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## Appeal Decision

Inquiry held on 19 July 2016

Site visit made on 19 July 2016

**by David M H Rose BA (Hons) MRTPI**

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

**Decision date: 14 September 2016**

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**Appeal Ref: APP/R0660/W/15/3137939**

**Land north of Sydney Road, Crewe (Phase 2)<sup>1</sup>**

- 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 Muller Property Group against Cheshire East Council.
  - The application, reference 15/0184N is dated 13 January 2015.
  - The development proposed is an outline planning application for up to 275 dwellings, open space and associated works, with all detailed matters reserved apart from access.
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### Decision

1. The appeal is allowed and planning permission is granted for an outline planning application for up to 275 dwellings, open space and associated works, with all detailed matters reserved apart from access at Land north of Sydney Road, Crewe (Phase 2) in accordance with the terms of the application, reference 15/0184N, dated 13 January 2015, subject to the conditions set out in the Schedule to this decision.

### Application for costs

2. At the Inquiry an application for costs was made by Muller Property Group against Cheshire East Council. This application is the subject of a separate Decision.

### Preliminary matters

3. The appeal site is proposed as part of an allocation for 525 dwellings within the Cheshire East Local Plan Strategy Proposed Changes (Consultation Draft): March 2016 as site CS 5 Sydney Road, Crewe.
4. It is agreed that the housing target in the Borough of Crewe and Nantwich Replacement Local Plan expired in 2011 and that the policies for the supply of housing are out-of-date; and that paragraphs 49 and 14 of the National Planning Policy Framework (the Framework) are engaged.
5. It is common ground that Crewe is a sustainable settlement and a preferred location for development; the site is in a sustainable location; and, in order to meet the Council's housing land supply needs in the emerging local plan, some greenfield sites will have to be released, including green gap sites on the edge of Crewe. The site does not enjoy any landscape designation.

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<sup>1</sup> Grid reference Easting 371790 Northing 356594; Postcode at site entrance CW1 5NF

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6. Further, the site is not best and most versatile agricultural land; all ecology matters have been addressed and there are no technical grounds on which to resist the development. The provision of new market and affordable housing is acknowledged to be a benefit.
7. Having regard to the above, the Council's Strategic Planning Board resolved, at its meeting on 18 May 2016, to 'remove' the putative reasons for refusal and not to contest the appeal.
8. At the Inquiry, it was confirmed that the drawings listed in paragraph 1.16 of the Statement of Common Ground should be:- Site Location Plan (Drawing Ref 0244 001 Rev \*); and Phase 2 Indicative Site Layout (Drawing Ref: SK08 Rev M). A Highways Statement of Common Ground was also tabled.

### **Main Issues**

9. The main issues are firstly:- in light of the acknowledgement that the housing policies in the development plan are out of date, whether any adverse impacts of approving the proposal would significantly and demonstrably outweigh the benefits of the project when assessed against the policies in the National Planning Policy Framework taken as a whole; secondly:- does the planning obligation meet the policy and statutory tests; and, thirdly:- if permission is to be granted, what conditions should be imposed on any grant of planning permission.

### **Reasons**

#### **The planning balance**

10. Starting with the Borough of Crewe and Nantwich Replacement Local Plan (adopted 2005 and covering the period to 2011), the appeal site is not identified for housing development; it lies outside the identified settlement boundary; and it sits within the green gap between Crewe and Haslington. The proposal would conflict with saved Policies RES.5, NE.2 and NE.4.
11. However, the above policies are substantially out-of-date and carry very little weight. Having regard to paragraph 49, and subsequent reference to paragraph 14, of the Framework, planning permission should be granted for the proposed development 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.
12. At the same time, the appeal site forms part of a wider housing allocation in the emerging Cheshire East Local Plan, following public consultation and a sustainability audit; and a conclusion that the site did not fulfil a fundamental green gap role. Although the local plan is subject to ongoing examination, the strategy is at an advanced stage following the submission of Proposed Changes in April 2016; and the specific allocation of the appeal site for housing development is a factor of significant weight.
13. Although local representations refer to the loss of open countryside and its green gap function, these are matters of balance in light of the need to provide sufficient housing land within the district. The protection of important trees and ecological interests has been the subject of detailed assessment and can be safeguarded by appropriate planning conditions attached to any grant of planning permission.

14. In terms of the concerns about increased traffic, the proposed development is to be served by an already approved access on to Sydney Road which will provide for a 'ghost island' right turn facility to maintain the free flow of west-bound traffic; a second access is to be provided on to Maw Green Road to spread the distribution of traffic; Maw Green Road is the subject of committed improvements, including traffic-light controlled operation under the railway bridge; the Council intends to provide a second deck to the Sydney Road railway bridge to facilitate two-way operation; and remodelling of the Crewe Green roundabout will secure increased capacity. Overall, I am satisfied that the residual cumulative impacts of the development would not be severe and there would be no basis to resist the development on highways and transportation grounds.

