



Department for
Communities and
Local Government

Mr M Twigg
Fox Strategic Land & Property Ltd
Gladman House
Alexandria Way
Congleton
Cheshire
CW12 1LB

Our Ref: APP/A0665/A/11/2167430
Your Ref:

29 August 2013

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78
APPEAL BY FOX STRATEGIC LAND AND PROPERTY
LAND OFF NANTWICH ROAD, TARPORLEY, CHESHIRE
(APPLICATION REF: 11/04261/OUT)**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Keith Manning BSc(Hons) BTP MRTPI who held a public local inquiry on 22-25 May 2012 into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the failure of Cheshire West and Chester Council to give notice within the prescribed period of a decision on an outline planning application for up to 100 dwellings, site access, highway, landscaping, open space and associated works at land off Nantwich Road, Tarporley, Cheshire (application ref: 11/04261/OUT).
2. On 21 August 2012, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990. The appeal was recovered because it involves proposals giving rise to substantial regional or national controversy and which raise important or novel issues of development control and/or legal difficulties.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions and his recommendation. He has decided to allow the appeal and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

4. Applications for an award of costs were made by the appellant against the Council, and by the Council against the appellant. These applications are the subject of a separate decision letter.

Matters arising after the close of the inquiry

5. A number of representations about the proposal were received following the close of the inquiry. The Secretary of State has carefully considered these representations, but as they did not raise new matters that would affect his decision, he has not considered it necessary to circulate them to all parties. The correspondence is listed at Annex A to this letter and copies will be provided on written application to the address at the bottom of the first page to this letter or to PCC@communities.gsi.gov.uk.
6. Following the close of the inquiry, on 24 April 2013 the Regional Strategy for the North West (Revocation) Order 2013 was laid before Parliament and it subsequently came into force on 20 May 2013. This Order revoked the Regional Strategy (RS) which had formed part of the development plan in this case. The Secretary of State wrote to parties on 3 May 2013 to offer them the opportunity to submit representations on whether the revocation of the RS affected their case on this appeal. On 5 and 19 June 2013 the Secretary of State circulated the responses to his letter of 13 May, inviting comments on those representations before he proceeded to a final decision. Annex A includes a schedule of representations received in response to the Secretary of State's letters of 3 May, 5 and 19 June. Copies of the representations are not attached to this letter but will be provided on application to the address at the bottom of the first page of this letter or to PCC@communities.gsi.gov.uk.
7. The Secretary of State has had regard to the fact that on 28 August 2013 Government opened a new national planning practice guidance web-based resource. However, given that the guidance is currently in test mode and for public comment, he has attributed it limited weight.

Policy considerations

8. In deciding the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case, the development plan comprises the saved policies of the Vale Royal Local Plan First Review Alteration adopted in July 2006 (LP). In the light of the revocation of the RS referred to at paragraph 6 above, the Secretary of State has not had regard to policies in the RS or to the Inspector's remarks about the extent to which the scheme complies with it. The Secretary of State considers that the development plan policies most relevant to the proposals are those summarised by the Inspector at IR22-29.
10. Other material considerations which the Secretary of State has taken into account include: the National Planning Policy Framework (The Framework) published in March 2012; The Planning System: General Principles; Circular 11/95: The Use of Conditions

in Planning Permission; the Community Infrastructure Levy (CIL) Regulations 2010 as amended; and An Introduction to Neighbourhood Planning. He has also taken account of adopted Supplementary Planning Guidance in the form of the Village Design Statement for Tarporley; Supplementary Planning Documents including SPD1 Affordable Housing, SPD2 Managing Housing Land Supply and SPD3 Developer Contributions (IR31).

Main issues

11. The Secretary of State considers that the main issues in this case are those identified by the Inspector at IR10.

Accordance with development plan

12. As set out at paragraph 9 above, the development plan now comprises the saved policies of the LP. Relevant policies are those summarised by the Inspector at IR22-29. The Secretary of State has given very careful consideration to the Inspector's comments on relevant LP policy at IR151 – 155.

13. The Secretary of State has had regard to the Inspector's analysis and conclusion at IR152 that the proposed development would conflict with the intentions of the LP regarding the location of new housing development. In common with the Inspector, the Secretary of State agrees that a conflict does arise in this respect. However, he also agrees with the Inspector's conclusion (at IR258) that it is plain that the settlement boundaries associated with the LP housing land supply policies in the former Vale Royal area and elsewhere in Cheshire West and Chester are in urgent need of comprehensive review and that, if adequate levels of development are to be catered for, now and in the future, the planned release of greenfield land appears inevitable (IR258). The Secretary of State's agreement with this conclusion weighs heavily against this conflict.

14. The Secretary of State shares the Inspector's view that the scheme conflicts with LP policy RE1 (IR153) concerning agricultural land. With regard to the Inspector's final remark at IR153, that (as set out by the Inspector at IR191 – 196) the particular development proposed would conflict with the environmental quality intentions of the development plan, the Secretary of State has concluded (at paragraph 24 below) that the potential harm could be avoided with the imposition of condition 3. Given this, he is satisfied that no material conflict with LP policy BE1 would arise. The Secretary of State concurs with the Inspector that the scheme would meet the LP's general aspiration that 30% housing on new residential sites should be affordable (IR154). With regard to the Inspector's view that the proposed development would not accord with the intentions of the development plan taken as a whole (IR154), the Secretary of State has set out his own conclusion on this matter at paragraph 37 below.

15. Having had regard to the Inspector's reasoning in respect of LP policy H5 and SPD2, the Secretary of State shares his view that, in the context of the acknowledged lack of a five year land supply, policy H5 lends no development plan support to any particular proposal (IR155). However, he also agrees with the Inspector that the lack of supply lends considerable weight to the appellant's contention that the housing supply policies of the LP are for all practical purposes out of date (IR155).

Accordance with relevant national policy

16. The Secretary of State sees no reason to disagree with the Inspector's remarks at IR156 – 157. He shares the Inspector's view that it is clear that important aspects of the development plan are substantially out of date and in need of urgent replacement (IR157). The Secretary of State agrees with the Inspector that the scheme would involve the loss of best and most versatile agricultural land in a rural area where the development plan aims to pursue a coherent strategy of directing housing development towards allocated sites within and on the edge of Northwich and within Winsford, whilst allowing for more local needs elsewhere, including Tarporley (IR158). However, the Secretary of State does not share the Inspector's concern at IR158 about whether the number of houses envisaged could, in principle, be accommodated in the site without serious harm to the character and appearance of the area and nor does he agree with the Inspector's view at IR160 that the appeal proposal runs counter to the Framework's intentions regarding environmental quality. The Secretary of State's view that potential harm in this respect could be avoided through the imposition of condition 3 is set out at paragraph 24 below.
17. In common with the Inspector, the Secretary of State considers that the proposed development engages different objectives of the Framework (IR158) and that this decision turns on the balance to be struck between a number of its aims (IR161). However, given his conclusion on housing land supply at paragraph 22 below and his view that housing supply policies are out of date, he considers that paragraph 14 of the Framework is highly relevant to this case. The Secretary of State notes the Inspector's remark at IR159 that the Framework does not state that all the adopted settlement boundaries in the development plan, even though formulated in the context of housing policy, are necessarily out of date. However, in this particular case the Secretary of State has agreed with the Inspector (at paragraph 13 above) that the settlement boundaries associated with the LP's housing land supply policies are in urgent need of comprehensive review.

The emerging development plan

18. Having had regard to the Inspector's remarks at IR162 - 165 and to the comments submitted since his letter of 3 May 2013, including your letters of 15 May, 10 and 24 June, Tarporley Parish Council's representation of 11 June, the Council's representations of 31 May and 21 June, and Mr George's emails of 31 July, 8 and 21 August 2013, the Secretary of State considers that the Council's emerging Core Strategy is still at an early stage and that it merits little weight. The Secretary of State has also considered the Inspector's comments about neighbourhood planning in Tarporley at IR166 – 167, your letters of 15 May and 10 June 2013, Mr J H Blackford's representation submitted by email on 2 June 2013 and the Parish Council's representations dated 1, 2 and 11 June. The Secretary of State concludes that, in the absence of a Neighbourhood Plan for Tarporley in either final or draft form, he is unable to give weight to the early stages of the Neighbourhood Planning process in Tarporley.

The need for the proposed development

19. The Secretary of State has considered the Inspector's comments at IR168 – 176 and IR261 - 262. He has taken account of the fact that it was common ground between the Council and the appellant that the housing land supply was in serious deficit

(IR168) and he observes that the Council's position at the inquiry was that it had only a 2.3 year supply of housing land (IR87). He agrees with the Inspector that little weight accords to the Parish Council's contention that the basic calculation of housing land supply should be approached some other way (IR170). He has had regard to the Inspector's comment at IR261 that he was presented with no cogent evidence at the inquiry to suggest that any reduction of the deficit in deliverable sites would be anything more than marginal.

20. The Secretary of State has given careful consideration to the comments submitted since his letter of 3 May. He observes that the Council, in its email dated 21 June, states that the most recent objectively assessed evidence of housing need available to the Council is that which underpinned the target set out in the now revoked RS and that the latest Housing Land Monitor adopted by the Council demonstrates that it currently has 2.6 years housing land supply. Your letter of 15 May pointed to the RS as the most recent tested housing requirement against which to judge the supply. Whilst the RS is no longer part of the development plan, the Secretary of State agrees with the Council that the underpinning evidence to the RS remains relevant and he agrees with you that an annual requirement of 1,317 is appropriate when considering whether or not a 5 year supply of specific deliverable sites exists. The Secretary of State concludes that the Council cannot show even a 3 year supply of sites. Having also taken account of the Framework's requirement for an additional buffer, the Secretary of State considers that there is a significant shortfall in housing land in Cheshire West and Chester.

21. Having had regard to the inspector's remarks at IR174, like him, the Secretary of State sees no reason to doubt that the circa 100 houses proposed would rapidly feed into the necessary overall housing land supply for the Council's area of jurisdiction (IR174) and that the scheme would contribute in a small but significant way to the satisfaction of overall identified housing need at the present time (IR176). The Secretary of State has taken account of representations submitted following his letter of 3 May 2013 which have pointed to the fact that a planning application for the site at Brook Farm School has now been submitted, but he does not consider this negates the Inspector's analysis at IR175. In common with the Inspector he sees no reason to conclude that the development of the appeal site would necessarily inhibit the prospective development of the former Brook Farm School (IR175).

22. In conclusion on this matter, the Secretary of State considers that the significant shortfall of housing land in Cheshire West and Chester is a matter which carries significant weight in his consideration of this appeal.

23. In respect of the affordable housing element of the appeal scheme, in common with the Inspector (IR170), the Secretary of State considers that the delivery of affordable housing (30% of the units in this case) is also a significant benefit and he too attaches significant weight to it.

Sustainability

24. The Secretary of State has taken account of the fact that the Council ranks Tarporley as amongst the more sustainable settlements within its area (IR177) and he has gone on to consider the Inspector's detailed analysis of the scheme's sustainability (IR177 – 200). He has had regard to the Inspector's views that economic considerations must attract substantial weight in favour of the proposal (IR182). He considers that the

economic effect of additional population in contributing towards a prosperous rural economy is a factor weighing in the appeal's favour although, like the Inspector (IR183), he accords this matter relatively limited weight. For the reasons set out by the Inspector (IR184 – 188), the Secretary of State shares his doubts about how far the development would in reality promote sustainable transport choices and that this matter weighs against the proposal in the absence of a clearer indication of the appropriate scale of additional development in this part of the Council's area (IR187). Like the Inspector, the Secretary of State is satisfied that the appeal proposal would accord with the Framework's intentions in respect of delivering a wide choice of high quality homes (IR190). He has considered the Inspector's analysis in respect of design (IR191 – 197) and he is satisfied that, with the imposition of condition 3, the potential harm identified by the Inspector could be avoided and that this matter does not weigh against the scheme. With regard to the issue of playing fields, the Secretary of State agrees with the Inspector that the scheme would cause no harm to the Framework's intentions in respect of healthy communities (IR198). He sees no reason to disagree with the Inspector's conclusions that the biodiversity value of the site would be positively enhanced relative to its function as agricultural land, in so doing he acknowledges, in common with the Inspector, that the loss of Best and Most Versatile (BMV) agricultural land would be harmful in land resource terms (IR199).

25. However, in conclusion on this issue, the Secretary of State agrees with the Inspector that, leaving aside the strategic spatial issues yet to be resolved through the development plan, the scheme may be placed on the positive end of the sustainability spectrum (IR200).

Material considerations relevant to the planning balance

26. With regard to the Inspector's comments at IR201, the Secretary of State has made it clear (at paragraph 13 above) that he shares the Inspector's view that the proposed development would conflict with the intentions of the LP in a number of ways. However, the Secretary of State agrees with the Inspector's comments at IR202 including the fact that the Council is unable to demonstrate a five year supply of deliverable housing sites and he has concluded (at paragraph 22 above) that there is a significant shortfall of housing land in Cheshire West and Chester. He is satisfied that, subject to the imposition of condition 3, the Inspector's concerns about environmental quality can be satisfactorily addressed. He also concurs with the Inspector's view that the proposed signalisation of the Nantwich Road/A49 junction would influence traffic in a positive fashion (IR203). The Secretary of State shares the Inspector's view that there are no "technical" impediments to the development of the appeal site that cannot be addressed by planning condition (IR203) and, as set out at paragraph 24 above, he is satisfied that the strong reservations to which the Inspector again refers at IR206 could be satisfactorily addressed by condition. He sees no reason to disagree with the Inspector's remarks at IR207 – 210. As to the Inspector's remarks at IR211, the Secretary of State's view on the scheme's sustainability is set out at paragraphs 24 and 25 above.

27. The Secretary of State has had regard to the Inspector's comments at IR212 – 222, including the fact that Tarporley Parish Council has been notably vigorous in proactive community-led planning and has been granted Front Runner status (IR213). He sees no reason to disagree with the Inspector's views that localism is a material

consideration in this case and that there is no reason to doubt the seriousness of the Parish Council's intent with regard to neighbourhood planning (IR217 and IR222).

28. The Secretary of State has had close regard to the Inspector's comments (IR223 – 224) about the Parish Council's case at the inquiry; the Inspector's view that allowing this appeal would be damaging to Tarporley's neighbourhood planning process; and the Inspector's remark that this matter carries substantial weight. He also notes that the Inspector considers that the appeal proposal is relatively small but locally very significant (IR224). However, whilst the Secretary of State acknowledges the Parish Council's commitment to developing a Neighbourhood Plan, at the current time no emerging Tarporley Neighbourhood Plan has been published to which the Secretary of State can consider attaching weight. In these circumstances, the Secretary of State accords relatively limited weight to this matter.
29. The Secretary of State has taken account of the Inspector's remarks at IR225 – 234 and at IR268. For the reasons given by the Inspector, the Secretary of State shares his views that there is an element of prematurity here which does weigh against the proposal (IR231) and that precedent is a material factor to be weighed in the balance (IR234). He agrees with the Inspector, however, that the issues of prematurity and precedent could not be decisive in themselves (IR268) and he has attributed limited weight to them.

Potential Conditions and the Planning Obligation

30. The Secretary of State has considered the proposed conditions in the Annex to the IR, the Inspector's assessment of these at IR235 - 249, and the policy tests set out in Circular 11/95. He is satisfied that the conditions recommended by the Inspector would be reasonable and necessary and would comply with the provisions of Circular 11/95. Having had regard to the Inspector's remarks at IR238 and IR275, he is satisfied that it is not necessary for him to consult parties prior to setting condition 3.
31. The Secretary of State has also had regard to the planning obligation described by the Inspector at IR8 and the Inspector's reasoning and conclusions on the Unilateral Undertaking (UU) as set out at IR250-251. For the reasons given by the Inspector at IR251, he too considers that provisions relating to the Health Centre car park do not satisfy the requirements of Regulation 122(2) of the CIL regulations and he gives no weight to them. Like the Inspector (IR250), he is satisfied that the other elements in the UU do satisfy the requirements of the Regulations' and he accords weight to them.

Planning Balance

32. The Secretary of State has given careful consideration to the Inspector's comments at IR252 - 262.
33. The Secretary of State has found (at paragraph 13 above) that the appeal development would conflict with the intentions of the development plan regarding the location of new housing development but, in the light of his conclusion that settlement boundaries are in urgent need of comprehensive review, he has given reduced weight to this conflict. He has also found that the scheme would conflict with LP policy RE1 (paragraph 14 above).

34. As set out at paragraph 22 above, the Secretary of State has attributed significant weight to the significant shortfall of housing land in Cheshire West and Chester. The Secretary of State has also attributed significant weight to the affordable housing offered by the appeal scheme (paragraph 23 above). Having had regard to the Inspector's comments at IR262 and bearing in mind his own remarks at paragraph 24 above, the Secretary of State also shares his view that the economic imperative to stimulate house building carries further significant weight in favour of the appeal. In common with the Inspector (IR262), he also attributes significant weight to the other benefits for the locality acknowledged by the Council.
35. Turning to the Inspector's analysis at IR263 – 267, the Secretary of State has set out his views on sustainability issues at paragraph 24 above and he has concluded (at paragraph 25 above) that, leaving aside the strategic spatial issues yet to be resolved through the development plan, the scheme may be placed on the positive end of the sustainability spectrum. The Secretary of State shares the Inspector's view that it is a core principle of the Framework that planning should be genuinely plan-led, empowering people (within the context of up-to-date and practical frameworks that they themselves influence through, inter alia, neighbourhood plans) to shape their surroundings and that it follows that such process is, of itself, a facet of sustainability (IR266). He also agrees that in a case such as this there is an inescapable tension between the need for housing development to be plan-led at local level and the broader needs to promptly deliver sufficient new homes (IR266).
36. The Secretary of State shares the Inspector's view (IR268) that arguments concerning prematurity and precedent are not decisive in this case and, as set out at paragraph 29 above, he has attributed limited weight to them. The Secretary of State has gone on to consider the Inspector's arguments at IR269 – 274. He acknowledges Tarporley's status as a Front Runner in the neighbourhood planning initiative (IR270) and he has taken account of the Inspector's entirely positive remarks about the Parish Council, including its commitment to seize the opportunity now presented to the community through the provision of the Localism Act and the policies of the Framework (IR271). He has also given very careful consideration to the representations put forward by Tarporley Parish Council and by Mr Blackford in their representations following his letter of 3 May. The Secretary of State has also given very careful consideration to the Inspector's remarks at IR272 - 274. He considers that a decision to allow this appeal is likely to be demotivating for the Parish Council and, whilst he does not agree with the Inspector that this matter should carry substantial weight at this stage of Tarporley's Neighbourhood Planning process, he has weighed this consideration against the appeal proposal to a limited degree.

Overall Conclusions

37. Whilst the Secretary of State has given careful consideration to the Inspector's overall conclusions at IR275 – 291, he does not agree with that analysis. The Secretary of State has found conflict with the development plan in respect of policies relating to agricultural land and with the plan's intentions regarding the location of new housing development. However, he has also concluded that Cheshire West and Chester cannot demonstrate a five year supply of deliverable housing land. In these circumstances he considers that housing land supply policies are out-of-date and paragraph 14 of the Framework is therefore engaged. Whilst he has found some drawbacks to the scheme, he has found that it would bring a number of significant

benefits, some of which carry significant weight. In conclusion the Secretary of State is satisfied that no adverse impacts would arise from the development which would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. He further concludes that the scheme's benefits are sufficient to outweigh the conflict that he has identified with the development plan.

