russell

INSPECTOR

Richborough Estates

ANNEX A: DOCUMENTS AND PLANS

STATEMENT OF COMMON GROUND DOCUMENTS

- SCG1 Cheshire and Warrington Market Towns Investment Prospectus, 2009
- SCG2 Cheshire and Warrington Rural Workspace Study 2009
- SCG3 Congleton Borough Council Economic Development and Tourism Study, 2007
- SCG4 Congleton Employment Land Study, 2005, Executive Summary
- SCG5 Congleton Employment Land Study, 2005
- SCG6 Draft Strategic Housing Land Availability Assessment for the Congleton Area, 2009
- SCG7 Saved Policies Direction and Covering Letter, issued by the Secretary of State on 25 January 2008 for the Congleton Borough Local Plan
- SCG8 Former Borough of Congleton Housing Monitoring Report to 31 March 2009
- SCG9 Draft Former Borough of Congleton Monthly Housing Update to 30 June 2009
- SCG10 Site Assessments Report, 2006, including alternative options and preferred options
- SCG11 Cheshire and Warrington Sub-Regional Employment Land and Sites Study, 2009
- SCG12 Consolidated Cheshire East Interim Sustainable Community Strategy, 2008
- SCG13 South Cheshire Sub-Regional Study
- SCG14 North West Regional Economic Strategy, 2006
- SCG15 Congleton Urban Potential Study, 2006

INQUIRY DOCUMENTS

- ID1 The Council's letter of notification of the inquiry, list those notified, and corresponding press notice
- ID2 Draft Statement of Common Ground, annotated as agreed and dated 1 October 2009
- ID3 Signed and sealed Section 106 planning agreement, dated 30 September 2009
- ID4 Supplemental proof of evidence of Mr Mounsey
- ID5 Deed of Variation, dated 25 September 2005, on Cardway Cartons Ltd's lease of the appeal site
- ID6 List of suggested conditions – 3rd draft
- ID7 Supplementary Planning Document 6: Affordable Housing and Mixed Communities (SPD6)
- ID8 Corrections to Mr Wallace's proof of evidence
- ID9 UDP paragraphs 6.42 and 6.43 – supporting text to Policy E10
- ID10 Letter from Harris Lamb to the Council dated 12 May 2008, regarding the revised masterplan
- ID11 SPD16: Manchester Metropolitan University Alsager Campus Development Brief
- ID12 Errata to Mr William's proof of evidence
- ID13 Revised draft Section 106 planning agreement with cover note and email
- ID14 Emergency Bat Survey Report, Wardell Armstrong, October 2009

- ID15 Revised Statement of Common Ground
- ID16 Response to Inspector's questions to Mr Mounsey concerning Dotshops, and the marketing campaign
- ID17 Letter from Greenworld Technologies Ltd, dated 6 October 2009
- ID18 List of suggested conditions – 4th draft
- ID19 Closing submissions on behalf of the Council, annotated to reflect oral submissions
- ID20 Closing submissions on behalf of the appellant, annotated to reflect some of the oral submissions
- ID21 Replacement Section106 planning agreement, dated 13 October 2009 (including clause to release the agreement dated 30 September in full)

INQUIRY PLANS

- IPA Revised Illustrative Masterplan – Rev A, 13 May 2008
- IPB Ordnance Survey 1:50000 map, to show appeal site in relation to Parkhouse Industrial Estate
- IPC Extract from Cheshire A-Z, to show location of West Avenue, Nelson Industrial Estate and Linley Trading Estates
- IPD Extract from Cheshire A-Z, to show location of Radway Green Business Centre, MMU, the Excalibur Industrial Estate and Twyford Bathrooms

Richborough Estates

ANNEX B: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Hugh Richards of Counsel	The Borough Solicitor, Cheshire East Council
He called	
David Roberts	Valuation Surveyor, Butters John Bee Chartered
BSc (Hons) MRICS	Surveyors
Richard Brown	Associate, Planning and Development Team,
BSc (Hons) MRTPI AIEMA	Drivers Jonas
Anthony Wallace	Senior Planning Officer, Spatial Planning Team,
BSc (Hons) MA MRTPI	Cheshire East Council

FOR THE APPELLANT:

Christopher Young of Counsel	Instructed by John Williams, Harris Lamb
	Property Consultants
He called	
Richard Mounsey	Head of Stoke-on-Trent office, Harris Lamb
BSc (Hons) MRICS	Property Consultants
John Williams	Director, Residential Land and Planning Division,
BA (Hons) MRTPI	Harris Lamb Property Consultants

INTERESTED PERSONS:

Cllr Shirley Jones	Alsager Ward Councillor
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