**Planning Obligation by Deed of Agreement**

15. The obligation provides for the phasing of the development; the provision of open space and its future management; the construction of affordable housing (30% of the development total) to an agreed mix of type and tenure; a financial contribution of £495,000 for improvement works to either the Sydney Road bridge or the Crewe Green roundabout, or both, prior to the occupation of the 75<sup>th</sup> dwelling; and a sum of around £553,000 (based on the erection of 275 dwellings) towards the costs of Project Hungerford Primary Academy 1FE Expansion and £136,500 towards the costs of additional special educational needs accommodation at Park Lane School and/or Springfield School.
16. The Council's Community Infrastructure Levy Compliance Statement sets out the policy justification for the above with particular reference to extant development plan policies and the site specific requirements related to the allocation of Site CS 5 in the emerging local plan. It also confirms that none of the contributions would exceed the five development threshold of regulation 123(3).
17. The element of the financial contribution relating to Crewe Green roundabout is based on a scheme drawn up by the appellant. The provision of additional lanes, which are necessary to mitigate the impacts of the development, would also result in wider, but limited, public benefits. However, these would be of marginal significance and would not demonstrably exceed what is required.
18. Overall, I am satisfied that the planning obligation as a whole fulfils the policy and statutory tests and it is a material consideration in favour of the proposed development.

**Planning conditions**

19. The agreed planning conditions, and the supporting reasons, provide for the commencement of development in accordance with the statutory requirements and the prior approval of details of the development, other than means of access (the reserved matters). The access on to Maw Green Road is to be secured by a condition requiring its implementation before the occupation of the 75<sup>th</sup> dwelling. [Conditions 1 – 3]
20. Agreement will be required on the finished floor levels of the proposed dwellings; the landscaping of the site; and provision is to be made for a comprehensive assessment of existing trees and the implementation of an Arboricultural Method Statement. [Conditions 4 - 6]

21. Further surveys for protected species are to be undertaken with provision for mitigation strategies; drainage details are to be agreed; an investigation for contamination and measures for remediation will precede any development; and construction works will take place in accordance with an agreed Environmental Management Plan. [Conditions 7 - 10]
22. Given the proximity of parts of the site to Maw Green Road and the railway, some dwellings will need acoustic mitigation; an external lighting scheme is to be agreed for the public realm; and an ongoing travel plan will be required. Electric vehicle charging points for each dwelling will be secured in the absence of any adopted policy on local requirements for decentralised energy supply. A scheme will provide for the safeguarding, provision and management of public rights of way; and the requirements relating to the design and construction of pedestrian and cyclist routes, and cycle storage facilities, forms a free-standing condition. [Conditions 11 - 16]
23. I have reworded some of the conditions for clarity and precision. I have not imposed draft condition 10 (foul drainage) as condition 8 requires the submission, approval and implementation of a scheme for both surface water and foul drainage disposal.

**Conclusion**

24. In light of the acknowledgement that the housing policies in the development plan are out of date, and having particular regard to paragraph 14 of the Framework, I conclude that any adverse impacts of approving the proposal would not significantly and demonstrably outweigh the benefits of the project when assessed against the policies in the National Planning Policy Framework taken as a whole; the planning obligation would provide suitable mitigation, development related infrastructure and the benefit of affordable housing; and the planning conditions to be imposed would provide appropriate safeguards.
25. From my consideration of these and all other matters raised I find nothing of sufficient materiality to undermine my decision to allow the appeal.

*David MH Rose*

Inspector

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:<sup>2</sup>**

Adrian Crowther	Major Applications Team Leader Cheshire East Council
Mathew Barrett	Solicitor Cheshire East Council
Neil Jones	Highways Cheshire East Council

### **FOR THE APPELLANT:**

Paul G Tucker QC	Instructed by Patrick Downes BSc (Hons), MRICS, Director of Harris Lamb <sup>3</sup>
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### **He called**

William Booker BSc (Hons)	Director of Singleton Clamp & Partners Ltd
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### **INTERESTED PERSON:**

Mrs E Moyle	Local Resident
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### **DOCUMENTS SUBMITTED AT THE INQUIRY<sup>4</sup>**

INQ 1	Appendices (2, 4 and 5) to Statement of Common Ground
INQ 2	Highways Statement of Common Ground
INQ 3	CIL Compliance Statement
INQ 4	Photographs submitted by Mrs Moyle
INQ 5	Application for an award of costs on behalf of the appellant
INQ 6	Response to costs application
INQ 7	Appellant's response to INQ 6
INQ 8	List of Draft Planning Conditions
INQ 9	Planning Obligation dated 11 August 2016

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<sup>2</sup> None of the Council's Officers recorded their professional qualifications

<sup>3</sup> Mr Downes' proof of evidence was unchallenged and he was not called to give evidence – he was present for the discussion on conditions

<sup>4</sup> Includes documents submitted by agreement following the close of the Inquiry

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### **Schedule of Planning Conditions (1 – 16)**