Formal Decision

38. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendations and hereby allows your client's appeal and grants outline planning permission for up to 100 dwellings, site access, highway, landscaping, open space and associated works (ref: 11/04261/OUT) dated 2 September 2011, subject to the conditions listed at Annex B of this letter.
39. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
40. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

41. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
42. A copy of this letter has been sent to Cheshire West and Chester Council. A notification letter or e-mail has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Christine Symes
Authorised by Secretary of State to sign in that behalf

ANNEX A: POST INQUIRY CORRESPONDENCE

| Name / Organisation | Date |
|--|-------------------|
| Angela Needham | Undated |
| R Bainbridge | Undated |
| Denise Pritchard | Undated |
| Alan & Elaine Wright | Undated |
| Mr & Mrs B Gale | Undated |
| David Griffith | 22 August 2012 |
| Frank Allan | 28 August 2012 |
| Pam and John Rees | 29 August 2012 |
| Charles Higgin | 29 August 2012 |
| E F F Davis | 8 September 2012 |
| Laura Baker | 9 September 2012 |
| Robert Ziman | 9 September 2012 |
| Bernard McQueen | 10 September 2012 |
| Joan & Trevor Langley | 10 September 2012 |
| Harry L Barker | 10 September 2012 |
| Dr S Gilman | 10 September 2012 |
| Mr & Mrs A Brander | 10 September 2012 |
| Mrs Anne Hammond | 11 September 2012 |
| Alan Armstrong | 11 September 2012 |
| Peter Tavernor | 12 September 2012 |
| Martin Stone | 12 September 2012 |
| Dave Wake | 13 September 2012 |
| Mr Terrence William Grace and Mrs Brenda Grace | 14 September 2012 |
| Mr D Butters | 18 September 2012 |
| Mr K Thompson | 19 September 2012 |
| Mr J B Porter | 19 September 2012 |
| Shaun T Joyce | 20 September 2012 |
| Mrs D Grundy | 21 September 2012 |
| Mrs D Joyce | 21 September 2012 |
| Mrs G Clough | 21 September 2012 |
| Arthur E Bristow | 21 September 2012 |
| Rachel Cordingley | 22 September 2012 |
| Mr J MacDonald, Tarpoley Parish Council | 25 September 2012 |
| Rosemary Williams | 25 September 2012 |
| Mrs Vera D S Biggins | 27 September 2012 |
| Elisabeth Stewart | 28 September 2012 |
| Robert J Allen | 29 September 2012 |
| Mrs Mary Allen | 29 September 2012 |
| Mr & Mrs M Walton | 2 October 2012 |
| P Greenway | 5 October 2012 |
| Kevin Hyatt | 10 October 2012 |

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| Mrs J Lovelock | 10 October 2012 |
| Mrs L George | 11 October 2012 |
| Richard Bass | 30 October 2012 |
| | |
| Dr R A Brierley & Mrs V J Brierley | 25 November 2012 |
| | |
| Mr C Armstrong | 28 December 2012 |
| | |
| Mrs J Lovelock | 31 January 2013 |
| | |
| Daniel Dickinson, Cheshire West & Chester Council | 5 March 2013 |
| | |
| Martyn Twigg, FLP | 18 April 2013 |
| | |
| <i>Responses to the Secretary of State's letters of 3 May, and 5 and 9 June 2013.</i> | |
| Martyn Twigg, FLP | 15 May 2013 |
| Jeremy S Mills | 22 May 2013 |
| Cllr Mike Jones, Leader Cheshire West & Chester Council (to Stephen O'Brien MP) | 28 May 2013 |
| Stephen O'Brien MP | 29 May 2013 (incl. Cllr Mike Jones letter of 28 May) |
| Angela J Needham | 29 May 2013 |
| Michael George | 30 May 2013 |
| Brian Leonard, Cheshire West & Chester Council | 31 May 2013 |
| Elisabeth Stewart | 31 May 2013 |
| | |
| Mr J Macdonald, Tarporley Parish Council | 1 June 2013 |
| Mr J Macdonald, Tarporley Parish Council | 2 June 2013 |
| James Blackford | 2 June 2013 |
| Daniel Dickinson, Cheshire West & Chester Council | 12 June 2013 |
| | |
| Martyn Twigg, FLP | 10 June 2013 |
| Mr J Macdonald, Tarporley Parish Council | 11 June 2013 |
| | |
| Michael George | 12 June 2013 |
| | |
| Daniel Dickinson, Cheshire West & Chester Council | 21 June 2013 |
| Martyn Twigg, FLP | 24 June 2013 |
| Jeremy S Mills | 25 June 2013 |
| Michael George | 25 June 2013 |
| Mr J Macdonald, Tarporley Parish Council | 25 June 2013 |
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| <i>Later representations (not sent in response to the Secretary of State's letters)</i> | |
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| Martyn Twigg, FLP | 1 July 2013 |
| Michael George | 14 July 2013 |
| Martyn Twigg, FLP | 19 July 2013 |
| Michael George | 31 July 2013 |
| | |
| Michael George | 8 August 2013 |
| Michael George | 21 August 2013 |
| | |

Sourced from Richborough Estates

ANNEX B: CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (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) Prior to or concurrently with the first scheme of details to be submitted pursuant to condition 1) above a detailed scheme for the proposed contouring of the site (based on one metre intervals) relating topography to varying densities of dwellings proposed in defined sub-areas of the site shall be submitted to the local planning authority for approval in writing. The reserved matters shall be consistent with the approved scheme, which shall be implemented as approved.
- 4) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 4712-P-01 RevA; Proposed Access Arrangements 0054_01 RevA.
- 6) No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the local planning authority. The scheme shall include a schedule identifying the order of commencement and completion of these key elements within each phase of construction. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until a detailed scheme for the provision and future management and maintenance of foul and surface water drainage incorporating sustainable drainage principles has been submitted to and approved in writing by the local planning authority. The drainage scheme shall be implemented, managed and maintained in accordance with the approved details.
- 8) No development shall take place until a detailed scheme for the creation and management, and protection during construction, of a buffer zone (of no less than 5 metres in width when measured from the bank top) along the Wettenhall Brook has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No site clearance, preparatory work or development shall take place until a scheme detailing any trees, shrubs or hedgerows to be retained or re-located and a scheme for their protection during construction or re-location, as the case may be, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 10) The landscaping works approved pursuant to condition 1) above shall include the numbers, size, locations and species of trees, shrubs and hedgerows to be planted or re-located. The works shall be carried out in accordance with a programme to be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and if within a period of five years from the date of the planting or re-location of any tree or shrub or hedgerow that tree or shrub or any plant forming part of the hedgerow in question, or any replacement thereof, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another of the same species and size as that originally planted or re-located shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 11) No dwelling shall be occupied until a long term (25 year) landscape and habitat management and maintenance scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and arrangements.
- 12) The landscaping works approved pursuant to condition 1) above shall include full details of all hard surfaces including new pedestrian links and the work shall be carried out in accordance with the approved details and with a programme of implementation to be submitted to and approved by the local planning authority in writing.
- 13) No development shall take place until details of the bat boxes recommended in the submitted ecological appraisal have been submitted to and approved in writing by the local planning authority and these shall be installed in accordance with the approved details in accordance with a timetable to be submitted to and approved in writing by the local planning authority.
- 14) The development shall not commence until the submitted badger survey has been updated and a detailed method statement to minimise the risk of harm to badgers entering the site during construction has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the measures in the approved method statement
- 15) There shall be no clearance of trees, shrubs and hedgerows between 1st March and 31st August and the landscaping details to be approved pursuant to condition 1) above shall include details of the design, quantity and location of nest boxes to be installed. These shall be installed in accordance with the approved details in accordance with a timetable to be submitted to and approved in writing by the local planning authority.
- 16) No development shall take place until full details of the phasing of the construction of the development hereby approved, including temporary highway and pedestrian routings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved phasing details.
- 17) 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) construction access arrangements and routing of construction vehicles

- ii) site compound 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) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) hours of working
 - viii) phasing of construction, including temporary highway and pedestrian routings
- 18) No phase of house construction shall commence until a detailed scheme of noise insulation and attenuation for that phase has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 19) No phase of house construction shall commence until a detailed scheme of external lighting for that phase has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 20) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future replacement thereof. The scheme shall include:
- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Social Landlord involved);
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) 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.
- 21) No phase of house construction shall commence until a detailed scheme for the provision of play space and the management thereof has been submitted to and approved in writing by the local planning authority in respect of that phase. The scheme shall be implemented in accordance with the approved details prior to the first occupation of any dwelling within that phase and the play space shall not thereafter be used for any purpose other than a public play area.
- 22) No development shall take place until full details of existing site levels and proposed finished floor (slab) and garden levels, together with maximum ridge heights, in relation to finished site levels, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 23) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 24) No development shall take place until details of any substations or other utility structures have been submitted to and approved in writing by the local planning authority. The structures shall be implemented in accordance with the approved details.
- 25) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of all means of enclosure and boundary treatment to be erected. The means of enclosure and boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.
- 26) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 27) No dwellings shall be occupied until the parking areas intended to serve them have been drained and surfaced in accordance with details to be submitted to and approved in writing by the local planning authority, and those areas shall not thereafter be used for any purpose other than the parking of vehicles.
- 28) Notwithstanding the approval of the access drawing 0054_01 RevA, no development shall take place until further and full details and specifications of the vehicular and pedestrian access works, including bus stop improvements and a footway link to Spring Hill, have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the works have been carried out in accordance with the approved details.
- 29) Within one month of the new access works becoming operational the existing agricultural access from Nantwich Road shall be permanently closed and the boundary treatment, verge and footway made good in accordance with details to be submitted to and approved in writing by the local planning authority.
- 30) No development shall take place until full details and specifications of the proposed signalisation works at the junction of Nantwich Road with the A49 have been submitted to and approved in writing by the local planning authority. No dwelling hereby permitted shall be occupied until the signalisation works have been implemented in accordance with the approved details.



Report to the Secretary of State for Communities and Local Government

by Keith Manning BSc (Hons) BTP MRTPI

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

Date: 1 November 2012

TOWN AND COUNTRY PLANNING ACT 1990

CHESHIRE WEST & CHESTER COUNCIL

APPEAL BY

FOX STRATEGIC LAND AND PROPERTY LTD

Inquiry opened on 22 May 2012

Land off Nantwich Road, Tarporley, Cheshire

File Ref: APP/A0665/A/11/2167430

File Ref: APP/A0665/A/11/2167430

Land off Nantwich Road, Tarporley, Cheshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Fox Strategic Land and Property Ltd against Cheshire West & Chester Council.
- The application Ref 11/04261/OUT is dated 2 September 2011.
- The development proposed is residential development of up to 100 dwellings, site access, highway, landscaping, open space and associated works.

Summary of Recommendation: That the appeal is dismissed and planning permission refused.

Applications for Costs

1. At the Inquiry an application for costs was made by Fox Strategic Land and Property Ltd against Cheshire West & Chester Council. An application for Costs was also made by Cheshire West & Chester Council against Fox Strategic Land and Property Ltd. These applications are the subject of a separate report.

Procedural Matters

2. The inquiry sat for four days, from 22-25 May 2012, and I visited the site and various other locations in and around Tarporley on 25 May.
3. Subsequent to the Inquiry, Steven O'Brien MP wrote to the Secretary of State to request that he recover the appeal for his own determination. On 21 August 2012 the Secretary of State informed the parties that he intended to do so, the reason being that the appeal involves proposals giving rise to substantial regional or national controversy and which raise important or novel issues of development control, and/or legal difficulties. Consequently, I have prepared a report and recommendation for his consideration.
4. The appeal was lodged on the basis of non-determination by the Council. The Council subsequently resolved that it would have approved the application. However, a second application (Ref 12/00477/OUT) was lodged which, bearing in mind the agreement of the appellant company to provide traffic lights at the junction of Nantwich Road with the A49 as part of the off-site measures now associated with the proposed scheme at issue, may in practical terms be considered identical. In respect of this application, the Council ultimately took a different view, following the publication of the National Planning Policy Framework ('the Framework') on 27 March 2012, and refused it, for reasons specific to the intentions of the Framework, citing paragraphs 11, 17, 69 and 112 therein.
5. Be that as it may, the Council's formal position at the Inquiry was one of support for the scheme under consideration.
6. The Parish Council, on the other hand, having been granted 'Rule 6 status', appeared at the Inquiry in opposition to the proposed development. Parish Council core documents are identified by the letters **TPC** and are listed as the final section of the Core Documents list.

7. The application subject to appeal is in outline. All matters except access are reserved.
8. A unilateral undertaking, dated 22 May 2012, was submitted at the Inquiry. This simply provides for details of the design, location and future maintenance of the landscaped open space proposed to structure the layout of the development, together with the general amenity areas within it, to be approved by the Council; and for financial contributions to the improvement or provision of playing pitches within Tarporley and to improvements to the car park at Tarporley Health Centre.
9. An Updated Statement of Common Ground ('the SoCG') was agreed, in its final form, between the Council and the appellant company on 1 May 2012. This includes, at Appendix 3, the relevant committee minute (168) detailing the Council's reasons for its stance on the proposal. For convenience, I have designated this **CD19**, taking advantage of a blank left in the Core Documents list.

The Main Issues

10. On opening the Inquiry, I identified what I considered to be the main issues, with the agreement of the parties, as follows:
 - i) Whether the proposed development would accord with the intentions of the development plan;
 - ii) Whether the proposed development would accord with the intentions of relevant national policy;
 - iii) The relationship of the proposed development to the intentions of the emerging development plan, to the extent these may be known, and the extent to which these should be taken into account;
 - iv) Whether the proposed development is necessary at the present time and in this location in the context of the Council's overall supply of housing land;
 - v) Whether the proposed development may be considered sustainable;
 - vi) Whether there are material considerations, including site specific and area specific matters, which might potentially tip the balance of planning advantage one way or the other.
11. These issues, including the last of them, provide a suitable framework within which to consider the matters identified by the Secretary of State in recovering the appeal; and I have organised my report on that basis.

The Site and Surroundings

12. Tarporley is a small mid-Cheshire town or large village of considerable environmental quality and historical interest. It is essentially linear in form and at its heart lies the High Street, characterised primarily by attractive Georgian buildings containing a good variety of shops and services. The Village Design Statement (**CD25**), initiated by the Parish Council, and subsequently adopted by the former Vale Royal Borough Council as Supplementary Planning Guidance, describes its historical development and illustrates, in plan form at page 15, how the large conservation area at its heart includes important open spaces, primarily

the fields close into the High Street on the western side and the rolling parkland landscape to the north east. There are attractive views out from the town to the south west towards Beeston Castle and the Peckforton Hills. In more recent times, incremental expansion through the addition of housing estates has occurred, particularly but not exclusively towards the south east in the direction of Rhuddall Heath. The plan also reproduces the 'Local Plan Policy Boundary'¹ (LPPB) defined in the adopted Vale Royal Borough Local Plan.

13. In recent years the settlement has been by-passed at a little distance to the west by the A49, partly in cutting, which swings back to the south east to cross Wettenhall Brook immediately before the junction with Nantwich Road near the southern extremity of the appeal site. This is a large single field bounded by the by-pass, a short section of the brook, Nantwich Road, housing on Spring Hill and Ardens Meadow and the approach to the A49 overbridge carrying Birch Heath Road. The convex form of the land, which renders it conspicuous in the southern approach to the settlement along Nantwich Road and to some extent in the wider landscape, derives from the fact that it traverses the relatively elevated spur of land forming a gentle ridge aligned broadly north east to south west which necessitates the cutting to accommodate the by-pass at this point. It also gives rise to the hard edge to the settlement identified on the plan in the Village Design Statement previously referred to, as houses on Spring Hill stand on the skyline across the ridge.
14. The northern end of the appeal site is crossed by a public footpath which continues between Ardens Meadow and Spring Hill, behind the Tarporley Business Centre linking to Nantwich Road which then runs into High Street. The footpath, which continues west into the open countryside beyond the by-pass is disrupted by the road, but provision is made to negotiate its embankments, albeit great care must necessarily be exercised in crossing the road itself. At the southern end of the appeal site the A49 is a little elevated above the low-lying land associated with the brook and an underpass is incorporated in its structure to allow the passage of livestock and farm machinery, thereby creating a functional link between the appeal site and the remainder of the farm holding of which it forms part. In land quality terms, detailed survey (**CD1.15**) has established it to be predominantly Grade 2 with some pockets of Sub-grade 3a, placing it entirely within the 'best and most versatile' (BMV) category.
15. Save for the wooded corner of land between the A49, Nantwich Road and Wettenhall Brook immediately beyond its southern extremity, the appeal site occupies the whole of the Nantwich Road frontage leading into the settlement from the south, as far as the houses at Spring Hill and a ribbon of dwellings on the east side of Nantwich Road, behind and to the south of which lies Tarporley High School and its extensive playing fields. The latter are identified in the Village Design Statement as important open space and are within the LPPB. West of Nantwich Road, the appeal site is distinctly elevated behind its boundary hedge along much of the frontage, albeit the southern extremity near the brook is low-lying.

Planning Policy

16. Relevant policy at national level is now embodied in the Framework, but the starting point is of course the development plan.

¹ Referred to in the local plan as the 'defined policy boundary' or the 'settlement policy boundary'

17. This currently includes the policies of the Regional Spatial Strategy (RSS), within which the former Vale Royal Borough is placed within the Liverpool City Region, a limited number of policies saved from the Cheshire Structure Plan (2005) which were not replaced by the RSS and the saved policies of the Vale Royal Local Plan First Review Alteration ('the local plan') adopted in July 2006. The relevance and applicability of certain policies has been to some extent confused and obscured by the subsequent reorganisation of local government in Cheshire but the principles embodied in relevant policy carry through, tempered now by the degree to which these remain consistent with the Framework, bearing in mind paragraphs 214 and 215 and the fact that neither the saved policies of the structure plan nor those of the local plan have been adopted pursuant to the provisions of the Planning and Compulsory Purchase Act 2004, but rather the Town and Country Planning Act 1990.
18. As far as the RSS is concerned, a number of policies are referred to by the appellant as supportive of the proposed development: DP2 seeks to promote sustainable communities; DP4 seeks to make the best use of existing resources and infrastructure; DP5 seeks to direct development to accessible places, thereby reducing the need to travel, especially by car; DP7 seeks to promote environmental quality; DP9 seeks to reduce emissions and adapt to climate change; RDF2 promotes the concept of key service centres and seeks to direct development in rural areas to such centres; L1 seeks adequate provision for all in terms of health, sport, recreation, culture and education; L2 promotes understanding of housing markets by local planning authorities in order that they may effectively plan for housing needs, specifically by undertaking Strategic Housing Market Assessments; L4 requires local planning authorities to monitor and manage the availability of housing land to achieve the specified provision in their areas. The combined requirement (net of clearance replacement) for what is now Cheshire West and Chester amounts to 23,700 dwellings over the period 2003 – 2021 (RSS Table 7.1) which translates into an annual average requirement for additional dwellings in the Council's area of 1,317. An indicative target of providing at least 80% of the housing requirement through the use of brownfield land and buildings is set. In the former Vale Royal area, which includes Tarporley, the aim is to facilitate sufficient housing development to support key local regeneration priorities, particularly in Northwich town centre, and to address affordable housing needs, albeit the broader context for the western part of Cheshire described in the RSS recognises the links between the economy of Chester, the regeneration of Ellesmere Port and North East Wales and the Liverpool City Region; L5 promotes affordable housing through a range of delivery mechanisms including on-site provision amidst market housing; and LCR1 promotes, amongst other things, sustainable growth and development opportunities in the former Vale Royal area.
19. I am conscious that, whilst the policies of the RSS were prepared under the terms of the Planning and Compulsory Purchase Act 2004 and may therefore be given full weight, the Localism Act 2011 provides for its intended abolition at a date yet to be determined. However, to the extent that these broad policies are relevant to the proposed development at issue, I find no inconsistency with the intentions of the Framework in any event, albeit that the effective use of land through the reuse of brownfield land is expressed as a core principle rather than a numerical target in the context of housing land supply. (Paragraph 111 of the Framework allows for the setting of locally appropriate targets.) Sustainable development to meet identified needs in appropriate places is the common

theme. Notwithstanding the intended abolition of the RSS in due course its current weight as part of the development plan is not materially diminished.

20. While no saved structure plan policies have been cited as of particular relevance and the reorganisation of local government in Cheshire has brought the former Vale Royal Council area together with those for Chester and Ellesmere Port and Neston, the local plan policies remain current for the area in which Tarporley is situated pending replacement in due course by the adoption of a new local plan in the form of a Core Strategy and other development plan documents to be prepared by the Cheshire West & Chester Council together with, potentially, a neighbourhood plan to be prepared under the powers introduced by the Localism Act 2011.
21. The effectiveness of certain of the current local plan policies is diminished by the lack of synchronisation now evident between the period covered by the local plan (2002 - 2016) and that of the RSS, which runs from 2003 to 2021, a factor of particular relevance to housing land supply. Nevertheless, as part of the development plan for the area, it remains the essential starting point in the determination of planning applications such as this.
22. Local plan policy GS5 concerns the open countryside. Its first intention is to protect its character and appearance. It defines open countryside in this part of the former Vale Royal Borough outside the North Cheshire Green Belt as all those areas outside settlement policy boundaries. Its intention is to restrict all new buildings outside those boundaries other than those provided for by other local plan policies. Such an intention does not seem to me to be inconsistent with the Framework's core planning principle, amongst others, that the intrinsic character and beauty of the countryside should be recognised. The explanation to the policy notes, amongst other points, that... *"the Settlement Policy Boundaries show the extent of the area in which the range of developments appropriate in a particular locality may be permitted within the aims of the Plan."*
23. Local plan policy GS2 aims to concentrate development in or on the edge of Northwich and in Winsford, a geographical area which it defines as including the larger villages of Anderton, Barnton, Cuddington, Davenham, Hartford, Lostock Gralam, Lower Marston, Lower Wincham, Moulton, Rudheath, Higher Wincham and Weaverham. There are three other villages classified as "larger", namely Tarporley, Frodsham and Helsby and the policy states that these are also suitable for further development. The explanation to the policy notes that the policy aims to support the strategic aim of concentrating development in or on the edge of the County's towns and its wording lends support to a distinction between Northwich and its satellite settlements, Winsford and the three larger villages including Tarporley that stand away from their dominating influence.
24. Paragraphs 2.35 – 2.42 of the local plan's explanatory text illuminate the policy approach to the towns and larger villages and paragraph 2.41 explains that... *"Outside the Northwich area, the expansion of Frodsham and the villages of Helsby and Weaverham are constrained by Green Belt policies and in the case of Tarporley by other rural restraint policies."* The paragraphs 2.17 - 2.25 address future development and 2.18 explains the strategy in the following terms... *"...the majority of future development should continue to be concentrated in or on the edge of Northwich or in Winsford. In these towns where existing levels of investment in facilities are high, there is scope to use derelict and underused land and premises and there are opportunities to travel other than by using the private motor car."* Paragraph 2.22 explains that... *"Because the Borough's*

housing requirement can be met to 2016 very predominantly through three major land allocations within or on the edge of Northwich and within Winsford, new housing development within Frodsham, Helsby and Tarporley will be strictly controlled."

25. Local plan policy H2 supports the strategic approach described above in allocating sites for housing within or on the edge of Northwich and in Winsford, which are classified as 'Tier 1 locations' and point (i) in the explanation to the policy defines the 'edge of Northwich' as land *"within the defined policy boundaries of Hartford, Lostock Gralam, Lower Marston, Higher Wincham, Lower Wincham, Rudheath, Anderton, Barnton, Davenham, Moulton, Cuddington and Weaverham"*.
26. Local Plan policy H4 sets out the housing development hierarchy and places Tarporley, specifically within its defined policy boundary, in 'Tier 2' along with Frodsham and Helsby. Only Tier 1 locations support specific allocations but the full range of other categories (B-G) including conversions and subdivisions and affordable housing, including on rural exception sites, are anticipated in Tier 2 locations.
27. Local plan policy H5 provides for the release of 'windfall' sites where there is acknowledged to be a shortfall in housing land availability against policy requirements and in terms of a five year supply. It further provides for the managed release of windfall sites in accordance with criteria set out in a Supplementary Planning Document, *SPD2 Managing Housing Land Supply*.
28. Local plan policy H14 aspires to the provision of 30% affordable housing on allocated sites and on windfall sites of sufficient size within the settlement policy boundaries of Tier 1 and Tier 2 locations.
29. In addition to directing development, including housing development, in a strategic and spatial fashion within the former Vale Royal Borough Council area, the local plan contains policies concerned to protect resources and environmental quality. Policies of this nature considered relevant by the Council include: NE4, which is concerned with threatened and priority habitats; NE5, which concerns endangered species; NE7, which aims to protect and enhance landscape features; NE8, which concerns the provision and enhancement of landscape in new development; BE1, which aims to safeguard and improve environmental quality; BE14 concerning sites of local archaeological importance; RT3, which concerns recreation and open space in new developments; and policies RE1 and RE2 concerning agricultural land. The former contains criteria which direct development away from the best and most versatile land and minimise the loss of such land where it is unavoidable, with a preference for utilising Sub-grade 3a ahead of Grade 2.
30. Insofar as the local plan policies seek to interpret the principles of sustainable development in the circumstances of the former Vale Royal Borough Council area, they are not generally inconsistent with the intentions of the Framework, albeit the effect of the housing land supply situation, specifically, on the manner in which the policies should be applied and the relative weight to be accorded to policies which may pull in opposing directions, is a matter of contention.
31. The policies of the local plan are supplemented by a number of publications in the form of Supplementary Planning Guidance (SPG) and Supplementary Planning Documents (SPD). Aside from the *Village Design Statement* for Tarporley, which is adopted SPG, those of most potential relevance in this case include SPD1

Planning History

32. There is no relevant planning history associated with the appeal site.

The Proposals

33. The proposed development of perhaps as many as 100 houses (30% affordable intermingled with open market housing) would, according to the 'illustrative masterplan' essentially consist of a single estate served by an access approximately halfway along the Nantwich road frontage, around the point at which traffic speed is currently restricted to 30 mph. The existing boundary hedge, which is of some ecological value, would be transplanted to a point further back into the site to accommodate the necessary sight lines. The principal attenuation area for surface water drainage would be on the low-lying land near the brook, whereas the proposed estate roads would distribute two storey housing with gardens across the higher ground including the ridge running south west from the existing edge of the built-up area at Spring Hill. The estate would be bisected by an open space, narrowing to the south west. It was explained that the rationale of this in landscape design terms would be to retain views of Beeston Castle. This is a theme picked up in terms of the orientation of two short streets towards the northern end of the site. The layout of the roads and housing plots would be complemented by open space with footways/cycletracks and structural and peripheral heavy planting. At this stage the proposed layout is, however, primarily conceptual.
34. To the extent that the illustrative material at Figure 22 of the Design and Access Statement (CD1.5) indicates the highest part of the site being slightly lowered, the potential difficulties posed by the convex landform and prominence of the site appear to have been recognised by the appellant company. However, while I was told that a reduction of perhaps as much as two metres is anticipated at the crest of the ridge, no proposed contouring on a comprehensive basis has been undertaken and I have no evidence of any calculation being done as to the destination of excavated material within the site if redistributed, or the degree to which such material might have to be removed from the site altogether.

Agreed Matters

35. The updated and final Statement of Common Ground (CD19) was prepared jointly by the Council and, of itself, is primarily factual, the salient points being as follows: -
36. The application was supported by documents agreed with the Council now contained in CD1.
37. The application was lodged on 2 September 2011 and the appeal on the grounds of non-determination was lodged on 19 December 2011.
38. An officer's report was subsequently considered by the Planning Committee on 21 February 2012 to establish the position the Council would have reached had it been able to determine the application. The report's recommendation of 'approval' was accepted by the Council and the report represents the agreed position between the Council and the appellant. It was supplemented by a 'late information' update report. The main and update reports are respectively at Appendices 1 and 2 to the Statement of Common Ground.

39. The minutes of the Planning Committee of 21 February 2012 and an appeal decision concerning a site at Cuddington (near Northwich) are respectively included as appendices 3 and 4 to the Statement of Common Ground.
40. The minutes include confirmation that the Council's Spatial Planning Department had withdrawn its objection in the light of the Cuddington decision. This was issued on 20 February 2012.
41. The Council and the appellant intend that conditions and the content of a planning obligation should be agreed between them.

The Cuddington Decision and its implications

42. Much was made by all the parties of the appeal decision at Cuddington (APP/A0665/A/11/2159006 – 20 February 2012) which was evidently influential in the Council's decision, as minuted, to support the proposed development in this instance. The Parish Council argued that this, amongst associated factors, was used by officers to exert pressure on committee members to follow their recommendation to support the proposal. I was exhorted to watch video coverage of the proceedings but I have read the relevant transcript (**CD4**) and considered that such an action would not be helpful or a good use of Inquiry time. Moreover, the manner in which the officers of the Council present matters to its elected members is not a matter for me. Nor is it a matter for me as to why the Council's Spatial Planning Department evidently changed its view in the light of the Cuddington decision. My obligation is to consider the proposed development on its merits in the light of relevant development plan policy and other material considerations, and make a recommendation accordingly.
43. In any event, having studied the Inspector's reasoning very carefully, I do not consider his decision to be in any sense a template for the recommendation I am obliged to make. There are of course common factors concerning development plan policy, land availability and so forth, but there are also fundamental and important differences in the site, policy and settlement circumstances. The Inspector in that case described the site as "*strangely enclosed*" which is plainly not the case at Tarpoley. Although not acted upon, an Inspector's recommendation in relation to the local plan had been to the effect that the site should be included within the LPPB. Cuddington is a settlement with very different defining characteristics, described by the Inspector in the following terms: "*Cuddington is an extensive settlement of estates with some 2000 dwellings arranged around a variety of closes and cul-de-sacs. Even before the explosion of building in the late 1950s and 1960s, the straggle of dwellings between Cuddington, the cottages and an inn around the railway station and the church, chapel and lodges at Sandiway, had merged.....*" Moreover, the settlement was considered to effectively require consideration in the broader context of Northwich in both physical and policy terms.
44. Although the opposition of the Parish Council is recorded at paragraph 15, there is no evidence in the Cuddington decision that there is any strong tradition of local, parish level, initiative in settlement planning, again a factor which distinguishes the case from this appeal, which concerns a freestanding and relatively self-contained settlement which, notwithstanding some examples of rapid expansion through the addition of essentially suburban estates, nevertheless displays a strong local identity and historic heritage and a vigorous sense of community. That much is very evident from all that I heard at the Inquiry and from the adopted Village Design Statement. Moreover, the Cuddington decision was made prior to the publication of the Framework, the

final content and emphasis of which is now clear. Amongst other things, it is evident that its intentions in respect of the empowerment of local people, complementary to those of the Localism Act 2011, are now firm. The planning policy and guidance applicable at national level at the time of the Cuddington decision has been comprehensively superseded.

45. Bearing in mind such differences, I see no reason why any decision in respect of the Tarporley proposals should be unduly influenced by the Cuddington decision. It would be wrong in principle to assume that should necessarily be the case and contrary to the established principle that planning decisions should be made on their merits having appropriate regard to the provisions of the development plan and other material considerations.
46. In addition, it is clear from my reading of the development plan, as previously summarised, that Cuddington occupies a different position in the spatial vision for sustainable development in the former Vale Royal Borough Council area articulated in the local plan, at the edge of Northwich.
47. For these reasons, I consider the reasoning within and the outcome of the Cuddington appeal to be of limited relevance to my recommendation in this case. Although material, these are by no means decisive considerations that should in any sense pre-determine the application subject to this appeal, which stands to be determined on its own merits in the light of the development plan and other material considerations

The Case for the Appellant

The salient material points are:

48. The application subject to appeal on the grounds of non-determination is supported by the Council. That support was recommended by the relevant officer subject to appropriate conditions and a planning obligation. The Council maintains that position in the light of the publication of the Framework. While the Framework (para. 17) promotes a plan-led system it is also based on the premise that plans should be kept up-to-date and is concerned to drive the delivery of sustainable housing development.
49. There is no objection from any statutory consultee.
50. The statutory development plan comprises the RSS and the saved policies of the Vale Royal Local Plan. The former Vale Royal area is now subsumed within the Cheshire West & Chester area. The successor Council for this wider area is two years away from achieving a core strategy. There is no draft allocations DPD. There is no question of prematurity on the basis of the document *The Planning System: General Principles* and the Cuddington Inspector's approach. It follows that there can be no question of prematurity in respect of the neighbourhood plan because the neighbourhood plan is less advanced than the core strategy to which it must conform. It is impossible to sustain a prematurity objection in respect of the neighbourhood plan. There is no evidence that the community will fail to progress that as a result of it being de-motivated if the appeal were to be allowed.
51. The Council now responsible and the appellant are in agreement that there is, as at 30 March 2011, a 2.3 year supply of housing land for its amalgamated area of jurisdiction. This is when calculated against the RSS requirement set to continue under the emerging core strategy. In terms of dwelling numbers, the

consequential shortfall against the required 5 year supply equates to around 4,500 units.

52. SPD2 (**CD10**) has demonstrably failed as a mechanism to address the shortfall through windfall site release. The trigger is a 5% shortfall and yet the authority is faced with a 50% shortfall.
53. The paragraph 47 principle of the Framework would effectively shrink the supply in the approved housing land monitor (**CD15**) from 2.3 to 1.9 years and from 2.9 to 2.5 years in the case of the more recent (2011-2012) draft (**TPC14**). There is no reason to suggest that the 20% buffer requirement should be suspended owing to the age of the RSS or for any mechanical reason of subsuming it within the shortfall already amassed, as suggested by the Parish Council.
54. There has been persistent under-provision in both the former Vale Royal area and subsequently within Cheshire West and Chester. The Framework (para. 47) therefore demands an additional 20% on top of the five year supply, effectively reducing the relevant supply to only 1.9 years.
55. There is no evidence to gainsay the Council's confirmation through its latest approved and draft housing monitors (2010-2011 and 2011-2012 respectively) that there is an absence of five years' supply of deliverable housing sites. The attempts of the Parish Council and others to cast doubt on that are not supported by evidence. Moreover, there is no evidence that the RSS requirement to be deployed for the purposes of the emerging core strategy is likely to change.
56. The shortfall identified by the appellant and by the Council is chronic and the policies relevant to the issue are out of date. In such circumstances, the policy direction of the Framework is unequivocal. The presumption in favour applies. There is no case for its suspension pending the production of a core strategy, housing allocations development plan document and neighbourhood plan. Applying the principle in paragraph 49 of the Framework, the presumption in favour of development is engaged unless its adverse impacts significantly and demonstrably outweigh its benefits (Framework para. 14).
57. There is no case to suspend the presumption whilst the Council re-assesses its housing land supply. Nor is there any case to suspend it because of current economic difficulties; the reverse is true.
58. The Parish council cannot demonstrate a 5 year supply of deliverable sites. The Council's own figures and the recent conclusions of an Inspector (re: Cuddington) demonstrate that there is no such supply. No other appeal decisions cast any doubt on those conclusions.
59. The Framework does not allow time for land supply to be 'sorted out'. Its requirements take immediate effect and there is no support therein for a suspension of the presumption in favour of development pending the production of development plan documents or neighbourhood plans.
60. In principle, development of the site for residential purposes is wholly acceptable. There would be no serious harm to visual amenity, highway safety or capacity, ecology, drainage or any wider interest of sustainability. The site represents a logical extension of Tarporley with strong defensible barriers between it and the countryside beyond, notably the A49.
61. The settlement of Tarporley is recognised as a sustainable location by the Council (Tier 2 in the local plan for the purposes of policy H4) and one of 9 Key service

Centres identified in the emerging Core Strategy. It is properly identified as such. It has the services and facilities of a market town, justifying its high ranking in the Council's own hierarchy analysis.

62. The appellant's consultation with the community produced both opposition and support for the scheme proposed. There has been a well orchestrated campaign of opposition since but simple weight of numbers is not in itself sufficient (as per paragraph B21 of the Costs Circular 03/2009). It matters not whether there is one or a thousand objection letters. The key point is whether or not there is planning harm.
63. There is no evidence from the Parish Council of harm to landscape, harm to sustainability, or harm to traffic. The scheme would be well connected to the village centre for pedestrians and would not exacerbate problems of capacity for legal parking in the village centre. The highway authority is satisfied and supportive. The site would be at least as sustainable as Brook Farm.
64. The site is one of the few areas around the village not identified as important open space and is not within the Area of Special County Value. Lack of landscape harm is confirmed by Council officers and the scheme takes care to afford views to Beeston Castle.
65. Not only is there an absence of harm, but the proposal would bring benefits, notably the prompt delivery of good quality housing of which 30% would be affordable in an area in need of such provision, generous open space within the development, a contribution to address the additional demand for playing fields off-site and traffic benefits.
66. There is a pressing need for affordable housing (1,000 units per year borough wide of which 23 per year are in respect of Tarporley) and the uncertainty associated with the Parish Council's preferred sites includes uncertainty of funding for the affordable elements in those locations. These are not alternatives to the appeal site in terms of the need for affordable housing.
67. There would be an improvement in highways terms. Signalisation of the Nantwich Road/A49 junction will reduce through village traffic because right turners onto the latter road are presently discouraged by the prevailing conditions.
68. Accessible open space will be provided within the development and the net gain in planting will enhance biodiversity.
69. Off-site playing pitches would be provided for through the planning obligation.
70. The economic benefits would include construction activity, local expenditure, and receipt of new homes bonus.
71. All in all, the benefits have been described by Council officers as a highly compelling package and there is no identification of significant harm let alone harm that would outweigh the benefits.
72. The Brook Farm site preferred by the Parish Council is of limited relevance, notwithstanding its partially brownfield condition. There is no sequential requirement in the Framework to take brownfield land first; it may not get consent; it partially involves the use of open space identified as important in the Village Design Statement; it is less accessible to central facilities; the affordable element would be separate from the main housing area; there is no evidence that

the appeal scheme would prejudice its delivery and in any event both schemes taken together would simply contribute towards addressing a shortfall in supply that would remain.

73. Local opposition is motivated in part at least by the simple fact that the appeal site is outside the development boundary and concerns regarding precedent should carry little weight. There is no evidence that allowing the appeal would create a precedent harmful to the ability to resist development on other sites around Tarporley, many of which have particular constraints such as conservation area status or identified importance as open space. There is no reason, applying the principles of national policy advice in *The Planning System: General Principles* to consider the application premature relative to the forthcoming neighbourhood plan promoted by the Parish Council. There is not even a draft of this.
74. **In summary**, having regard to the questions posed by the Inspector in opening the Inquiry, the position is as follows:
- The relevant policies of the development plan concerning housing land supply are, according to the Framework, out-of-date. No other extant development plan policy seeks to prohibit development of the appeal site.
 - There is a chronic shortage of housing land and the proposed scheme would boost supply for both market and affordable housing. There is no sequential requirement that places brownfield before greenfield sites and no prohibition of the use of the best and most versatile land. The Council has no choice other than to release greenfield sites beyond settlement boundaries if housing needs are to be met, now and through the development plan in due course. Sites that are sustainably located and where harm does not demonstrably outweigh benefits should be released without delay.
 - The latest iteration of the emerging development plan is the August 2011 report on a preferred development option for the core strategy. This confirms Tarporley as a key service centre and maintains the RSS housing requirement. There is therefore no conflict with emerging policy and there cannot be conflict with draft allocations development plan documents and the draft neighbourhood plan as these do not exist.
 - The scheme is very necessary in the light of the unmet housing supply requirements and there is no evidence that these are likely to change. The appeal site is sustainably located; it causes no harm in terms of conventional development control criteria; and it delivers benefits. It is the sort of scheme that the Framework envisages for immediate release to address housing land shortage. This provides no support for delay pending an up to date local plan including a neighbourhood plan. If the view is taken that 'localism' means that much needed sustainable development has to wait one, two or even three years, then the Government's pro-growth agenda is effectively finished.
 - There are no site-specific matters that might tip the balance. Tipping the balance in this case means that harm should demonstrably and significantly outweigh benefits. There is no cogent evidence of harm to support such a finding.
 - All things considered, the appeal should succeed.

The Case for Cheshire West & Chester Council

The salient material points are:

75. The determination of planning applications is governed by statutory provisions which require that they be determined in accordance with the development plan unless material considerations indicate otherwise.
76. Different policies may pull in different directions and individual development proposals will have varying degrees of accordance with the range of relevant policies but material considerations are part and parcel of the balancing exercise that addresses conflicts with policy, the relative weight to be accorded to policies in conflict with one another and with other relevant guidance or policy, any resultant planning harm and any planning benefits arising.
77. That balancing exercise was first undertaken in this case by an experienced senior planning officer of the Council, who prepared the main report to the planning committee of 21 February 2012 along with the late information report. His assessment, having undertaken the balancing exercise and taken into account all representations received, was that planning permission should be granted.
78. The committee debated the matter and took into account the Cuddington decision which simply served to reinforce the recommendation already contained in the officer's report, which the committee resolved to follow. That resolution forms the basis of the Council's position at this inquiry which is that, had it been in a position to do so, it would have granted permission.
79. The Council's position is straightforward and logical, notwithstanding appearances to the contrary.
80. The decision of 21 February 2012 to support the application was taken in the context of policy current at that time (i.e. the local plan and the relevant planning policy guidance notes and statements.)
81. The second and, for all practical purposes, identical application (Ref 12/00477/OUT) was determined by the Council on 1 May 2012.² The determination was therefore after 27 March 2012 when the Framework came into effect. The Framework cancelled the vast majority of the existing national policy and guidance and altered the emphasis or weight to be given to certain aspects of the local plan. However, by the time the second application was determined, the evidence regarding the first application subject to this appeal had already been exchanged, making clear the Council's support as per the resolution of 21 February 2012.
82. As it turned out, the Council refused the second application, the planning committee having taken the view that it did conflict with the local plan and four separate paragraphs of the Framework, namely 11, 17, 69 and 112.
83. It then opted to maintain its stance in respect of the first application in accordance with its previous resolution and submitted evidence, leaving entirely any defence of its stance on the second application to an appeal of that decision in the event that one should be lodged. It declined the alternative option of ignoring its decision and evidence on the first application, so as to run a defence

² Date of Planning Committee – the decision notice (Doc 3) is dated 4 May 2012

of its refusal of the second application which has not in fact been appealed and is not before this inquiry.

84. It regarded this alternative course to be an impractical option and the first option of maintaining its support for the application to be the only proper position to adopt in the circumstances. The appellant would no doubt have had something to say had it opted to oppose the application subject to appeal.
85. It is recognised that the Inspector (but now, by implication, the Secretary of State himself) must draw conclusions on the appropriate course in the light of policy as it now stands. It is therefore inevitable that he should ask the Council's planning witness for his view on the effect of the new policy context and, whilst that view is to the effect that the position should not change, that is in fact a view which differs from that of the Council. However, his role is to present the view of the Council on the first application (the subject of the appeal), which accords with his own view that, for the reasons set out in his report, it should be supported; and not to present the Council's different view of the second application.
86. In respect of the first application, the Council's view remains that it should be supported.
87. **In summary**, the position is as follows:

- The Framework is not considered to significantly alter the position. It is pro-growth and favours sustainable development.
- The Council has only a 2.3 year supply of housing land.
- The proposed development would deliver needed affordable and market housing.
- There are no insurmountable site-specific objections.
- Considerable weight should be given to the Cuddington decision.
- Although the proposal would involve the loss of open countryside the package of benefits is compelling.
- Although the proposal represents a departure from the local plan, the material considerations presented by the applicant outweigh that conflict and the principle of the development is therefore considered acceptable.
- Prematurity is not referred to in the Framework and, applying the principles set out in *The Planning System: General Principles*, the development is not regarded as premature.

The Case for the Parish Council

The salient material points are:

88. The Parish Council and the community of Tarporley have a very strong conviction that the application, if allowed on appeal, will do serious damage to the community and the wider Borough.
89. The process has been permeated by fear of litigation (i.e. the prospect of costs awards), a factor which inflicts real damage on local democracy.