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
2. Approval of the details of the appearance, landscaping, layout and scale (the reserved matters) for each phase of the development shall be obtained from the Local Planning Authority in writing before any development within that phase is commenced.
3. Prior to the occupation of the 75<sup>th</sup> dwelling of the development hereby approved, the secondary access to the site from Maw Green Road, as detailed in drawing SCP/14376/F02, shall be fully completed and open to use by the public.
4. The reserved matters to be submitted for each phase of the development shall be accompanied by detailed drawings, for the written approval of the Local Planning Authority, showing existing and proposed site levels and the finished floor levels of all dwellings. The development shall be carried out in accordance with the approved details.
5. The landscaping plan for each phase of the development, to be submitted in accordance with condition 2 above, shall provide for the following:-
  - a) all hard and soft landscaping works shall be completed in full accordance with the approved scheme within the first planting season following completion of the development hereby approved or, otherwise, in accordance with a programme previously agreed in writing by the Local Planning Authority;
  - b) all trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces);
  - c) all new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations); and
  - d) any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.
6. The reserved matters to be submitted for each phase of the development shall be accompanied by a detailed Arboricultural Method Statement in accordance with BS5837: 2012 Trees in Relation to Design, Demolition and Construction (Recommendations) for the written approval of the Local Planning Authority. No development or other operations within that phase shall take place except in complete accordance with the approved Arboricultural Method Statement which shall include full details of the following:-

- a) Tree Removal – a detailed tree felling / pruning specification shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall commence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning works shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998(2010) Tree Works – Recommendations.
  - b) Tree Retention – no trees, shrubs or hedges within the site which are shown as being retained on the approved landscaping plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written approval of the Local Planning Authority. Any trees, shrubs or hedges removed without such approval, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use, shall be replaced with trees, shrubs or hedge plants of similar size and species.
  - c) Tree Protection – a scheme for the protection of the retained trees produced in accordance with BS5837: 2012 Trees in Relation to Design, Demolition and Construction (Recommendations), which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place within that phase except in complete accordance with the approved protection scheme.
7. The reserved matters to be submitted for each phase of the development shall be accompanied by an up-to-date protected species survey and report, with particular reference to Great Crested Newts and Bats, and a detailed ecological mitigation strategy, completed by a suitable experienced ecologist in accordance with best practice methodologies, and shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented in full and maintained at all times thereafter.
  8. No development hereby permitted shall be commenced until such time as detailed proposals, including the phasing of works, for the disposal of surface water (including a scheme for on-site storage and regulated discharge) and foul drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.
  9. Prior to the development commencing:-
    - a) a Phase II investigation shall be carried out and the results submitted to and approved in writing by the Local Planning Authority. The site investigation shall be undertaken in accordance with the recommendations of report SHF.1020.001.R.003.A (June 2012) and 5878/R1 (January 2015).
    - b) if the Phase II investigations indicate that remediation is necessary, then a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. Remediation shall be undertaken in accordance with the approved Remediation Strategy.

Prior to the first use or occupation of any part of the development:-

- c) if remediation is required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to and approved in writing by the Local Planning Authority.
10. Development shall not begin until an Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall be adhered to throughout the period of construction, and shall include details of:-
    - a) the hours during which construction works and deliveries are to take place;
    - b) the parking of vehicles of site operatives and visitors;
    - c) loading, unloading and storage of plant and materials;
    - d) wheel washing facilities;
    - e) any piling required, including details of method, hours, duration, and prior notification arrangements;
    - f) mitigation measures to control the emission of dust, dirt, noise and vibration;
    - g) plant and equipment, and construction traffic routes, to be used; and
    - h) the responsible person for contact in the event of complaint.
  11. The reserved matters to be submitted for each phase of the development shall be accompanied by a scheme of acoustic mitigation following the principles recommended in the Noise Assessment Report (Reference 20480R02aPKmdw – Environoise) for the written approval of the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
  12. Prior to its installation, details of any external lighting along the highways or in public areas of the site, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
  13. Prior to the first occupation of the residential accommodation, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall be developed with the aim of promoting alternative and low carbon transport options for residents of the site and shall include suitable and measurable targets with the aim to reduce transport related emissions. The plan shall be implemented and enforced throughout the use, reviewed every five years, and a report provided to the Local Planning Authority annually on achievements against the agreed targets.
  14. Prior to the commencement of development for each phase, a scheme providing for the provision of Electric Vehicle Charging Points within the development, and a timetable for implementation, shall be submitted to the Local Planning Authority for approval in writing. The agreed scheme shall be implemented in accordance with the approved timetable.



15.
  - a) Prior to the commencement of development, a Public Rights of Way scheme of management shall be submitted to and approved by the Local Planning Authority. The scheme shall include provision for:-
    - i. the design of access and Public Rights of Way routes within the development and their surfacing, widths, gradients, landscaping and structures;
    - ii. any proposals for the diversion or extinguishment of any Public Right of Way under section 257 of the Town and Country Planning Act 1990; and,
    - iii. any proposals for the temporary closure of any Public Rights of Way, along with alternative route provision.
  - b) The line of the Public Right of Way shall be marked out on the development site prior to the commencement of, and thereafter retained during the course of, the development.
  - c) Pre-commencement and post-completion condition surveys of the surface of the Public Right of Way shall be undertaken by the developer, with the developer restoring any degradation identified in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.
16. Prior to the commencement of development for each phase, details of the design and construction of pedestrian and cyclist routes, and cycle storage facilities, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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