90. Too much weight has been accorded to the Cuddington decision. The site and circumstances are fundamentally different. Cuddington is a Tier 1 location where 75% of development should be focussed. The Inspector regarded the site as inherently suitable for housing as it had previously been included within the settlement boundary. There were no other brownfield opportunities that would deliver more benefits.
91. On the one hand we are told that each decision should be taken on its merits and on the other that the Cuddington decision has a decisive influence on this case, thereby demonstrating that precedent is an important consideration. Schemes have been allowed at Farndon, Tarvin and Cuddington, but it is only now that this and similar schemes can be tested against the Framework. Allowing this appeal will create a harmful precedent.
92. There are serious doubts about the housing land supply figures and the Council should have provided a specialist witness on that matter, given the import of paragraph 49 of the Framework which threatens to breach the provisions of the local plan.
93. The target and mechanism used to calculate the five year housing land supply are both seriously flawed. The target is derived from the RSS which is soon to be abolished and dates from a time when market conditions were much more buoyant. The Council is in the process of creating an interim housing target and revisiting the method of calculating supply to align it with that in the Framework and other Councils. There is no allowance for windfall developments when in the last 12 month period 86% of the sites delivered were windfalls. There is no allowance for small sites under 0.4 ha. The numbers allocated from the Strategic Housing Land Availability Assessment represent just 73 houses from over 30,000 and an exercise is currently underway to complete a fundamental review of the SHLAA sites.
94. Paragraph 214 of the Framework allows Councils a 12 month period of grace to bring their plans up-to-date during which full weight should be given to the current local plan, especially in view of the doubts regarding land supply.
95. The proposed development is elevated relative to nearby roads and buildings and this would result in an unusually dominant block of housing that would restrict views from the village that form a key component of the distinctive nature of Tarporley as identified in the Village Design Statement and SPD5 *Landscape Character (TPC3)* and in addition it would harm the intrinsic value of the countryside.
96. There is no development plan policy support for the proposal. There is a direct and serious tension with the development plan which should lead to refusal.
97. The proposal is in breach of the Development plan – policies DP4, DP7, RDF1 and L5 of the RSS and policies GS1, GS5, BE1 and H4 of the local plan, with policies NE4, NE11 and NE12 of the same plan also being breached to some extent. It also contravenes SPD2 which gives precedence to brownfield sites and it is a Tier 4 site which excludes it from consideration as a windfall. In terms of the relevant criteria it compares unfavourably with the Brook Farm site.
98. With the potential exception of the breach in respect of housing land supply the local plan remains up-to-date. Leaving aside the technical arguments regarding housing land supply, the more central and fundamental point of the Parish Council's case is the serious adverse effect of granting permission on this site.

99. The Localism Act 2011 and the Framework (bullet points 1, 2 and 3 at para. 17) lend weight to the Parish Council's arguments in this respect. Tarporley residents as represented by the Parish Council are in favour of plan-led development and are not "NIMBY"s. They are aware of paragraph 14 of the Framework but consider that in this case the appellant has not put the adverse impacts of the proposed development into the scales. The Parish Council is convinced that the best way forward to achieve the measured accelerated growth and development of rural community such as Tarporley is for the community, with all its local knowledge, to be at the centre of the process.
100. It is acknowledged that this could cause a bottleneck owing to the need to wait for the core strategy and neighbourhood plan to be formulated but in this case there is potential for growth and development in the interim through the development of sites such as Brook Farm and the land east of Brook Road³.
101. Rural exception sites at present provide a method by which growth and development can occur beyond the settlement boundary without departing from the local plan and once the new plans are in place Neighbourhood Development Orders will allow both market and affordable housing to be delivered.
102. The Framework is pro-growth but also pro-localism, as was made very clear in Parliament by the Planning Minister.⁴ He emphasised the desire to transfer power to communities and his intention that part of the purpose of the reforms is to move away from a situation in which decisions taken locally are overturned by the Planning Inspectorate, to whom it has been made clear that the Framework is a localist document. The Framework makes it clear, it has been emphasised, that the local plan is the keystone of the planning system.
103. Of particular relevance in this case are paragraphs 10, 11, 12, 14, 16, 17, 24, 25, 30, 51, 54, 66, 69, 109, 111, 112, 113, 150, 155, 158, 210, 211 and 214. Paragraph 48 brings windfall sites into the equation and this would alter the picture in Cheshire West & Chester, hence the ongoing review being conducted by the Council.
104. The proposal is in conflict with paragraphs 11, 17, 69 and 112 of the Framework, as the Council has concluded in relation to the duplicate application. The Parish Council would also cite paragraphs 109, 111 and 113.
105. The House of Commons recently debated⁵ the Framework and the Planning Minister Greg Clark emphasised the intention to devolve power to local communities. Tarporley has grasped the opportunities presented by the Localism Act and is vigorously developing its neighbourhood plan through its Front Runner status.
106. In the meantime, although the community opposes this development at Nantwich Road, it supports a comparably sized development at Brook Farm, largely within the settlement boundary.
107. The Brook Farm site is extremely deliverable in the short term. A public consultation has been completed which shows a majority in support and the existing buildings on the site are shortly to be cleared. The land is flat and not elevated and needs no alteration to its height. It is currently being marketed.

³ Agent's particulars detailing these sites are in Doc 4

⁴ Hansard Extracts for 24 & 26 April 2012 are at **TPC2**

⁵ *ibid.*

108. Allowing this appeal against the views of the community will send a clear signal to Tarporley residents and other rural communities in Cheshire West & Chester that their views don't count. This would lead to significant and demonstrably irreparable harm to the very process that the Planning Minister is looking to promote through the Framework. This would significantly outweigh any benefits that the scheme would bring.
109. Such benefits could in any event be delivered through the Brook Farm scheme, which in addition will also deliver sports facilities for the village and achieve the Minister's objective of engaging and empowering local people in the planning process.
110. If this appeal is approved, the entire population of the Borough will be disengaged from the neighbourhood planning process in one fell swoop, as the majority of the rural settlements are experiencing the same issues facing Tarporley with this application.
111. Thus the Government's focus on localism is supported and the community recognises that it needs all its growth to address serious imbalance in the housing stock caused by 30 years of inappropriate development. There are schemes such as at Utkinton and Brook Road where affordable housing is anticipated and supported in advance of the neighbourhood plan. The Rural Housing Strategy estimates that Tarporley ward needs 23 affordable dwellings per annum, equating to a 20% expansion of the village over 15 years for affordable housing alone. Applying the appellant's 30% proportion of affordable dwellings would require a 67% growth in housing to meet those needs.
112. There are currently 35 homes being constructed in the village unopposed by the Parish Council and with Brook Farm 86 homes would be delivered, representing a 10% increase in the housing stock over 2- 3 years and far outstripping any proposed target for the rural areas currently mooted by the Council.
113. On the other side of the balance it is acknowledged that 30% affordable housing provision is a benefit, dependent upon such provision being genuinely affordable to local people. The new homes bonus would be a benefit to the Council and 100 homes would contribute to its overall requirement but (in effect) 20 dwellings per annum over 5 years locally would use up the Tarporley contribution to that in a way that doesn't efficiently address the needs of the community, thereby lessening the benefit.
114. **In summary** the position is as follows:
- The adverse impacts of allowing the proposed development are its substantial cumulative consequences, namely;
- The de-motivation of this community and others engaged in the process encouraged by the Framework and the Localism Act 2011.
 - The strong precedent that it would set, as the site is fairly typical of sites around the village and the nine key service centres that have been identified by the Council.
 - The implication that whole rafts of plan-led policies are overruled by the breach caused by the Council's questionable failure to demonstrate a 5 year housing land supply.

- The diminution of the concept of plan-led development and consequent serious harm to local democracy.
115. As a matter of judgement the adverse effects of this particular development outweigh the benefits and it should therefore be refused.
116. Whatever the outcome, the Parish Council suggests the following: -
- A nationally prescribed methodology for calculating housing supply
 - Clarification of the Framework paragraph 47 (bullet point 2) regarding the 20% buffer over supply
 - Quotas for vulnerable communities (in line with the relevant local plan) so that shortfall elsewhere doesn't swamp them
 - Local planning authorities to be required to deliver planning permissions at or above the revised annual rate
 - More time for local communities to address at planning committees on major decisions
 - Expert witnesses to have to be made available at an Inspector's discretion

The Cases for Interested Parties

The salient material points are:

Councillor Eveleigh Moore Dutton (in Doc 12)

117. Having regard to the questions posed by the Inspector in opening the inquiry the following points are made:
118. The development would be contrary to the local plan, which aims to concentrate development within and on the edge of Northwich and within Winsford. Policy GS5 categorically protects countryside outside settlement boundaries.
119. The Framework embraces the statutory primacy of the development plan and paragraph 17 emphasises as a core planning principle that planning should be genuinely plan-led, empowering local people to shape their surroundings, while paragraph 69 says that local planning authorities should facilitate neighbourhood planning.
120. The (superseded) PPS3 prioritised the use of previously developed land. The Framework's core planning principles include encouraging the use of previously developed land. The appeal site is agricultural land and the Framework at paragraph 112 discourages the use of the best and most versatile land.
121. The emerging development plan is a framework within which more locally based documents including neighbourhood plans are to be prepared. Tarporley has been selected as a Front Runner and will receive grant aid to progress such a plan. The (neighbourhood planning) project has motivated positive involvement by many people in shaping the future of Tarporley's neighbourhood plan. This builds on previous village design work and rapid progress is anticipated. The aim is to use Tarporley's experience in developing the plan to help other communities.

122. There is a real risk to this critical element of local democracy and the Localism Act. People will lose faith in local democracy and localism, with far reaching and widely publicised effects.
123. The proposal would have been rejected outright but for the apparent undersupply of housing land.
124. However, the figures appear anomalous as they are as reported declining over three years even though more and more permissions were being granted. There are thousands of new applications in the pipeline and new applications are granted every month.
125. The 2010/11 figures showed that of more than 30,000 potential sites in the SHLAA, only 88 were included in the housing land supply figure. More than this 88 will surely be granted permission in the next five years. The fact that this site was not put forward in the SHLAA tells us that in all probability there are many more sites not recorded. Moreover, there are many more sites classified as small (less than 0.4 ha) that have been excluded from the SHLAA and we know that these small sites are historically more likely to be delivered in a relatively short timescale. The figures are plainly flawed to the extent that there is a large error. Table 4.4 of the SHLAA shows an oversupply over 15 years, the great anomaly appearing to be the quantum leap between the number of units expected to be delivered in the first five years and the second five years and yet there is already clear evidence that sites are coming forward now that were allocated to the second five year period. This is surely a case of over cautious phasing that is steadily rectifying itself.
126. The Council needs to take a serious look at the 30,000 sites identified in the SHLAA but this cannot be done in a matter of days and will be examined rigorously and carefully over the period to the end of July. The application is premature relative to this process.
127. The Framework and the presumption in favour of sustainable development will make a big difference to the way the SHLAA sites are viewed and the housing land supply calculations. It also introduces an explicit commitment to localism and the empowerment of local communities in development planning.
128. There is no evidence that windfall sites are limited to sites already allocated. This would be contradictory and windfall sites are likely to come forward at rates historically demonstrated, around 50% of all approved applications.
129. The RSS and its targets are about to be abolished and should therefore carry less weight. More realistic new targets must soon be deployed. There is no presumption that the underperformance of previous years will be carried forward even if more ambitious targets are set.
130. Finally, allowing the appeal would risk undermining local democracy and would be insulting to residents willing to accept the challenge set by the Framework and the Localism Act by working in a positive and constructive fashion to shape their local community.

Mr A Needham

131. Although the CPRE has not formally objected to this scheme, it is taking an interest in it as the general principles are relevant locally, regionally and nationally. There is significant variation between councils and realistic targets should be set. Because of the backlog, the RSS targets get annually higher. This

is something we are looking at nationally and a matter which will attract media attention.

132. It was observed at the Committee meeting that the members clearly voted to reject it but the remarkable intervention by officers, of unprecedented strength, caused the Committee to alter its decision. It was a breach of process based on the impact of the previous day's appeal decision at Cuddington. This was misconceived because the Cuddington situation is quite different. The site had been previously designated but suspended because of the (then) moratorium on additional housing development. There was no real local objection.
133. Tarporley is a special case because there is a strong local view and the original decision of the Planning Committee should be supported. Councillor Eveleigh Moore Dutton's views on land availability are supported. The supply is likely to be much higher.

Parish Councillor D Press

134. Although a parish councillor and on the steering group for the Neighbourhood Plan the views presented are purely individual as the Parish Council has presented its case formally.
135. The community is enthusiastic about the Neighbourhood Plan, for which a project plan or programme has been prepared. There is no draft as yet but the aspiration is to adopt in around 18 months. The positive contribution that it will make to the future of Tarporley is eagerly anticipated. But allowing this appeal will completely de-motivate those who would progress it and the effect would be wider, spreading to other communities who might otherwise take up the opportunity that the Government has created. There will be real harm to local democracy and in this case this has been compounded by the events at the Planning Committee whose members were in effect prevented from making the decision they wanted to.
136. The officer's report on this application was balanced. It was not without equivocation. The Spatial Planning Team is recorded as having objected and the Parish Council as a consultee objected.
137. The appeal site is neatly bounded by physical features but this is uncharacteristic of Tarporley, which has a ragged fringe. It looks neat on the plan but is out of character and the proposed housing involved needs to be scaled down to something that is appropriate to the village.
138. There are lots of reasons to be sceptical about it. These include the views of the local school which has an interest in more pupils even though there is pressure on the available places and there have been instances of pupils being turned away. The parking survey in the centre was only on two days in January and not representative. The Doctor's surgery is under pressure with long waiting times for appointments.
139. Not only would there be practical problems, but to allow the appeal would be to fly in the face of community planning intentions and would be widely demoralising and would lead to a free-for-all.

Mrs R Capper

140. The need for some growth in Tarporley is accepted but the rural southern approach to the village would be sacrificed to make up the housing shortfall,

removing the buffer of agricultural land with the deeper countryside. If this is filled with housing this would harm the character of the village. It appears that the housing land supply has to override all other considerations including the wishes of the local community.

Written Representations

The appeal notification letter has prompted a number of written representations, the salient points of which are as follows: -

Steven O'Brien MP

141. The scale of opposition to this proposal, which is opportunistic, inappropriate and a step too far, is significant. The Council has refused the duplicate and the application raises serious public interest issues as regards emerging law and practice and the scale of multiple de-synchronised applications in the absence of a strategic context. The serious concern of local people is evidenced by the extensive correspondence it has generated.

Tarporley Parish Council

142. Essentially the Parish Council's letter anticipates the case it put formally to the inquiry as reported above. With regard to the Cuddington appeal decision it makes the additional point that, although the spectre of extensive unplanned development beyond settlement boundaries was not considered to be a serious threat in that case, Tarporley is currently the focus of interest by a considerable number of prospective developers who have approached the Parish Council.

Local residents

143. The agricultural tenant who currently farms the appeal site confirms that his operation could absorb the loss of land in the longer term as the land could be compensated for by taking up land from adjacent farming neighbours anticipated to retire. The extra population would benefit the business by increasing the local market for farm produce.

144. Other local residents responding to the appeal in writing are overwhelmingly opposed to the development, in principle and in practice, for a wide range of reasons, including, in summary form, the following :

- Conflict with development plan and Village Design Statement
- Loss of important views to Beeston Castle
- Visual impact of building across elevated ridge and compromise to rural approach to village
- Ability to achieve appropriate layout constrained by avoidance of lowest part of site for drainage reasons and need to mitigate noise from A49
- Loss of countryside and best and most versatile agricultural land
- Increased pressure on schools, surgery and drainage systems
- Lack of local employment and increased commuting by car, especially as there is no railway station
- Traffic impact, including parking in village centre

- Overly rapid expansion of village – smaller increments of development over time are to be preferred
- Brownfield sites within the village such as Brook Farm should be prioritised in this context over greenfield sites such as the appeal site
- Council unduly influenced by Cuddington decision
- Contrary to Government encouragement of neighbourhood planning and planned empowerment of local people

Representations at application stage

145. These are detailed in the Statement of Common Ground which appends the planning officer's report. Amongst other things, this records the lack of objection from statutory consultees external to the Council and specialist departments within it, save for the Spatial Planning Team, which subsequently altered its position in the light of the Cuddington decision. The highway department's contentment with the proposals, subject to conditions, was confirmed in the late information report included in the Statement of Common Ground, as was the play development officer's satisfaction that adequate open space provision could be made within and off the site through a combination of direct provision and financial contributions.
146. The report records that over 1000 individual letters of objection (albeit mostly with standard wording) were received by the Council together with a petition with over 600 signatures. There is some concern that certain of the letters were sent without the knowledge of the putative authors, leading to requests for withdrawal, and that some were from places remote from Tarporley. Be that as it may, having reviewed all the letters made available to me and the petition, I am satisfied that, taking into account the limitations of the approach adopted, it nevertheless fairly reflects a substantial groundswell of opposition within the community to the proposed development. Standard letters are a convenient means for residents to ally themselves with such feeling and in this case the standard basis for objection that... *"the development does not comply with the local plan nor planning policy, is outside of the designated development boundary for Tarporley and is land designated as open countryside"* reflects the expectation, embodied in statute, that planning applications should be determined in accordance with the development plan (albeit this must be tempered by the principle that material considerations may indicate otherwise.) Therefore, I do not consider that the weight to be accorded to such letters should be lessened simply on account of the fact that they are not individually composed. There is clearly a widespread expectation of adherence to the adopted planning framework for the village.
147. An alternative form of standard letter makes this point in reference to the Village Design Statement and Parish Plan and refers also to material concerns including prioritisation of brownfield over greenfield sites, traffic and parking, principles of localism, scale and pace of village development, impact on infrastructure and services, lack of local employment/increased commuting by car, setting of the village and loss of views out and loss of best and most versatile land. The petition, on the other hand, which has been organised under the auspices of the "Tarporley Greenfield Awareness Project" simply records objection in principle, citing no particular reason.

148. Numerous individually drafted letters and added comments were also received at the time of the application, largely based around these concerns and those submitted in response to the appeal itself, as recorded above.

Inspector's Conclusions

References are made, where appropriate, to other parts of the report by indicating the relevant paragraph number thus [0].

Issue i) Accordance with development plan

149. The Council's Spatial Planning Team responded to internal consultation on the application on 6 February 2012 and amongst other comments pointed out that there is... *"no development plan policy support for this site for residential development, either in the adopted Local Plan or the Regional Spatial Strategy for the North West. There is a direct and serious tension with the development plan."* The appellant, on the other hand, asserts that the RSS, at least, is supportive of the development. [18]
150. As is frequently the case, there are elements of the RSS [18,19] that can be construed as supportive, notably the drive to deliver adequate housing supply (L4) including an appropriate affordable element (L5) and the direction of development in rural areas towards key service centres (RDF2), and elements that pull in the opposite direction, including the indication that at least 80% of housing provision in the former Vale Royal should be on previously-developed land or in re-used buildings (L4 and DP4). Perhaps more significantly, policy DP4, which directs development to *"locations with opportunities to build upon existing infrastructure and community activities, services and facilities"*⁶ also sequentially prioritises the use of buildings and previously-developed land within settlements over infill within settlements and other land which is well located in relation to existing housing, jobs and services. The appeal site is neither previously-developed nor within a settlement (if that spatial concept is defined by reference to formally recognised boundaries in the development plan.) To the extent that the RSS can be deployed to locate individual developments, I consider the balance of strategic policy intention to be against the appeal site rather than in its favour, but that conclusion must be tempered by reference to the strategic need to provide new dwellings in the region.
151. The adopted local plan [17] is more spatially precise but was adopted in the context of the former RPG13 Regional Planning Guidance for the North West, which was characterised by a strategy of urban concentration including within the key town of Northwich in the case of the former Vale Royal area. The current RSS, whilst still concerned to focus development sustainably in accessible settlements, has nevertheless increased the housing requirement for the former Vale Royal Borough Council area to 500 dwellings per annum over the period 2003 – 2021 as opposed to the 350 per annum over the period 2002 – 2016 provided for by the local plan, albeit the figure is part of the aggregate requirement for the three areas (Chester, Ellesmere Port and Neston and Vale Royal) now brought together to make up Cheshire West & Chester, for which a Core Strategy is currently in preparation but as yet is only at an early stage.
152. Be that as it may, the local plan currently represents the most explicitly geographical expression of development plan intentions [22-30] for that part of

⁶ Evidence of Mr Twigg, paragraph 4.2.14

the Council's area falling within the former Vale Royal and its strategic policy GS2 [23] aims to concentrate new development within Northwich and Winsford and the specified larger villages associated with them. Frodsham, Helsby and Tarporley are also identified as larger villages suitable for further development. Housing development, specifically, is the subject of policy H2 [25], which provides for specific allocations at Northwich and Winsford, and policy H4 [26], which identifies defined settlements as 'Tier 1 locations' and categorises Frodsham, Helsby and Tarporley as 'Tier 2' locations. Importantly, the Tier 2 locations are defined by reference to their defined policy boundaries, within which there are no allocations but within which specified categories of housing, including affordable housing may be permitted. The policy pre-supposes that the allocated sites in the Tier 1 allocations are sufficient to meet the lion's share of the identified need for new open market housing in the Vale Royal area over the period 2003-2016. Land outside the settlement policy boundaries falls within the open countryside within which policy GS5 [22] is intended to prevent new building unless specifically provided for by other local plan policies (for example rural exception sites of the type anticipated by policy H16). The appeal site falls outside the policy boundary for Tarporley and the proposed development is not provided for by other local plan policies. I am in no doubt that the proposed development would conflict with the intentions of the local plan regarding the location of new housing development.

153. Neither am I in any doubt that the proposed development would conflict with the intention of local plan policy RE1 [29] that development of the best and most versatile agricultural land should be avoided and where unavoidable directed towards Sub-grade 3a. This policy does allow for exceptions but I note that the explanation to the policy anticipates the consideration of alternative options of the type amenable to public consultation through the local planning process. Although the agricultural land assessment submitted gives some more generalised indication that land around Tarporley is likely to be BMV, based on published survey maps, detailed local planning and survey provides the opportunity in my experience to ascertain, with precision on a field by field basis, the actual classification of land under consideration for development, as has been the case with the appeal site itself. There is no real substitute for that quality of information. For reasons that I explain in relation to Issue v) regarding sustainability, I also find that the particular development proposed would conflict with the environmental quality intentions of the development plan [191-196].

154. While I am conscious that there are individual development plan policy intentions that the proposed development would accord with (notably the general aspiration of local plan policy H14 that 30% of housing on new residential sites should be affordable, albeit not its precise terms which generally constrain housing development to allocated sites and land within settlement boundaries) it is evident to me that the proposed development would not accord with the intentions of the development plan taken as a whole. Not only does it counter the priority to be accorded to previously developed land embedded in the RSS, but the use of high quality agricultural land in the countryside in a location which is not, by virtue of being outside the policy boundary of the settlement, a Tier 2 location for housing, would also run counter to the intentions of the local plan. In my view it is inaccurate to assert⁷ that policy GS2 includes Tarporley within a category of a settlement where development is to be concentrated at locations which include its edge. While this may well be true of Northwich, where the edge

⁷ Evidence of Mr Twigg, paragraph 4.3.8

is defined by reference to named larger villages, the separate naming of Helsby, Frodsham and Tarporley in this context simply suggests that they are considered suitable for unspecified further development within the defined policy boundaries. Amongst other things, the policy is designed to further the strategic aim of concentrating development in or on the edge of the Cheshire towns (including Northwich) and to safeguard the rural areas and villages from a scale of development inappropriate to the location. That much is clear from the explanation of the policy [24]. Tier 2 locations for housing under the terms of policy H4, which is also concerned to govern the scale of new housing development at specified locations, categorically do not include land beyond the policy boundaries.

155. That said, it is necessary also to consider the effect of local plan policy H5 [27] which addresses the matter of 'windfall' sites in circumstances where a five year housing (land) supply cannot be demonstrated. The associated SPD2 (CD10) has failed to deliver such sites in the manner intended and it has been largely discredited as a mechanism, notably in the context of the Cuddington appeal [42-47.] The Inspector in that case concluded that it must be an inappropriate basis for determining either the suitability or the sustainability of the site at issue in that case. While I therefore accord very limited weight to SPD2, I note that the intention of policy H5 itself is that the release of windfall sites should nevertheless be managed to support the overall strategy of the local plan. I do not therefore consider that the acknowledged lack of a five year land supply implies through policy H5 that any particular proposal, including this one, accords with the development plan. It is clear from paragraph 6.1 of SPD2 that the policy was born of a concern that housing land supply difficulties could lead to a harmful lack of restraint in the managed release of housing sites. It does, however, lend considerable weight to the appellant's contention that the housing supply policies of the local plan are for all practical purposes out of date [56,74].

Issue ii) Accordance with relevant national policy

156. Relevant national policy is primarily contained within the Framework. The objects of the Framework, in seeking to promote development that is sustainable, are manifold and must be carefully weighed in any particular case. Alongside the conservation of resources, protection of environmental quality and the empowerment of local people to shape their surroundings, it also promotes, amongst other things, adequate land supply for housing and other forms of development in the context of 12 core planning principles. Explicitly (paragraph 212), the policies in the Framework are material considerations to be considered alongside the development plan. It aims (paragraph 209) to both strengthen local decision making and reinforce the importance of up-to-date plans.

157. The appeal in this case brings a range of such considerations to the fore. It is clear that important aspects of the development plan are substantially out of date and in need of urgent replacement, (a matter to which I return below). But, as the Framework effectively emphasises, the development plan is the statutory point of reference for any planning decision, a principle both mirrored and complemented by the presumption in favour of sustainable development articulated in the Framework at paragraph 14. Unless material considerations indicate otherwise (Framework: footnote 10) this requires prompt approval of development proposals that do accord with the development plan. Where the development plan is absent, silent or relevant policies are out-of-date the framework provides (again, unless material considerations indicate otherwise – footnote 10 to the Framework) that planning permission should be granted unless

any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted (examples of which are given in footnote 9 to the Framework.)

158. The proposed development subject to appeal engages different objects of the Framework. It would involve the loss of best and most versatile land [14] in a rural area in circumstances where the development plan, although out-of-date in respect of the delivery of an appropriate quantum of housing land, nevertheless aims locally to pursue a coherent strategy of directing housing development towards allocated sites within and on the edge of Northwich and within Winsford, whilst allowing for more local needs in the rural areas and a small number of settlements including Tarporley [23-26]. The release of a substantial site in the countryside outside the defined policy boundary for Tarporley would not be genuinely plan-led in the context of local and neighbourhood plans that set out a positive vision for the area as local people shape their surroundings, but rather a market-led response to current failure to bring forward sufficient deliverable housing sites across the Cheshire West and Chester Council area as it is now constituted. Moreover, I am not satisfied that, in principle, it has been demonstrated that the number of houses envisaged could, in principle, be accommodated on the site without serious harm to the character and appearance of the area. (This is a matter to which I return in detail below) [191-197].

159. Therefore, not only does the proposed development create serious tension with the development plan as the Council's Spatial Planning Team originally (and in my view correctly) observed, but it also creates serious tension with some fundamental intentions of the Framework itself. While paragraph 49 of the latter makes it very clear that..... *"relevant policies for the supply of housing policies should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites"*... (a situation which potentially engages 'the presumption in favour of sustainable development' at the heart of the Framework) I find no support within it for the contention that all the adopted settlement boundaries in the existing development plan, even though formulated in the context of housing policy, are necessarily out of date. They must take account of the specific attributes of settlements and adjacent land and, logically there is also an interaction, across the whole of the plan area, between settlement boundaries and housing land supply, as the overall capacity of settlements to accommodate the necessary quantum of development is a basic consideration. In essence, the boundaries of individual settlements reflect the particular circumstances of those settlements and the strategy of the plan to apportion development appropriately to particular locations. Such choices, fundamentally, are intended to be plan-led. It is entirely conceivable that major revision to one settlement boundary to accommodate apportioned land supply could be matched by the choice to maintain another as previously established. Equally, a strategy could ultimately be adopted which distributes development more evenly, but the likely outcome of such strategic choices and associated boundary review is unknown at present. Nevertheless, decisions on individual applications must necessarily be made prior to the formulation of a comprehensively up-dated local planning framework.

160. However, as I have previously indicated, Paragraph 14 of the Framework imposes a test for decision making that is more complex than simply overriding the adopted plan in circumstances where certain of its relevant policies are out-of-date. The imposition of a major development outside the settlement boundary

of Tarporley would potentially have the adverse impact not only of utilising the best and most versatile agricultural land, contrary to Framework intentions to conserve that where possible, but also of running counter to its intentions regarding environmental quality, whilst challenging those regarding local empowerment in respect of plan-led place-shaping that are embedded in the first of its core principles. While the re-use of previously developed land is encouraged, it seems to me unlikely that development needs in the immediate future could all be satisfied from that source. Choices as to which other land should also be developed must necessarily be made, ideally but not invariably through the development plan process.

161. In terms of the Framework, therefore, the decision turns on the balance to be struck between a number of important aims, as discussed in my planning balance and overall conclusion, prior to my recommendation.

Issue iii) The emerging development plan

162. The Council's Core Strategy is at an early stage and may be accorded little weight at present, not least because the consultation on the range of options indicates a variety of approaches to the scale of growth sought and the possible strategies for accommodating it. This is yet to be resolved through the preferred option and independent examination processes and may or may not give rise to additional housing in settlements such as Tarporley on a scale that would effectively require the established settlement boundaries, or any equivalent replacement thereof, to be substantially altered to accommodate it.

163. While the appellant maintains [63] that there are elements of the emerging core strategy which favour the proposed development at issue, for example through the identification of Tarporley as a potential Key Service Centre within the rural area, this effectively second-guesses the scale of expansion that might be apportioned to Tarporley specifically and which might ultimately require a review of the settlement policy boundary, bearing in mind that its current 'Tier 2' status is confined to locations within that boundary. Policy RDF2 [18] of the RSS does no more than promote the concept of Key Service Centres in rural areas, adding that development concentrated within them... *"should be of a scale and nature appropriate to fulfil the needs of local communities for housing, employment and services, and to enhance the quality of rural life."*

164. Given the uncertainties associated with the emerging core strategy, and the need to carefully consider the needs of the settlement in that context, it would be inappropriate to place undue emphasis on any perceived "direction of travel" of nascent local policy at this juncture. Whereas the Inspector in the Cuddington case [42-47] was able to confidently conclude (at paragraph 30 of his decision) that the scheme before him... *"would appear to generally accord with extant and emerging policies"* (my emphasis), neither such circumstance applies in this case.

165. All in all, and taking account also of the growing evidence base which will underpin the core strategy, it appears that Cheshire West & Chester has crucial strategic choices yet to make regarding the ultimate levels of growth to be accommodated and, importantly, the distribution of such growth throughout its area [159]. It follows that little weight should be placed on any particular strategic option relevant to Tarporley, whether mooted in the context of the Core Strategy [61] or in the context of other strategies such as that for Rural Housing.

166. Equally, there is little that, at this juncture, may be accorded significant weight at the neighbourhood level as a component of the emerging development

plan. **TPC4** *Tomorrows Tarporley*, the Parish Plan produced by local residents and published in 2008 in response to the November 2000 Rural White Paper, although complementary to The Village Design Statement, lacks the statutory force of the neighbourhood plans now provided for in the Localism Act 2011. Moreover, unlike the intended neighbourhood plan, it did not have the potential for reviewing the settlement policy boundary as may be necessary and identifying the location of new development. That would have been beyond its remit.

167. The neighbourhood planning opportunity now presented, on the other hand, shows every indication of being taken up [105] as a progression from the established tradition of active community involvement in influencing the future development of the village towards more fully-fledged self-determination. 'Front Runner' status has been confirmed in this context (**Doc 7**) and at the time of the Inquiry a detailed Draft Programme (**Doc 9**), albeit indicative, had been prepared with a view to Independent Examination of the neighbourhood plan in September 2013. Although ambitious in timescale and doubtless susceptible to a degree of slippage as most such exercises are prone to be, this is a clear earnest of intent to seriously address the matter in the context of and broadly in parallel with the emerging local plan for Cheshire West & Chester and the relevant statutory framework.

Issue iv) The need for the proposed development

168. At the time of the Inquiry, it was common ground between the Council and the appellant that the housing land supply was in serious deficit. This was demonstrably the case at the Cuddington inquiry and the Council proffered no evidence to cause me to form an alternative view.

169. Neither the Parish Council nor any other third party were able to put forward cogent evidence to contrary effect, notwithstanding that a limited number of approvals referred to, including that at Cuddington, would now feed into the supply equation [92,93, 124-126]. I understand that the methodology of its composition across the Cheshire West and Chester area to be under urgent review⁸, possibly to address, amongst other things, the effect of including through the Strategic Housing Land Availability Assessment (SHLAA) process a small sites contribution not previously accounted for, but it is too early to ascertain whether or not that would be a significant factor. The Parish Council argued that the combination of recession and ongoing failure to deliver housing at the required annual rate created, in effect, a "Catch-22" whereby the situation becomes progressively worse and more and more land would need to be released outside the framework of locally adopted policy to rectify it, no matter that sometimes difficult brownfield allocated sites, to which priority should rightly be accorded, would be the preferred location for much of the housing requirement.

170. However, housing land supply policy is in principle designed to ensure that identified needs are met locally and not simply deferred indefinitely in response to, amongst other things, the vagaries of the market. Catch-up, in response to under-performance is a necessary adjustment over time. So, while I understand the difficulty (and the perceived threat of uncontrolled land release outside settlement boundaries) that the Parish Council alludes to, I accord little weight to the contention that the basic calculation of housing land supply should be approached in some other way. Moreover, the delivery of affordable housing (30% of the units in this case), although not wholly dependent on predominantly

⁸ **TPC 9, 10 & 11** Reports and Minutes – *Developing 5 Year Housing Supply in Cheshire West and Chester*

open market schemes such as the proposed development at issue, is a significant benefit associated with that of meeting housing needs more generally and one that I attach significant weight to.

171. The lack of a demonstrably deliverable 5 year supply of housing land is agreed between the appellant and the Council [35] as set out in Appendix 1 (Committee report on 11/04261/OUT) to the SoCG and confirmed in the Cuddington appeal decision [41-47].
172. The appellant maintains that the housing land shortage in Cheshire West & Chester is amongst the most severe in the country, describing the situation as "chronic" and therefore susceptible to being exacerbated by the 20% buffer that the Framework introduces in situations where there is a persistent record of under delivery [53-56]. From the tone and content of the recent Council reports referred to above, and the resolutions made, it is evident that the Council is keenly aware of the difficulty and the potential consequences. Moreover, the peculiar difficulties that have been associated with the recession in this context have only served to aggravate what appears to be a markedly poor performance in terms of housing delivery. Paragraph 3.5 of the Council's Housing Land Monitor (Interim Report) 2011-2012⁹ puts it as follows: *"The level of completions in the past few years has reduced because of market conditions, ironically at a time when the housing target for the Borough (no longer applied as a maximum target) has been increased substantially through the revised RSS published in 2008."*
173. It seems to me that a policy shift from restraint to a more growth oriented strategy through the replacement of the Regional Planning Guidance RPG13 by the current RSS and the exigencies of local government reorganisation have combined to place the Council in the position of having to now robustly and urgently address its housing land supply. The scope for doing so in advance of comprehensively replacing the current local development plan (effectively a collection of inherited local plans for its constituent parts) with a coherent local plan for its entire area complemented as appropriate by neighbourhood plans is clearly limited.
174. Nevertheless, it is imperative that progress in this direction is both rapid and decisive. The Cuddington decision highlighted the inadequacies of the current supply and of the mechanism (set out in SPD2) by which the Council has previously sought to address the situation in respect of windfalls, along with the dearth of development on allocated brownfield sites. The Inspector's paragraphs 18 to 21 describe the situation very clearly and that is not a site-specific matter peculiar to that appeal, but rather a general conclusion applicable to the whole of Cheshire West & Chester. But, in the meantime, decisions on specific housing proposals, including appeal decisions, must continue to be taken. In this case, I have no reason to doubt that the circa 100 houses proposed (30% of which would be affordable) would rapidly feed into the necessary overall housing land supply for the Council's area of jurisdiction. There is no evidence to suggest that the land would not be sold on to appropriate housing developers and a permission subsequently implemented, notwithstanding current economic difficulties.
175. The Parish Council not only recognises the attractiveness of Tarpoley to developers but also the need for additional development and in context of the

⁹ TPC 14

latter consideration prefers the Brook Farm School site [107]. However, I have no evidence to demonstrate that the development of the appeal site would necessarily inhibit the prospective development of the former Brook Farm School (a site that is centred on previously-developed land within the settlement boundary, albeit with the possibility of an exception for an affordable element just beyond). This is a site for which marketing particulars had been prepared by the Council at the time of the Inquiry¹⁰ and which was shortly to be cleared. The development package anticipated would involve transfer of land to the Parish Council for use as sports pitches. Having visited the site (amongst others in the village and at nearby Utkinton) at the Parish Council's request, I have no reason to doubt its suitability for residential development. Whether or not it would be developed concurrently with the appeal site, if both were to be allowed, would depend largely on market circumstances at the time and the identity of the acquiring developer or land holding company as the case may be.

176. Both sites would contribute in a small but significant way to the satisfaction of overall identified housing need at the present time (i.e. a five year deliverable supply with 20% buffer). The ultimate question for the Secretary of State is not whether the sites would compete but rather whether the appeal proposal should, on its own merits, be allowed. That question goes beyond simply whether further housing is needed in Tarporley specifically at the present time (a need that the Parish Council accepts in principle, including the need for affordable provision) to encompass the factors considered above and subsequently. While it is acknowledged by the Parish Council that some additional housing is needed in Tarporley [111-113], I consider the potential consequences of satisfying such need on the appeal site, specifically, to be the decisive factor in this appeal.

Issue v) Sustainability

177. The Council ranks Tarporley as amongst the more sustainable settlements within its area so far as existing services are concerned [61], perhaps reflecting its character and relative isolation as a large village with an extensive rural hinterland, standing apart from the main Cheshire towns. The draft Settlement Hierarchy Report (**CD27**) which was published for consultation in 2009 includes a preliminary assessment of settlements according to the range of services currently present. It explains at paragraph 4.3 that the next stage in the development of the settlement hierarchy is "*to look at the accessibility of each settlement in terms of access to public transport, access to other centres from each settlement and existing constraints for development*". Tarporley's ranking as 6th in the table at Appendix 3 to the document does no more than reflect local service provision and, important though such considerations are, I would hesitate to place undue weight on that one factor in assessing the overall sustainability of the village as a location for future development of significant scale.

178. Tarporley lacks a railway station but the conurbations of Merseyside and Greater Manchester and the towns in between associated with the Mersey Valley are relatively accessible by car; and commuting by that mode would be relatively straightforward for those prepared to contemplate the relevant journey on a regular basis. The No 84 bus, as explained in the evidence of Mr Wooliscroft, provides a regular service to the Cheshire towns of Crewe and Nantwich, and the city of Chester. Within Tarporley, the appeal site is within comfortable walking distance of the village centre and its range of services, albeit that the linear

¹⁰ Document 4

nature of this may discourage some, as would be the case with both existing development on the outer fringes of the settlement and other potential development sites towards its northern, eastern and southern extremities. In this respect the site does compare well with the Brook Farm School site, as the evidence of Mr Wooliscroft demonstrates. However, the size of the settlement places most of it within a reasonable distance of at least part of the centre in any event.

179. Sustainability is of course a multi-faceted concept and in this case the Council's committee report of 17 April 2012 (**CD21**) on the duplicate application includes at Appendix B (CD **21.3**) the appellant's Sustainability Matrix for the appeal site. Under the 'Sustainability Outcome' column the existence of a tick in each and every box indicates a high degree of accord with relevant criteria, albeit this is not a systematically comparative weighting exercise in the manner sometimes deployed for development planning purposes. (As exemplified by the Council's exercise, described above [177], to rank the level of services in different settlements.) It is nevertheless a useful checklist which draws on, amongst other things, the most authoritative policy statement concerning sustainable development nationally, the recently published Framework.
180. The Ministerial foreword to the Framework defines what is meant by sustainable development in the context of the statutory planning system, including positive aspirations for growth and economic development, and indicates that the Framework itself sets out clearly what could make a proposed plan or development unsustainable. However, I consider it to be a far more subtle and complex judgement in any particular case than a simple checklist. In evaluating how sustainable the proposed development is, I take the Framework and its intentions as a whole, as they are expressed under the heading "Achieving Sustainable Development" and encompassing amongst all else the Core Planning Principles set out at paragraph 17.
181. Beyond those principles and the presumption in favour of sustainable development, it seems to me that the most relevant sections of the Framework in this particular case are 1, 3, 4, 6, 7, 8 and 11 and I consider that the proposed development measures up against those as follows.
182. *Economic considerations* (Section 1) are clearly very important indeed, not least because of the current difficulties faced by the country as a whole and the local stimulus that the development of an undeniably attractive and marketable site such as the appeal site would deliver in that context. It is a consideration that must attract substantial weight but it is no part of the Framework's intention, as I read it, that economic considerations should necessarily prevail over all other considerations. As a matter of logic that would be self-defeating in a document that aims to guide the planning balance that sustainable development necessitates.
183. *A prosperous rural economy* (Section 3) is dependent amongst other things on the vitality of and range of services within settlements such as Tarporley. While additional housing in Tarporley on the scale proposed would doubtless help to underpin existing and new enterprises in the village, I have no evidence that there is any current lack of demand or customer base to support a good range of services in this attractive rural settlement. The weight to be accorded to the economic effect of additional population per se is therefore relatively limited.
184. *The promotion of sustainable transport* (Section 4) is a cornerstone of land use planning policy as expressed in the Framework and reflected in its core

planning principles which aim, amongst other things, to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. There is no reason to consider that the appeal site's location would discourage walking or cycling within the locality and bus services, albeit limited, are available to certain urban areas as previously detailed [178]. Although land within the LPPB or defined policy boundary is considered to be a Tier 2 location for the purposes of established local plan policy, and Tarporley has been mooted (CD18.2) as being within the 'market town and key service centres' category for the purposes of the emerging core strategy, it appears that the Council's progress on that has not yet crystallised the scale of growth to be accommodated in the Borough as a whole, let alone its individual settlements. The Council's aspirations for growth in *Unleashing the Potential* (CD 16) may prove influential as far as the former is concerned and the Preferred Development Option Report (CD18.2) indicates total housing provision for the rural area as between 4,935 and 5,745 new dwellings over 15 years, dependent on whether or not the RSS backlog is to be accommodated. Pages 64 and 65 of the document conclude with the comment that... *"It is the intention that this figure will be apportioned out between the Market Towns and Key Service Centres (Neston and Parkgate, Helsby, Frodsham, Tarvin, Kelsall, Tattenhall, Farndon, Tarporley and Malpas) with the remainder of the rural settlements being allowed a limited level of development."*

185. At page 20 the same document explains... *"whilst the Core Strategy has identified five spatial areas it is recognised that these areas do not necessarily reflect the relationships between settlements and their rural hinterlands in terms of housing market, local economies or travel to work patterns etc. The function and role of places in the wider context will be taken into account, for example whether employment land in one area can meet the needs of another area. In the rural area (my emphasis) the allocation of sites will take account of a settlement's relationship to other major employment centres/areas. Where compatible with other strategic policies, including Green Belt policies, small-scale allocations can be made in market towns and to extend existing employment areas."* It seems to me the essence of strategic spatial planning to look at the distribution of employment and housing in that way and, furthermore, to consider it in relation to public transport networks and investment programmes, certainly if, as intended, patterns of growth are to be managed to make the fullest possible use of public transport.

186. Therefore, while I consider it reasonable to assume continued growth at Tarporley, it seems to me that the scale and pace of such growth relative to other settlements, the location of employment and the availability of public transport is an important matter yet to be properly addressed through the development plan process. Especially bearing in mind the obvious attractions of the village to relatively footloose car-borne commuters, its comparative remoteness from major centres of employment and its lack of a rail connection to any such centre, I consider a degree of caution is necessary in that particular context regarding the sustainability credentials of the proposed development taken together with other possibilities, both known and unknown, for future housing development. Too large an influx unrelated to local needs and readily accessible employment could unduly encourage car-borne commuting to essentially urban locations of varying degrees of remoteness.

187. For these reasons, while I acknowledge the connectivity of the appeal site within the village itself [63], I remain sceptical as to how far the proposed

development would in reality promote sustainable transport choices and thereby contribute to the achievement of that particular facet of sustainability. Notwithstanding that 30% of the housing would be affordable and likely to contribute to more local needs in that regard, such doubts weigh against the proposed development in the absence of a clearer indication of the appropriate scale of additional development in this part of the Council's area.

188. Paragraph 10 of the Framework emphasises that plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas; and in Tarporley's case it seems to me that owing to its freestanding position, its nature and its distance from major employment centres, the appropriate scale and pace of growth is intimately bound up with considerations such as those I have outlined above.
189. *Delivering a wide choice of high quality homes* (Section 6) is a fundamental aim of the planning system and its success in achieving that aim is, by any standards, a key measure of its contribution to national well-being, including economic prosperity. I am in no doubt as to the importance placed on that in the context of the Framework's intentions to promote sustainable development and sustainable patterns of development. The proposed development would deliver a variety of homes, around 30 of which would be affordable, on a single site that, within the context of Tarporley itself, may be considered a sustainable and well connected location.
190. The homes proposed would be sustainably constructed in accordance with rising aspirations and standards and I have no doubt that they would be quickly delivered and thereby contribute to reducing the significant deficit in supply that Cheshire West & Chester and the communities within its area must urgently address. Insofar as addressing such needs is part of the sustainable development equation, the proposed development would accord with the relevant intentions of the Framework in that regard.
191. *Good design* (Section 7) is also a matter of great importance and a component of sustainable development. This application is in outline and all matters except access are reserved. While much was made by the appellants of the virtues of the illustrative layout proposed in responding to the circumstances of the site, the appeal is primarily concerned with the principle of developing the site. Although the illustrative material including the development framework and illustrative masterplan are useful aids to assessing the potential of the site to accommodate the quantity of houses anticipated, as is the Design and Access Statement, a detailed design of the scheme was not before me.
192. Nevertheless, there is sufficient information regarding the appellant's intentions to give me cause for serious concern as to the approach proposed to be adopted. While I am conscious that the appellant's landscape designer has sought to maintain opportunities to view the Cheshire sandstone ridge, and Beeston Castle in particular, and that the Council's landscape officer is content with the approach, I am also conscious that local residents and to a limited extent the Parish Council have drawn attention to potential damage to the character and appearance of the rural southern approach to the village as a consequence of the topography of the site [144, 95]. Having taken the views of all parties into account and having considered this matter with the benefit of my visit to the site, the village and its surrounds, I have strong reservations about its capacity, in principle, to accommodate the number of dwellings proposed, in the

form of a single and relatively uniform estate, without unacceptably harming the character and appearance of the area.

193. In plan form, as has been pointed out by a third party [137], the site looks deceptively logical as an extension to the village, neatly contained by the A49 which now by-passes it, but the world is experienced in three dimensions. The site forms a prominent feature on the rural approach to the village from the south along Nantwich Road, elevated land rising above the hedgerow, initially, and then towards the distinct ridge that is acknowledged (by the Village Design Statement) to be marred by the line of houses across the skyline at Spring Hill, which create a harsh edge to the village in the wider scene. The convex land form [13] dominates the hedgerow boundary with Nantwich Road and rises towards the skyline beyond between Spring Hill and the cutting for the A49.
194. Much of the proposed housing would be on the most elevated parts of the site (an inevitable characteristic, given the number and type of houses envisaged) that the appellant responds to by proposing to lower the highest part of the site. While this could simply involve a redistribution of the excavated earth, it is hard to envisage the scope within the site to comfortably accommodate it and no specific cut and fill volume calculations have been undertaken, it transpired in response to my question on the point. It may be that considerable quantities of earth would ultimately have to be removed from the site to lower the base on which development is envisaged, albeit graded upwards towards the properties on Spring Hill and the existing top of the cutting for the A49, which would then tend in part to be an embankment bounding the south-west margin of the developed area.
195. This seems to me to be an inherently clumsy approach to this uncomfortable relationship of the proposed development to the underlying topography and as such is not characteristic of Tarporley as a whole, which, in general, appears to have grown in a fairly organic fashion in response to the underlying landform. While I do not consider that the landform of the appeal site necessarily rules out some development, I am sceptical as to the ability of the scheme as conceived to effectively soften the hard edge to the village identified in the Village Design Statement in the manner claimed. It seems to me that the result of what is proposed would be a swathe of housing on the lowered but nevertheless elevated ground that would be unduly conspicuous and overbearing in the general prospect on the southern approach to the village unless it were to be inordinately heavily screened in the longer term along the Nantwich Road boundary and within the body of the developed area (albeit less conspicuous from the countryside to the south and to the west of the A49, owing to existing features and greater scope for screening along the margins of the by-pass.) I acknowledge that the appellant has sought to address views out to Beeston Castle [64] but, notwithstanding recognition of such views in the Village Design Statement, the particular emphasis on that element of the site's context is misconceived in my view, when the dominant prospect would be the more immediate and routinely experienced prospect of the site itself, at the edge of and southern approach to the village, as proposed to be developed with housing.
196. In short, achieving a satisfactory design and layout for the site as viewed on approach to the village along Nantwich Road would be a major challenge, certainly so far as development on the scale proposed is concerned; and I am not persuaded that the approach currently proposed, albeit without firm commitment, would satisfactorily meet it as the appellant contends. Insofar as achieving good design and the promotion of environmental quality is a

component of sustainability, this shortcoming weighs heavily against the proposed development in principle. Alternative approaches to the scale and disposition of development within the site could no doubt be explored but I am constrained to consider what is clearly intended. Consequently, I do not accord weight to the claimed benefit of softening the hard edge to the village that has been identified at Spring Hill in the Village Design Statement. It seems to me that to replace that hard edge with a prospect of development across the ridge (notwithstanding that this would be lowered) in the manner indicated is fraught with aesthetic disadvantages, effectively making the situation worse rather than better. I consider development on the scale proposed, while making efficient use of the site, would, as a consequence, permanently harm the character and appearance of the southern approach to the village along Nantwich Road. Although this immediate area is not subject to any specific designations, such considerations are weighty nonetheless, being integral to the development plan (RSS policy DP7 and local plan policy BE1) and embedded, moreover, in the core principles of the Framework.

197. However, the layout proposed is conceptual at this outline stage and I consider that my reservations could be overcome by the imposition of a condition designed to ensure that, by varying density across the site so as to sensitively address the existing and potentially adjusted topographic variation as perceived primarily from Nantwich Road (but also land to the east), the design and its capacity to develop varied landscaping integral to the most prominent housing, notably in larger gardens, whilst complementing such low density housing with more compact forms of housing development, would facilitate a more organic and pleasing impression at the southern entrance to the village. Over time, I consider that, if well executed at detailed design stage in line with such an approach, the proposed development could settle harmoniously into the locally distinctive character of Tarporley consistent with its most attractive areas. This would be more sustainable and hence acceptable. While such an approach should address the concerns of those who perceive the proposed development to be simply another housing estate on a sensitive and prominent site, I consider it to be a necessary safeguard in any event.
198. *Healthy Communities* (Section 8) are a manifestation of sustainable development and, insofar as the proposed development provides for mitigation of its impact on playing field provision through the planning obligation, there is no harm to the intentions of the Framework in that respect. The community expectation of involvement in planning decisions and, in particular, neighbourhood planning as described in paragraph 69 of the Framework, is a less tangible consideration in the assessment of sustainability but I am in no doubt that in this case it is a very relevant consideration nonetheless, for reasons which I address in due course.
199. *Conserving and enhancing the natural environment* (Section 11) is a further aspect of sustainability relevant in this case, the evidence being to the effect that with translocation of the valuable hedgerow between the site and Nantwich Road as part of the landscaping scheme that would require approval, and the careful choice of species and management of planted areas, the biodiversity value of the site would be positively enhanced relative to its function as agricultural land. Although biodiversity value is dynamic in nature there is no evidence of significant harm in terms of the site's current value, whereas loss of best and most versatile land would be harmful in land resource terms.

200. *In conclusion*, although development of the appeal site would have some significant benefits according to the tenets of the Framework, the picture is mixed with, by the same token, some significant disadvantages also. I am therefore unable to conclude that its development would be wholly advantageous from a sustainability viewpoint. The factors which support the contention that it is sustainable (and hence a presumption in its favour) are, in my estimation, by no means as universally strong as the appellant suggests, albeit I recognise that the sustainability of any proposal is its position within a spectrum to which numerous factors contribute. With such considerations in mind I have read the appeal decision at Clitheroe referred to by the appellant.¹¹ However, that seems simply to support my view that sustainability is a multi-faceted concept. The specifics of the decision are of limited relevance to this case and Tarporley which, apart from anything else, is a village in rural mid-Cheshire and not the main urban settlement of the Borough, a factor which was clearly influential in the Inspector's reasoning in that case. The proposed development in this case, when critically reviewed against the intentions of the Framework as a whole, has, for the reasons given above, some significant disadvantages in sustainability terms. However, leaving aside the strategic spatial issues yet to be resolved through the development plan and bearing in mind the scope for attaching planning conditions, it may, broadly speaking, be placed in the positive end of the sustainability spectrum, albeit the loss of BMV land remains a negative factor.

Issue vi) Material considerations relevant to the planning balance

201. Notwithstanding that the definition of defined policy boundaries in the local plan is predicated on sufficient land being allocated or available within them, I have concluded that the proposed development does give rise to serious tensions with the development plan as it currently exists, as originally concluded by the Council's Spatial Planning Team, and as I have additionally concluded in respect of environmental quality [196]. It would be at odds with the broad intentions of the development plan in many ways, as I have previously detailed [149-154]. It cannot be said to generally accord with extant policy. I note, moreover, that the Council acknowledges that the proposed development would be a departure from the development plan [87].

202. On the other hand, on the basis of its own analysis, the circumstances facing the Council are such that it cannot demonstrate a five year supply of deliverable housing sites. It is reviewing the matter urgently, including the criteria for inclusion such as the historic contribution of windfalls and small sites. However, at the time of the Inquiry, there was no cogent evidence to suggest that the supply was in fact improved or improving to the point where there is any reasonable prospect of the deficit being eliminated or even substantially reduced [168-176].

203. There are no 'technical' impediments to the development of the appeal site that cannot be addressed by planning condition. That fact is reflected in the lack of objection from any statutory consultee [49]. Moreover, in my estimation, the proposed signalisation of the Nantwich Road/A49 junction, by enabling periods of controlled priority for right turning traffic out of Nantwich Road, would influence traffic in a positive fashion. Drivers from the southern part of the village would be less inclined to access the A49 at the roundabout the north of the village via High Street and Rode Street.

¹¹ Appendix 1 to evidence of Mr Twigg (Ref APP/T2350/A/11/2161186)

204. Being to the south of the village, the site is not within the Area of Special County Value for Landscape. It is not identified in the Village Design Statement as an area of Important Open Space.
205. Nevertheless, the site is part of the rural surrounds to the village outside its defined policy boundary or LPPB and undoubtedly, owing to its position, topography and prominence, influential in its contribution to the rural ambience of the main southern approach to the village and its overall setting.
206. Bearing those factors in mind, and notwithstanding the views of the Council's landscape officer and the appellant's landscape witness, I have, giving due regard to the local context and character of the area, strong reservations about the visual impact of developing the site in the manner that has been indicated, for the reasons I have previously given, albeit I consider the matter could be addressed by condition [192-197].
207. The site is self-evidently greenfield, and is BMV land, albeit in an area where land of that quality is indicated to be characteristic.
208. The site has no planning history and has never been drafted for inclusion within any allocation or the settlement boundary. Unlike other sites within and around Tarporley, the site has not previously been mooted as a development possibility in the SHLAA, but I have no doubt as to its availability, developability or attractiveness to the market. It is, on the face of it, eminently deliverable [174].
209. Broadly speaking, it is at least as convenient for the village centre as many parts of the village already developed for housing. Leaving aside the wider question of Tarporley's role in accommodating housing relative to employment opportunity, the site is adequately accessible to services and facilities locally [177, 178].
210. It would deliver up to 30 affordable homes in an area where such homes are demonstrably necessary and recognised to be so by the Parish Council [113].
211. On a number of measures of sustainability set out in the Framework, the proposed development has advantages. It also has disadvantages in this context, as I have identified. It is certainly not wholly unsustainable therefore, but it also has serious shortcomings in sustainability terms [200].
212. The local community, as represented by the Parish Council, is in favour of further development in Tarporley, including to address the need for affordable dwellings. This is evidenced by its support for the prospective but as yet uncommitted Brook Farm site, and developments that have previously been allowed [106,112].
213. The Parish Council has been notably vigorous in pro-active community-led planning, as evidenced by the Village Design Statement and Parish Plan. It is now keen to pursue the statutory opportunity to prepare a neighbourhood plan and has been granted Front Runner status in the context of the Government's initiative in that respect [105].
214. In response to my question, the Parish Council's representative conceded that it was not inconceivable that the site could ultimately be brought forward in some form through the neighbourhood planning process.

215. The questions remain therefore: Why is there such vigorous opposition to the proposed development? What is the basis for that opposition? How material are the Parish Council's particular concerns and, ultimately, should they, along with other concerns voiced by local residents be decisive in this instance?

216. Leaving aside concerns around housing land supply, about which the conclusions I have previously drawn are clear, the main thrust of the Parish Council's case, as I understand it, and as it relates to the issue of material considerations, may be organised for consideration under the headings of 'Localism' and *Precedent and Prematurity*.

Localism

217. The term 'Localism' is not a planning term in the sense of being statutorily defined as such. Nor does it feature in the glossary to the Framework. However, I am in no doubt whatsoever that the concept is a material consideration.

218. First of all the Localism Act 2011 provides for neighbourhood plans as part of the statutory development plan.

219. Secondly, the first of the 'Core Planning Principles' set out in paragraph 17 of the Framework is that planning should... *"be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency."* The meaning and intention of that principle is very clear to me. The words may be taken to mean exactly what they say.

220. Moreover, the DCLG document *An introduction to neighbourhood planning (Doc 6)* advises, under the heading 'Why does it matter', as follows...

"The planning system helps to decide what gets built, where and when. It is essential for supporting economic growth, improving people's quality of life, and protecting the natural environment.

In theory, planning has always supposed to give local communities a say in decisions that affect them. But in practice, communities have often found it hard to have a meaningful say. The Government wants to put power back in the hands of local residents, business, councils and civic leaders.

Neighbourhood planning is optional, not compulsory. No-one has to do it if they don't want to. But we think that lots of people will want to take the opportunity to influence the future of the place where they live or work."

221. The advice in the document goes on to say that... *"In areas with a parish or town council, the parish or town council will take the lead on neighbourhood planning. They have long experience of working with and representing local communities."* In the case of Tarporley this is demonstrably the case, as is evidenced by the preparation of the Village Design Statement, subsequently adopted by the local planning authority as Supplementary Planning Guidance. The document is also explicit regarding the scope of neighbourhood plans. It says... *"once a neighbourhood plan is in force, it carries real legal weight"* and it explains that... *"If the local planning authority says that an area needs to grow, then communities cannot use neighbourhood planning to block the building of*

new homes and businesses. They can, however, use neighbourhood planning to influence the type, design, location and mix of new development”.

222. The Parish Council has clearly opted to take the opportunity presented by neighbourhood planning and has been granted resources to assist in that endeavour through Front Runner status. I have no doubt as to its seriousness of intent. Insofar as neighbourhood planning, as portrayed above by the relevant documents, is without doubt a statutory manifestation of ‘Localism’, the relationship of the proposed development to the concept is plainly material. Neighbourhood planning features centrally within the Framework.
223. In that context the Parish Council has presented a case [88-116] which includes the proposition that to allow an appeal which represents a large scale development outside the confines of the established LPPB, reflected in the Village Design Statement, overriding the expressed opposition of a great many village residents, would effectively render the neighbourhood planning process pointless, contrary to the ‘Localist’ intentions of the relevant legislation and the Framework. It would take a major decision about the future location of development affecting the village out of the purview of the neighbourhood planning process. The community would have no ‘ownership’ of its planned future if that it is pre-empted by the decision and others that could follow. Moreover, the damage that would be inflicted on the neighbourhood planning process in its infancy would be widespread, it is said, with repercussions far beyond Tarporley. Local communities who might otherwise wish to take control of their own planned futures would be comprehensively de-motivated.
224. I have no specific evidence of the wider ramifications predicted by the Parish Council (albeit I can well appreciate the logic.) However, from all that I have heard and seen of the Tarporley situation, I am in little doubt as to the damage that would be visited upon its neighbourhood planning process. In the light of the foregoing advice, and the intentions of the Framework, I consider this to be a material consideration that merits substantial weight. The Secretary of State has recovered [3] a relatively small (but locally very significant) proposal for housing development because it involves proposals giving rise to substantial regional or national controversy and which raise important or novel issues of development control, and/or legal difficulties. The Parish Council has put the very direct proposition as previously summarised [114] to me that the harm it considers it would cause, should, as a matter of judgement, when considered against the benefits, lead to its rejection [115]. I am therefore obliged to confront that matter equally directly so as to enable the Secretary of State to form his own judgement on a fully informed basis. The matter, having been put in that particular way by the Parish Council cannot be avoided. I return to it in my ultimate conclusions [275 -292].

Prematurity and Precedent

225. Prematurity and precedent are similarly concepts that essentially concern matters of process rather than substance, but process is inescapably important in planning because it must resolve competing and conflicting views on the use and development of land, with very real consequences for individuals, communities, businesses and the environment, as is clearly recognised by the document *An introduction to neighbourhood planning* referred to above [219,220].
226. The Framework is silent on the matter of prematurity but *The Planning System: General Principles* is not. The principles, as opposed to hard and fast rules, are set out in paragraphs 17 – 19. Consistent with the Cuddington

Inspector, I take the view that the number of houses involved, by comparison with those that have to be accommodated now and in future through the core strategy for Cheshire West and Cheshire as a whole, is neither unduly significant nor pre-emptive. However, the circumstances of this appeal site at Tarporley are, for reasons I have previously explained, very different from those prevailing at the Cuddington site where the scheme appeared to... *"generally accord with extant and emerging policies, at least as currently mooted"*.

227. Although Tarporley may experience some planned expansion in future, there is nothing published to suggest that this site would necessarily be considered appropriate for development in that context, whether through the core strategy, the neighbourhood plan or any other document. Refusal on the grounds of prematurity will not usually be justified, other than in the circumstances set out in paragraph 17 of the *General Principles* document. Where it is not, significantly, applications should, according to paragraph 18, continue to be considered in the light of current policies, which, at the local level (but for the difficulties over housing land supply) in this case clearly militate against its release.
228. While a single site of circa 100 houses is relatively insignificant in the face of the requirement for the Council's area as a whole [18], for a freestanding rural village the size of Tarporley it would represent a major single increment of growth which would expand the boundaries of the settlement in a substantial way. It would certainly pre-empt any consideration that the neighbourhood plan might give to that matter, regardless of other choices that could be made and detailed survey information, for example, concerning the agricultural quality of other greenfield sites that might be considered as potential candidates for development.
229. The appellant maintains [50] that it is "impossible" to sustain a prematurity objection in respect of the neighbourhood plan. However, in view of these factors, and the advice of paragraph 17 of the *General Principles* document, which recognises that both the cumulative and single effects of proposed development could prejudice a development plan document by predetermining decisions about the scale, location or phasing of new development, I am, for the following reasons, not persuaded of such impossibility.
230. First, *General Principles* was published in 2005 and, whilst it remains current, it has to be recognised that the new element in the development plan that the neighbourhood plan represents had not been facilitated by legislation. Secondly, it is logically the nature of neighbourhood plans that their level of focus is intensely local, and therefore proposals that are relatively insignificant in the bigger picture are immensely significant in their effect at the neighbourhood scale to local people opting to prepare one. The document says that a proposal for development which has an impact on only a small area would rarely come into this category, but it is logical that in terms of the scope of the prospective neighbourhood plan for Tarporley alone, the scale of development that might reasonably be considered significant for prematurity purposes relative to the Development Plan Document in question must be reduced by the fact that it is only concerned with the neighbourhood.
231. The fact that there was at the time of the Inquiry, no draft of a neighbourhood plan for Tarporley that could address the cumulative and single effects of any proposed development does lead me to the conclusion that prematurity alone could, according to the tenets of the *General Principles*

document, not outweigh the need for the development. Nevertheless, the document, self-evidently, sets out general principles rather than prescriptive rules and these must therefore be applied with discrimination to particular circumstances. In my view, for the above reasons, there is an element of prematurity that does weigh against the proposal given the scale of the development, its location relative to the current limits of the village and the firm intention that a neighbourhood plan is to be prepared as the Council's core strategy progresses. This conclusion is given added force, in my view, by the fact that neighbourhood plans are such a recent phenomenon in a statutory sense, and hence even plans in the Front Runner category may not have had an opportunity to reach a significant stage such as proposals for consultation.

232. Precedent is a concept frequently canvassed by parties to application and appeal proceedings and, while it is true to say that consistency as between decision makers is self-evidently important, it is also true to say that the circumstances of individual applications and appeals are rarely identical, as I have noted locally in respect of the Cuddington decision. That said, the Cuddington decision was taken against a policy background that was different in any event, the Framework not having been crystallised as definitive national policy at the time. The Parish Council's argument [114] is that, in the context of current policy favouring neighbourhood planning and local self-determination against the background of more broadly based local plans, allowing this appeal would simply encourage other developers to effectively ignore the wishes of local communities as expressed through the development plan, by promoting greenfield sites outside settlement boundaries ahead of plan formulation, praying in aid inadequate land supply, thereby undermining other important planning objectives and discouraging the very process that the Government wishes to stimulate, i.e. responsible involvement by local people in the planning and sustainable development of their own communities.

233. I agree that, oft repeated, the unplanned release of greenfield sites could result in substantive planning harm in the sense of, for example, the excessive use of productive and in particular best and most versatile agricultural land to the detriment of, for example, the regeneration of brownfield sites. The Cuddington Inspector expressed some doubt as to the likelihood of significant unplanned development in the countryside, partly on the basis of current market conditions and partly on the basis of the greenfield sites identified in the SHLAA being constrained in the short term, and I have no doubt that the worst dangers of a 'free-for-all' are limited by current market circumstances. On the other hand, there will be many unidentified greenfield sites that have previously held little 'hope value' simply because a firm planning framework has been in place, notwithstanding that many of the rural settlements and their environs in the Cheshire West & Chester area could reasonably be expected to be highly attractive to house builders and commuters. By their very nature, the aspirations of landowners in such circumstances are not generally evident at present. As the economy and the housing market improve, as they eventually must, however, I do foresee that attention could well be deflected from existing and (importantly) forthcoming land allocations if it is perceived that permission would be readily granted in the countryside outside plan-defined settlements.

234. Therefore, while the matter of precedent should not be exaggerated, especially as the Framework provides many safeguards through the overall requirement for sustainability, I am less inclined, in the circumstances of rural Cheshire, to discount the dangers inherent in it than my colleague was in

determining the Cuddington appeal. It is also a material factor to be weighed in the balance.

Potential Conditions and the Planning Obligation

Potential Conditions

235. Without prejudice to my overall conclusion and recommendation as set out below and the Secretary of State's ultimate decision it is necessary to first consider the matter of potential planning conditions and these were discussed with the parties at the inquiry on that basis, having regard to the advice of Circular 11/95 *The Use of Conditions in Planning Permissions*. Should the Secretary of State be minded to allow the appeal and grant planning permission, I would recommend, in the light of the following paragraphs, that the conditions set out in the Annex to my report be imposed.
236. The appellant and the Council jointly prepared a revised schedule (Doc 15) of suggested conditions (SC) to inform that discussion.
237. As the application is in outline with all matters reserved except access, the standard approach to the submission of reserved matters within the usual timescale would be necessary, together with reference to such plans as are relevant at this stage, namely the location plan and the design of the access. Being outside the application site the necessary signalisation of the Nantwich Road A49 junction would have to be addressed by a negatively worded or 'Grampian' condition restricting occupation of the dwellings until such time as it had been implemented. The SC34 as drafted to require implementation of the signalisation scheme prior to the occupation of the dwellings is, in part, positively worded and would need to be imposed in an amended form as the works are outside the site.
238. A particular difficulty stems from the detailed case that was put in respect of the layout and design of the site when in fact there is no formal commitment to that in the application itself, the layout being illustrative. The Design and Access Statement creates a vision of how it is currently intended to proceed, but ultimately a much greater degree of flexibility in addressing the reserved matters, especially in view of the topography I have described and my serious reservations in that context regarding the scale and disposition of the development currently intended, would be necessary. I do not therefore consider that it would be appropriate to tie outline permission to, for example, the principles embodied in the Design and Access Statement as expressed through the development framework and illustrative masterplan drawings. The need to develop the site, which is visually exposed and at the main southern gateway to the village, with appropriate sensitivity, would remain paramount. Moreover, notwithstanding the need for flexibility and the avoidance of undue prescription, I consider, for reasons previously addressed at [192-197], a condition is necessary to secure the overall principle of relating housing density appropriately to the topography. I have suggested the precise terms of such a condition in the Annex at 3) and the Secretary of State may consider it necessary to consult the parties on the suggestion as it was not discussed at the inquiry [275].
239. The scale of the development would necessitate the SC35 regarding phasing. SC6 regarding drainage would be necessary in principle but in practice a much simpler form of condition simply requiring a scheme of sustainable drainage to be approved by the Council would be preferable. The condition as drafted is unnecessarily prescriptive at this stage and would inhibit the

development, potentially, of optimum solutions at detailed design stage. Moreover, SC31 partially duplicates this condition and the SCs would be better combined in one straightforward condition.

240. SC7 to protect the ecology of Wettenhall Brook would be necessary, as would an appropriate form of condition to protect retained trees along the lines of SC8. Supplementary to the standard form of approving landscaping as a reserved matter, full details of hard surfaces and planting with provision for replacement would be necessary as is standard practice (SC9 and SC10). It was agreed that the requirement to replace planted trees and shrubs would more appropriately endure for five years rather than four. A habitat and landscape management plan along the lines of SC28 would also be necessary to ensure the anticipated benefits were maintained in an agreed manner over time, complementary to the undertaking given to take financial responsibility for a period to be agreed with the Council. The timing of the necessary approvals would need to correlate and logically this should correspond with the undertaking not to commence development until the details have been resolved.
241. SC12 would require details of bat boxes to enhance biodiversity in accordance with relevant policy intentions and, if such enhancement is considered to be part of a balance of advantage, would be necessary; as would the proposed updating survey to ascertain whether special precautions would be needed to avoid harm to badgers during construction, together with the implementation of the special measures that might have to be taken. (SC13 and 14). SC15 is to avoid clearance of vegetation during the nesting season and would be necessary to protect biodiversity.
242. The scale of the proposed development would require a construction method statement of the type proposed in SC16 in order to protect the amenity of the area and nearby properties during construction and it was agreed that this would also need to address the routing of construction vehicles to avoid the High Street. Such a condition should also incorporate the substance of SC5 regarding the phasing of construction works. SC18 and SC19, which respectively address the mitigation of noise from the A49 and the potential for light pollution, would also be necessary. However, all that would be required for present purposes is a requirement that schemes be approved by the local planning authority.
243. SC20 would require a scheme for the provision of affordable housing to be approved prior to the commencement of the development. Affordable housing is presented as a persuasive benefit and it would be necessary to secure its inclusion in the scheme. It is more usual to address the matter through a planning obligation but the use of a condition is a perfectly good means to that end. Similarly, the necessary provision for children's play can be secured by condition as suggested in SC21.
244. The topography of the site would exert a major influence on the appearance of the proposed development and its visual impact on the village and its surroundings, as well as the manner in which individual dwellings relate to their immediate environs and neighbouring dwellings and their occupiers. SC23 concerning levels would be of critical importance to these considerations and would appropriately be expanded in scope to encompass maximum ridge heights, thereby addressing the substance of discussions at the Inquiry as to the control of the heights of the houses. I consider this to be preferable to controlling the number of storeys, as it allows for more flexibility in house design, whilst

safeguarding the important matter of overall appearance in relation to the topography.

245. The appellant does not consider the provision of public art (SC24) to be necessary to safeguard the openness and visual amenity of the countryside or the protection of visual amenity as suggested by the Council and I agree that such a condition would be unnecessary and unjustified. To the extent that these concerns can be addressed if the development takes place, the design and layout of the development should do so.
246. A condition requiring Code level 3 houses (SC25) in the interests of sustainability may reasonably be imposed if that reflects the developer's intention ahead of any Building Regulations requirements and there is no dispute in this case between the appellant and the Council. SC26 regarding utilities infrastructure seems to me to be a necessary means of ensuring that this is designed into the development at the outset. Similarly the detailed execution of enclosure and boundary treatment within the site would be important to the character and appearance of the proposed development and would need to be controlled in the manner suggested.
247. SC29 is a standard form of condition requiring the approval of building materials to be informed by the provision of samples and this would be necessary as would a condition (SC30) requiring the provision and retention of parking spaces within the proposed development.
248. SC32 concerning access details is partly catered for by the inclusion of access for determination at this stage but the additional off-site elements and detail, together with implementation at the right time, need to be secured through a Grampian condition and closure of the existing field gate and consequential reinstatements would necessarily be secured through the SC33.
249. The refinement of the list of suggested conditions by the appellant and the Council has resulted in SC11, SC 17 and SC22, as originally drafted, being combined with others. I do not consider any additional conditions would be necessary. The upper limit on the number of houses is integral to the terms in which the application was lodged and there would be no need to duplicate that.

Planning Obligation

250. The unilateral undertaking submitted essentially contains three elements. I am satisfied that the commitment to finance the establishment and ongoing maintenance for an adequate period of the structural landscaping and amenity areas proposed, appropriately correlated with phased occupation of the dwellings, is necessary and proportionate and that the same be said of the contribution for playing pitches off-site to mitigate the impact of the extra demand in accordance with the Council's relevant formulae, explained under Agenda Item 12 in Appendix 2 to the SoCG. Weight may be accorded to these first two elements of Schedule 2 to the undertaking.
251. However, I am not satisfied that the proposed contribution to the improvements to the capacity of the Health Centre car park would be a necessary means of mitigating impact. Although the centre is relatively remote from the appeal site and would doubtless be visited primarily by car by new residents, there is no evidence that the capacity of the centre to deliver increased services or simultaneous appointments (thereby requiring more associated parking space) would be increased in response to the additional population specific to the appeal

site. I understand that extra car parking at the Health Centre has not been asked for by the Council's highways department and that the suggestion arose out of the appellant's community consultation exercise. It seems to me that the relationship between the scheme subject to appeal and the car parking required at the centre is tenuous and the suggestion somewhat opportunistic, notwithstanding that the appellant has for the time being agreed to it. It would not, in my view satisfy the requirements of Regulation 122(2) of the CIL regulations as defined. No weight should be accorded to this third element of Schedule 2 to the undertaking. The undertaking is drafted (Clause 4.2) such that, if the Secretary of State concurs with my view on this matter, I anticipate the obligation to make the 'Car Park Contribution' would be nullified in any event.

Summary, Planning Balance, Overall Conclusions and Recommendation

Summary

252. The appeal concerns the principle of developing the Nantwich Road site and, while I have taken all other matters raised into consideration, my recommendation turns on the main issues and material considerations I have identified above and the matters associated with them. It is not for me to comment on the specific suggestions [116] for planning practice proffered by the Parish Council.
253. The positions of the main protagonists, the appellant and the Parish Council, are as follows: The appellant essentially argues that the proposal represents sustainable development, the housing land supply is in chronic deficit, the relevant settlement policies in the local plan are therefore out of date and the presumption in favour of sustainable development is thus engaged, requiring that planning permission be granted, not least to aid economic recovery. The argument has an attractive simplicity. The Parish Council, on the other hand, essentially argues that, in the light of the weight of local opposition and the potential damage to the Government's intention, under the broad heading of 'Localism', that development should be genuinely plan-led by local people empowered to shape their surroundings, the appeal should be dismissed. This, in my view, is a more complex and subtle proposition. Stripped to its essentials, however, the dispute embodies an apparent tension between two important principles of the Framework which, on this occasion, have been portrayed by the protagonists as pulling in diametrically opposing directions. Both principles are highly material but must be considered in the light of and tempered by all other relevant factors. The question to be resolved therefore, bearing in mind the specific circumstances of the appeal site and the settlement of Tarporley, is the extent to which they influence the overall balance of planning advantage.
254. Those specific circumstances are, to my mind, of crucial importance, not least as I am conscious of the fact that decisions such as the one that must be made here are widely scrutinised by those who would promote development and by those who would resist it. But it seems to me that it is the very essence of 'Localism' that a 'one size fits all' approach is not appropriate, the general principles of the Framework notwithstanding. Therefore the decision should be taken on its own specific merits within the context of the Framework without necessarily constraining decisions elsewhere.
255. The Council essentially took a passive role in the proceedings, simply adhering to the line that it had resolved to support the application, even though it had subsequently refused an identical application in the light of changed policy circumstances, i.e. the publication of the Framework. It is not for me to consider

the merits of that refusal or the terms in which it was cast but, given that the application is effectively identical to the one subject to this appeal and the world had clearly, in the Council's view, moved on since its resolution of 21 February 2012, its position displays a certain lack of logic that inevitably diminishes the weight that may be accorded to it. Its formal position is one of support for the current proposal and cannot therefore be discounted. However, while I acknowledge the Council's acceptance of its officer's recommendation, I am obliged to form my own view on the specific merits of the submitted proposal and to take account of the arguments that were put by the Parish Council and others to the Inquiry which necessarily involves a range and balance of considerations that differs, notwithstanding my recognition of the force of the Council's case in respect of its housing land supply.

256. There are powerful arguments on both sides of the principal dispute between the appellant and the Parish Council and in the representations of local residents concerning conflict with development plan intentions concerning environmental quality and resource conservation, themes that are also central to the Framework. My ultimate recommendation is therefore on the relative balance of material planning harm and advantage. I arrive at that balance as follows: -

Planning Balance

257. The starting point is of course the development plan, to which due weight may for the time being be accorded, for the reasons I have given. Taking into account both its strategic elements as represented by the RSS, and the more spatially precise strategy and relevant development control criteria embodied in the local plan, I have concluded that there would be serious tensions and conflicts with its intentions if the appeal were to succeed, notably that the proposed development would be in the countryside outside the defined policy boundary or LPPB and not in the area intended to accommodate growth as a priority, that it would utilise best and most versatile land without fully informed consideration of opportunities that may exist for developing lower quality land, and that it would, in my estimation, unacceptably harm the character and appearance of the area if implemented in the manner currently intended, albeit I consider that imposing a suitable condition would provide adequate safeguards.

258. However (largely because, it seems to me, of the difficulties associated with certain allocated brownfield sites in the main urban areas and the march of events associated with the merging of the former councils and the significant uplift in house-building targets imposed initially through the replacement of the former RPG13 with the current RSS, albeit now used by the Council), it is plain that settlement boundaries associated with the local plan housing land supply policies in the former Vale Royal area and elsewhere in Cheshire West & Chester are in urgent need of comprehensive review. If adequate levels of development are to be catered for, now and in the future, the planned release of greenfield land appears inevitable.

259. How much and in what locations is yet to be resolved through the Council's core strategy or local plan which, if it is to promote and cater for housing development that is truly sustainable, must resolve the strategic issue of its spatial distribution relative to transport infrastructure and employment. Despite some inferences drawn from early work on the available options, there were no pointers of sufficient clarity and provenance at the time of the Inquiry to suggest what level of expansion would be appropriate for Tarporley, albeit a working assumption endorsed by the Parish Council is that some growth will be both

necessary and desirable. The scale and pace of that growth, however, is yet to be resolved through the development plan, which in Tarporley's case will include a neighbourhood plan, the Parish Council having been accorded Front Runner status in that respect.

260. There is a heavy onus on the Council and the local communities of Cheshire West and Chester, certainly those who, like Tarporley, have opted to take up the opportunity and challenge of neighbourhood planning, to resolve those strategic issues and local reviews and allocations as a matter of urgency, albeit a realistic view must be taken in the light of the considerably changed planning and administrative circumstances following the amalgamation of council areas and the increased housing requirements now in force (and the Tarporley Parish Council is ultimately constrained in finalising its neighbourhood plan by the pace set by the Council in respect of its core strategy.)
261. That onus is especially heavy in the light of the demonstrably poor performance of the Council in maintaining a five year supply of deliverable sites as previously required by national policy and now required by the Framework. The Council does not dispute the land shortage described by the appellant as "chronic" and although the Parish Council and others sought to cast doubt on the seriousness of the situation by querying, amongst other things, the methodology of calculating and the composition of the housing land supply, notably by reference to the contribution of small sites and windfalls, I was presented with no cogent evidence at the Inquiry to suggest that any reduction of the deficit in deliverable sites by such means would be anything more than marginal.
262. I appreciate that this is a somewhat technical area for participants, and the Council is set to urgently and comprehensively review the situation, but the fact remains that, at the time of the Inquiry, the Council and the appellant were at one in concluding that the deficit was large, as previously detailed. That is a matter which must carry significant weight in this appeal, as in any other. The economic imperative to stimulate house building and the demonstrable need, accepted in principle by the Parish Council, for affordable housing, are also matters of significant weight, as is the full range of benefits for the locality acknowledged by the Council [65-71]. Taken together, these elements merit substantial weight.
263. Invoking paragraph 49 of the Framework, the appellant rightly maintains that the housing land supply deficit is a powerful material consideration that potentially engages the presumption in favour of sustainable development.
264. While the appellant's case has been put on the basis that the proposed development is wholly sustainable, sustainability is a multi-faceted concept and a matter of degree. There are facets of sustainability (notably agricultural land considerations) that are on the negative side of the equation, but also others, notably the potential for biodiversity enhancement and potentially beneficial local traffic routing outcomes, that I would put on the positive side. There is also the broader sustainability question of the degree to which Tarporley should be expanded through general purpose, open market housing development that has yet to be answered through the development plan process, especially in view of its lack of a railway station and potential attraction to commuters.
265. Ideally, such strategic considerations should be resolved in the forward planning context, but planning is about delivering practical solutions in the present as well as preparing for the future. That is implicit in paragraph 14 of the Framework. Unless material considerations indicate otherwise, this requires,

where relevant development plan policies are out-of-date, as they are here in respect of housing land distribution and allocation, that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

266. Bearing that in mind, it is nevertheless a core principle of the Framework underpinning decision-taking that planning should be genuinely plan-led, empowering people (within the context of up-to-date and practical frameworks that they themselves may influence through, inter alia, neighbourhood plans) to shape their surroundings. Being a core principle of the Framework, it follows that such process is of itself a facet of sustainability, and without doubt a powerful material consideration in its own right. In a case such as this there is an inescapable tension, therefore, between the need for housing development to be plan-led at local level, including specific neighbourhoods, and broader strategic and national needs to promptly deliver sufficient new homes.
267. In many situations, circumstances may be such that those national and strategic needs for housing development can prevail without undue harm. In this case, however, I consider there are powerful arguments to the contrary.
268. Arguments concerning prematurity and precedent have been put by the Parish Council to which I accord some limited credence, for the reasons I have given. But my view on those matters is tempered by the specifics of the relevant guidance (albeit subject to the considerations I have raised in respect of the new phenomenon of neighbourhood planning, specifically) in the case of the former concept and by the fact that virtually every situation is different in the case of the latter. In themselves, they could not therefore be decisive in this case.
269. The more substantial harm in respect of process that has to my mind been clearly demonstrated by the Parish Council is the harm to legitimate expectations of local self-determination in the development of neighbourhood planning frameworks. The terms in which the Framework is cast, including the core planning principles embodied within it, make it very clear that such expectations, albeit complemented by responsibilities, are of fundamental importance.
270. Whilst the point could doubtless be made in many situations where local people oppose development, it seems to me, from the evidence put forward and all that I have heard and seen, to have a particular resonance in the circumstances of Tarporley, which is, deservedly in my view, a Front Runner in the neighbourhood planning initiative.
271. I could not fail to have been impressed by the passionate commitment of the Parish Council to seize the opportunity now presented to the community through the provisions of the Localism Act and the policies of the Framework. Nor could I fail to be impressed by its tradition of constructive parish-level community planning, albeit within the competence at that time permitted. I have no reason to doubt that the Parish Council has both the ability and the determination to shoulder the more onerous, and very real, responsibilities now implicit in statutory neighbourhood planning. While there may be individuals who might wish to oppose the further development of Tarporley, or of particular sites, as a matter of principle, the elected Parish Council and, through it, the community taken as a whole, quite clearly has no interest in freezing the village as it exists at present, but rather wishes to take the opportunity to guide its development in the manner it considers to be right for local people.

272. Allowing this appeal would, without doubt, be seen as a forceful body blow to that aspiration. The appellant argues that there is no reason why the neighbourhood planning process could not continue with the proposed development taken as a given. That may or may not be so, but I am in little doubt, given the scale of the proposal in the Tarporley context and its pre-emptive nature as regards the location of additional development, that any such continuation would be perceived as a hollow exercise, with little real influence on the local environment. It was made abundantly clear to me that the enthusiastic aspiration of the community to pursue the opportunity to prepare what it would consider to be a meaningful neighbourhood plan, would, in effect, be crushed [99,105,108,110,114,121,130,135,139].

273. Against that background and Tarporley's established traditions in community planning, it was put to me that the implications of allowing the appeal for neighbourhood planning in the Cheshire West & Chester area, and beyond, would be severe, leading to widespread de-motivation and cynicism amongst communities otherwise enthusiastic to pursue the opportunities it presents. Whilst, in my experience, local communities can respond very positively to plans and proposals of which they have some 'ownership', I have no specific evidence as to the severity of the wider negative effects claimed by the Parish Council in the event that this appeal were to be allowed.

274. However, I have no hesitation in concluding, on the basis of all that I have seen and heard that, as far as Tarporley itself is concerned, the impact on the neighbourhood planning process, which is seen in national policy terms as desirable but is not compulsory, would be severe. The de-motivation would in my estimation run very deep and the process and concept, certainly in the immediate locality, would be severely damaged. That, in view of current legislation and associated policy as expressed in the Framework, it seems to me, is a material consideration and one which I consider should be accorded substantial weight commensurate with the clear intentions nationally that neighbourhood planning, where opted for, should be integral to the statutory development planning process. The Front Runner status that has been accorded to the process as it relates to Tarporley can only support that proposition.

Overall conclusions

275. Bearing in mind that it is the principle of the proposed development that is at issue in this case, I have considered, having due regard to the advice of Circular 11/95 *The Use of Conditions in Planning Permissions*, how potential harm to the character and appearance of the area could be addressed by imposing a condition to ensure a satisfactory layout more sensitive to the topography, such as might be prepared in the context of a brief to be approved as a precursor to reserved matters approvals. I have concluded that would be possible in respect of variable density [197, 238] to facilitate a more appropriate response to the topography and commend such a condition to the Secretary of State, should he be minded to allow the appeal. This conclusion stems from visiting the site and the area at the end of the inquiry and hence such a condition was not discussed with the parties. It may be considered necessary to consult them further on the specific point, albeit the principle of up to 100 houses would not be compromised.

276. The loss of BMV land reduces the sustainability credentials of the proposed development but, on the basis of the information that is available, the possibility must be acknowledged that the proven grades of other greenfield sites to be considered if Tarporley is to grow further, for example through investigations

carried out for the purposes of the neighbourhood plan, could well turn out to be of equally good quality. Without such specific investigation there is no way of telling. There is also the question, yet to be resolved, of the scale of expansion that would be appropriate to Tarporley in strategic planning for sustainability.

277. The Framework aims to strengthen local decision making but it remains a general principle of the planning system that local opposition or support for a proposal is not in itself a ground for refusing planning permission unless it is founded on valid planning reasons.¹² While the weight of local opposition in this case is substantial and some is unreasoned, it seems to me that much is also conventionally rooted in matters of substance invoking conflicts with policy intentions such as those concerning land quality and the effect of the proposed development on the character and appearance of the area, as well as on matters more concerned with process such as conflict with aspirations that local people should shape their surroundings through a neighbourhood plan.
278. *The Planning System; General Principles* points out, at paragraph 11, that material planning considerations must be genuine planning considerations, must relate to the use of land in the public interest and must fairly and reasonably relate to the application concerned. Paragraph 11 is to the effect that the Government's statements of planning policy are material considerations and the Framework, explicitly, is such. Many of the concerns raised by the local community, including its aspirations to address the opportunity to plan its own neighbourhood embodied in the Localism Act 2011 and, inter alia, the first core planning principle of the Framework are within the parameters that define materiality and may therefore be accorded weight according to their merits.
279. In terms of the presumption in favour of sustainable development, the 'conventional' land use planning considerations, when the ability to impose conditions is taken into account (and leaving aside the more strategic question of how sustainable or otherwise it might be to provide for larger scale growth at Tarporley through the Council's Core Strategy), place the proposed development broadly within the sustainable end of the spectrum, sufficiently so in the light of the housing land shortage and the out-of-date condition of the development plan policies in that respect to engage 'the presumption in favour', notwithstanding the conflicts with the development plan I have identified. However, it is noteworthy that the Framework, through footnote 10, expressly provides for the operation of the presumption to be overridden even in such circumstances if material considerations indicate otherwise.
280. The important, material, but arguably novel matter of the community's aspiration to prepare a meaningful neighbourhood plan and the substantial regional or national controversy that the proposal gives rise to, and the specific terms of the Parish Council's proposition that as a matter of judgement the adverse effects of the proposed development outweigh its benefits all oblige me to clearly inform the Secretary of State of my assessment of the matter, which is as follows.
281. The community's aspiration to prepare a meaningful neighbourhood plan is undoubtedly a material consideration to be accorded substantial weight. Moreover, it is one that fairly and reasonably relates to the appeal site in question owing to its significance to that prospective activity.

¹² The Planning System General Principles – paragraph 27

282. It is very clear to me, from all that I have seen and heard, that the impact of allowing this appeal, locally at least, on those policy intentions in respect of encouraging neighbourhood planning that are central to the Framework, would be intensely damaging.
283. The proviso that the local planning framework should be an up-to-date and practical context for decision-making is clearly very important, but statutory neighbourhood planning is in its infancy and the Tarporley Parish Council can only work within the core strategy context it is given in seeking to expedite its plan, which at present is insufficiently clear to guide it as to whether the appeal site and other significant Greenfield sites outside the current LPPB must all be developed or whether hard choices between such sites have to be made. The Parish Council clearly recognises that it might ultimately be driven to the conclusion that the site must be released to accommodate the growth of the village.
284. The clear purpose of neighbourhood planning is to facilitate growth that produces locally endorsed change for the better in both the built and natural environment, i.e. sustainable development. It must not be used to block such growth. Responsibly conducted, planning activity at this level has the potential, in my experience, through a community's sense of ownership and involvement, to facilitate development that is accepted as both necessary and desirable. If neighbourhood planning is widely successful the force of the appellant's proposition that rejection of this appeal on the grounds of deferring to this community's desire to engage in neighbourhood planning in a meaningful way would harm prospects for growth [74] would be abated.
285. Over time, if successful, it should lead to many such situations as a matter of routine, consistent with the intentions of the relevant legislation and the Framework, thereby accommodating needs and smoothing the progress of necessary growth. Substantial harm to that objective arising from this particular proposal would, in my view, be an adverse impact of granting permission for it.
286. This appeal proposal is for around 100 houses that would contribute, now, in a relatively small but locally significant way to reducing the acknowledged housing land shortfall evident in Cheshire West and Chester and bring a range of associated benefits [65-70].
287. However, on the evidence before me, I am persuaded that the aspiration of the community of Tarporley to participate meaningfully in neighbourhood planning would be severely damaged, if not altogether crushed [272], if this particular appeal were to be allowed.
288. The wider ramifications of that outcome predicted by the Parish Council, by their very nature, cannot be proven in an evidential fashion. But the logic of such predictions is in my view both inescapable and compelling, bearing in mind Tarporley's clear enthusiasm to avail itself of the neighbourhood planning opportunity and its Front Runner status in that context.
289. Since the Inquiry I have thought long and hard, alongside all other matters raised, about the merits, simple force and rationale of the appellant's case [253] and the complexities, subtleties and merits of the Parish Council's case [ibid.]. The latter is ultimately presented simply and unavoidably as a matter of judgement – in essence that the immediate gain and attendant benefits in terms of permitting 100 houses to be delivered on the ground now, on the appeal site, would be outweighed by its adverse effects [115].

290. Whether or not the appeal should be allowed is ultimately a question for the Secretary of State. However, in all the circumstances I have described, I am ultimately driven to the conclusion by the evidence before me and the power of the Parish Council's proposition concerning this undetermined application at the time of the Inquiry that, notwithstanding that the proposed development may, with qualifications and subject to the imposition of conditions [200], be considered broadly sustainable, the adverse impacts of allowing it, when assessed against the Framework as a whole, would significantly and demonstrably outweigh the benefits, bearing in mind the materiality of the community's aspiration to prepare a meaningful neighbourhood plan [281] and my conclusions regarding the consequential harm in that respect [282,285, 287,288]. The wider potential ramifications of the harmful impact on that aspiration remain, in any event, a powerful material consideration.

291. All in all, the material considerations relevant to this specific proposal that I have identified, in my assessment, tip the balance of planning advantage, at this juncture, against it, notwithstanding that relevant policies concerning housing land in the development plan are out-of-date and that specific and significant benefits would be delivered by it.

Recommendation

292. I therefore conclude and recommend that the appeal should be dismissed and that planning permission should be refused.

293. In the event that the Secretary of State disagrees, I have set out in the attached annex conditions that should be attached to any grant of planning permission.

Keith Manning

Inspector

Annex: Schedule of recommended conditions should the Secretary of State be minded to allow the appeal and grant outline planning permission .

- 1) Details of the appearance, landscaping, layout, and scale, (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) *Prior to or concurrently with the first scheme of details to be submitted pursuant to condition 1) above a detailed scheme for the proposed contouring of the site (based on one metre intervals) relating topography to varying densities of dwellings proposed in defined sub-areas of the site shall be submitted to the local planning authority for approval in writing. The reserved matters shall be consistent with the approved scheme, which shall be implemented as approved.*¹³
- 4) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 4712-P-01 RevA; Proposed Access Arrangements 0054_01 RevA.
- 6) No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the local planning authority. The scheme shall include a schedule identifying the order of commencement and completion of these key elements within each phase of construction. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until a detailed scheme for the provision and future management and maintenance of foul and surface water drainage incorporating sustainable drainage principles has been submitted to and approved in writing by the local planning authority. The drainage scheme shall be implemented, managed and maintained in accordance with the approved details.
- 8) No development shall take place until a detailed scheme for the creation and management, and protection during construction, of a buffer zone (of no less than 5 metres in width when measured from the bank top) along the Wettenhall Brook has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No site clearance, preparatory work or development shall take place until a scheme detailing any trees, shrubs or hedgerows to be retained or re-located and a scheme for their protection during construction or re-location, as the case may be, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) The landscaping works approved pursuant to condition 1) above shall include the numbers, size, locations and species of trees, shrubs and hedgerows to be planted or re-located. The works shall be carried out in accordance with a

¹³ Note: This condition has not been discussed with the parties, for the reason indicated in the report [275].

programme to be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and if within a period of five years from the date of the planting or re-location of any tree or shrub or hedgerow that tree or shrub or any plant forming part of the hedgerow in question, or any replacement thereof, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another of the same species and size as that originally planted or re-located shall be planted at the same place, unless the local planning authority gives its written approval to any variation.

- 11) No dwelling shall be occupied until a long term (25 year) landscape and habitat management and maintenance scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and arrangements.
- 12) The landscaping works approved pursuant to condition 1) above shall include full details of all hard surfaces including new pedestrian links and the work shall be carried out in accordance with the approved details and with a programme of implementation to be submitted to and approved by the local planning authority in writing.
- 13) No development shall take place until details of the bat boxes recommended in the submitted ecological appraisal have been submitted to and approved in writing by the local planning authority and these shall be installed in accordance with the approved details in accordance with a timetable to be submitted to and approved in writing by the local planning authority.
- 14) The development shall not commence until the submitted badger survey has been updated and a detailed method statement to minimise the risk of harm to badgers entering the site during construction has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the measures in the approved method statement
- 15) There shall be no clearance of trees, shrubs and hedgerows between 1st March and 31st August and the landscaping details to be approved pursuant to condition 1) above shall include details of the design, quantity and location of nest boxes to be installed. These shall be installed in accordance with the approved details in accordance with a timetable to be submitted to and approved in writing by the local planning authority.
- 16) No development shall take place until full details of the phasing of the construction of the development hereby approved, including temporary highway and pedestrian routings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved phasing details.
- 17) 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) construction access arrangements and routing of construction vehicles
 - ii) site compound 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) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction

- vii) hours of working
 - viii) phasing of construction, including temporary highway and pedestrian routings
- 18) No phase of house construction shall commence until a detailed scheme of noise insulation and attenuation for that phase has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 19) No phase of house construction shall commence until a detailed scheme of external lighting for that phase has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 20) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future replacement thereof. The scheme shall include:
 - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Social Landlord involved);
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) 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.
 - 21) No phase of house construction shall commence until a detailed scheme for the provision of play space and the management thereof has been submitted to and approved in writing by the local planning authority in respect of that phase. The scheme shall be implemented in accordance with the approved details prior to the first occupation of any dwelling within that phase and the play space shall not thereafter be used for any purpose other than a public play area.
 - 22) No development shall take place until full details of existing site levels and proposed finished floor (slab) and garden levels, together with maximum ridge heights, in relation to finished site levels, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 23) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
 - 24) No development shall take place until details of any substations or other utility structures have been submitted to and approved in writing by the local planning authority. The structures shall be implemented in accordance with the approved details.
 - 25) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the

positions, design, materials and type of all means of enclosure and boundary treatment to be erected. The means of enclosure and boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.

- 26) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 27) No dwellings shall be occupied until the parking areas intended to serve them have been drained and surfaced in accordance with details to be submitted to and approved in writing by the local planning authority, and those areas shall not thereafter be used for any purpose other than the parking of vehicles.
- 28) Notwithstanding the approval of the access drawing 0054_01 RevA, no development shall take place until further and full details and specifications of the vehicular and pedestrian access works, including bus stop improvements and a footway link to Spring Hill, have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the works have been carried out in accordance with the approved details.
- 29) Within one month of the new access works becoming operational the existing agricultural access from Nantwich Road shall be permanently closed and the boundary treatment, verge and footway made good in accordance with details to be submitted to and approved in writing by the local planning authority.
- 30) No development shall take place until full details and specifications of the proposed signalisation works at the junction of Nantwich Road with the A49 have been submitted to and approved in writing by the local planning authority. No dwelling hereby permitted shall be occupied until the signalisation works have been implemented in accordance with the approved details.

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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|--------------------|-------------------------|
| Mr D Dickinson | Senior Solicitor |
| He called | |
| Mr B Leonard MRTPI | Senior Planning Officer |

FOR THE APPELLANT:

| | |
|-----------------------------------|-------------------------------------|
| Mr I Ponter | Of Counsel |
| He called | |
| Mr P Wooliscroft MSc HNC MCITL | Croft Transport Solutions |
| Mr P Rech BA BPhil LD CMLI | FPCR |
| Mr G Venning MA (Cantab) | Levvel Ltd |
| Mr M Twigg BSC MRTPI | Fox Strategic Land and Property Ltd |

FOR TARPORLEY PARISH COUNCIL:

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|-------------------------------|--------------------------------------|
| Parish Councillor J Blackford | Local resident and parish councillor |
| Mr M George | Local resident |

INTERESTED PERSONS:

| | |
|----------------------------------|--------------------------------------|
| Councillor Eveleigh Moore Dutton | Ward Councillor |
| Mr A Needham | Local resident |
| Parish Councillor D Press | Local resident and parish councillor |
| Mrs R Capper | Local resident |

DOCUMENTS

- 1 Council's notification letter and list of those notified
- 2 Appellant's opening submissions
- 3 Decision notice in respect of application 12/00477/OUT
- 4 Marketing particulars for Brook Farm School site
- 5 Email exchange (Paul Andrew / Mike Heming) 17/05/12 @ 13:38 and 14:24 re: Land at Rose Farm Shop, Utkinton
- 6 *An introduction to neighbourhood planning* DCLG and text from Planning Portal dated 24/05/2012 re Neighbourhood Planning
- 7 Email with attachment from DCLG 05/03/12 @ 16:19 confirming Front Runner status of Tarporley Parish Council
- 8 Minutes of Extraordinary Meeting of the Tarporley Parish Council 11/04/12
- 9 Tarporley Neighbourhood Plan Draft Indicative Programme (Rev 2)
- 10 Flipchart sheets (7) used by Parish Council in questioning appellant
- 11 Email exchange John Acres to Julie Shanahan 30/04/12 @ 11:19 Julie Shanahan to John Acres 30/04/12 @ 12:04 Re: Interpretation of NPPF
- 12 *Answering the Inspector's Questions* Statement of Councillor Eveleigh Moore Dutton
- 13 Cheshire West and Chester: Report to Local Development Framework Panel 26/03/12
- 14 Correspondence bundle: Letter to Steven O'Brien MP from Sir Michael Pitt 24/05/12 with originating and attached letters.

- 15 List of suggested planning conditions
- 16 Council's Closing statement
- 17 Closing statement of Tarporley Parish Council
- 18 Appellant's closing submissions
- 19 Appellant's costs application against Council
- 20 Council's response and costs application against appellant

CORE DOCUMENTS LIST

CD1 Application Documents

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|------|--|
| 1.1 | Application Covering Letter, Application Form and Certificates |
| 1.2 | Application Boundary Rev A |
| 1.3 | Development Framework Plan |
| 1.4 | Illustrative Master Plan Rev E |
| 1.5 | Design and Access Statement |
| 1.6 | Landscape & Visual Assessment |
| 1.7 | Transport Assessment and Travel Plan |
| 1.8 | Ecological Assessment |
| 1.9 | Arboricultural Assessment |
| 1.10 | Phase 1 Site Investigation |
| 1.11 | Flood Risk Assessment |
| 1.12 | Air Quality Assessment |
| 1.13 | Noise Assessment |
| 1.14 | Archaeology Report |
| 1.15 | Agricultural and Land Quality Report |
| 1.16 | Utilities & Infrastructure Report |
| 1.17 | Renewable Energy Statement |
| 1.18 | Draft S106 Agreement |
| 1.19 | Statement of Community Involvement |
| 1.2 | Housing Land Supply |
| 1.21 | Affordable Housing Statement |
| 1.22 | Planning Statement |

CD2 Correspondence with Local Planning Authority

| | | CD2 pages |
|-----|--|--------------|
| 2.1 | 21 June 2011 – Letter – FLP to Head of Planning re: Screening Opinion request. | 1-5 |
| 2.2 | 12 July 2011 - E-mail - FLP to Iwan Hughes re: Pre App Meeting. | 6-7 |
| 2.3 | 30 August 2011 - E-mail - FLP to Iwan Hughes re: consultation held and Screening Request. | 8-9 |
| 2.4 | 16 September 2011 - Letter - CW&C to FLP re: Validation of Application. | 10-11 |
| 2.5 | 7 October 2011 - E-mail - Brian Leonard to Martyn Twigg re: Application and any technical issues. | 12-13 |
| 2.6 | 7 October 2011 - E-mail - Martin Twigg to Brian Leonard re: number of objections and access to the site. | 15-15 |

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| 2.7 | 18 October 2011 - E-mail Peter Dutton to Martyn Twigg re: formulating Policy comments. | 16-19 |
| 2.8 | 19 October 2011 - Letter - FLP to Brian Leonard re: Issues raised by Third Party reps. | 20-25 |
| 2.9 | 04 November 2011 - E-mail Martyn Twigg to Brian Leonard re: progress of the application | 26-27 |
| 2.10 | 9 November 2011 - Letter - FLP to Brian Leonard re: how 'Tarpoley is defined.' | 28-30 |
| 2.11 | 10 November 2011- E-mail Brian Leonard to Martyn Twigg re: consultee comments and Highways initial concerns. | 31-33 |
| 2.12 | 10 November 2011- E-mail Martyn Twigg to Brian Leonard re: addressing Highways concerns. | 34-36 |
| 2.13 | 10 November 2011 - E-mail Martyn Twigg to Brian Leonard re: addressing Michael George's (public) comments on several points. | 37-38 |
| 2.14 | 10 November 2011 - Martyn Twigg to Brian Leonard re: false objection letter from Mr Rudd. | 39 |
| 2.15 | 16 November 2011 - 16 November 2011 - Brian Leonard to Martyn Twigg re: awaiting Spatial Planning comments. | 40-41 |
| 2.16 | 16 November 2011 - E-mail Phil Bamford to Martyn Twigg re: awaiting Spatial Planning comments. | 42-43 |
| 2.17 | 24 November 2011 - E-mail Brian Leonard to Martyn Twigg re: awaiting Education response and next planning committee dates. | 44-45 |
| 2.18 | 02 December 2011 - E-mail Martyn Twigg to Brian Leonard re: sorting out highways comments. | 46-47 |
| 2.19 | 19 December 2011 - E-mail Martyn Twigg to Brian Leonard re: appeal for non-determination. | 48 |
| 2.20 | 20 December 2011- E-mail Martyn Twigg to Brian Leonard re: submission of duplicate planning application to run parallel with the appeal. | 49 |
| 2.21 | 21 December 2011 - E-mail Brian Leonard to Martyn Twigg re: application at planning committee and potential appeal. | 50 |

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| 3.3 | 10 February 2012 - Letter J Owens re: | 11-14 |
| 3.4 | 27 February 2012 - e-mail Brian Leonard re: | 15-16 |
| 3.5 | 23 March 2012 - letter J Owens re: | 17-20 |
| 3.6 | 26 March 2012 - e-mail F Edwards re: | 21-22 |
| 3.7 | 28 March 2012 - e-mail Brian Leonard re: | 23-24 |
| 3.8 | 28 March 2012 - e-mail F Edwards re: | 25-26 |
| 3.9 | 29 March 2012 - e-mail Brian Leonard re: | 27-28 |
| 3.10 | 30 March 2012 - e-mail Brian Leonard re: | 29-32 |
| 3.11 | 12 April 2012 - e-mail Brian Leonard re: | 33-36 |
| 3.12 | 16 April 2012 - e-mail Brian Leonard re: | 37-46 |
| 3.13 | 19 April 2012 - Letter S Robinson re: | 47-50 |

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| CD10 SPD2 Managing Housing Land Supply | 1-23 |
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| TPC3 | SPD5 Landscape Character (Extracts) <i>Pages 1-14 and section 3b</i> | |
| TPC4 | The Tarporely Parish Plan (Extracts) | 1-15 |
| TPC5 | HLM 2009 Table 2.2 and Table 4.3 | |
| TPC6 | HLM 2010 page 7 and page 15 | |
| TPC7 | HLM 2011 Tables 2.1, 2.2 and 4.1 | |
| TPC8 | CWaC Rural Housing Strategy and Action Plan - March 2011 | Fig.7 |
| TPC9 | Developing 5 year land supply report (Executive Committee 09/05/12) | All |
| TPC10 | Developing 5 year land supply report Annex A (Executive Committee 09/05/12) | All |
| TPC11 | Developing 5 year land supply report (Executive Committee 09/05/12) Extracts from Minutes | |
| TPC12 | Notes on Rural Housing Strategy (JB) | All |
| TPC13 | Recommendations to the Parish Council (JB) | All |
| TPC14 | Housing Land Monitor (Interim Report) 2011-2012 | All |
| TPC15 | Interim proposal – A revised model for the development of a Rural Community | All |



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.