
Appeal Decision

Hearing held on 3 April 2013

Inquiry held on 3, 4, 5 and 6 September 2013

Site visit made on 3 April 2013

by P W Clark MA MRTPI MCMI

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

Decision date: 12 December 2013

Appeal Ref: APP/R0660/A/12/2188001

Hassall Road, Alsager, Stoke-on-Trent ST7 2SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Seddon Homes Ltd against the decision of Cheshire East Council.
 - The application Ref 12/1670C, dated 26 April 2012, was refused by notice dated 1 November 2012.
 - The development proposed is the erection of 30 N^o dwellings (including 10 N^o affordable dwellings) vehicular access and associated landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 30 N^o dwellings (including 9 N^o affordable dwellings) vehicular access and associated landscaping at Hassall Road, Alsager, Stoke-on-Trent ST7 2SL in accordance with the terms of the application, Ref 12/1670C, dated 26 April 2012, subject to the conditions set out in the schedule appended to this decision.

Procedural matters

2. By the time of the hearing, the description of the development had been changed from the inclusion of 10 affordable dwellings to the inclusion of 9 affordable dwellings. There had also been some amended plans which had resulted in some discrepancies between plans by the time of the hearing but resolved by the submission of further amendments. To avoid confusion, condition (2) details the plans which are approved.
3. In relation to one of the matters at issue, a change in circumstances immediately before the date of the hearing (the publication, in February 2013, of the Council's latest Strategic Housing Land Availability Assessment (the SHLAA 2013) and the appellant's subsequent document issued on 27 March 2013 entitled Planning Proof of Evidence) gave rise to the need to adjourn the hearing to allow the parties adequate time to consider the changed circumstances in relation to that issue. Furthermore, both main parties agreed that the implications of the changed circumstances in relation to that issue were best explored by cross examination, to which I agreed, so the adjourned matters were considered at a public inquiry.

4. The hearing considered submissions relating to agricultural land quality. Subsequent to the hearing, the appellant commissioned and submitted a report on Agricultural Land Classification and Soil Resources. The report confirms the grade of classification which was presumed in the Council's committee report. Because the issue had already been discussed at the hearing and the inquiry was convened solely to deal with the matters adjourned to it, this matter was not revisited through cross-examination.

Main Issues

5. There are two. The first is the effect of the proposal on the character and appearance of the area in terms of its alleged intrusion into open countryside. The second is its effect on the supply of housing.
6. The second issue arises in part because the National Planning Policy Framework (the NPP Framework) advises that a lack of a demonstrable five-year supply of deliverable housing sites would mean that relevant policies in the local plan should not be considered up to date. Where relevant policies in the development plan are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefit.
7. By the close of the inquiry, a Unilateral Undertaking had been delivered providing for the delivery of the affordable housing proposed and payments of money to the Council; to protect or enhance reptile environments in Alsager; to maintain trees on the highway fronting the site; as a contribution to the provision of Primary education; in lieu of providing open space on site; to contribute towards the maintenance of off-site public open space; in lieu of providing recreation space on site and; to contribute towards the maintenance of recreation space.
8. Although the absence of a planning obligation securing these matters was not a reason for the refusal of the application, the report to the Council committee which determined the application made it clear that, had the Council been minded to grant permission, it was not recommended to do so without the prior completion of a planning obligation. I have therefore considered these matters in my decision.
9. Where I have found the relevant part of the obligation necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development, I have taken it into account. Where I find the relevant part of the obligation to fail those tests, I have taken no account of that part of the obligation.

Reasons

Character and appearance

10. The appeal site lies outside but immediately adjacent to the settlement zone line for Alsager defined in the Congleton Borough Plan First Review 2005 (the Local Plan). It is therefore defined as open countryside. Local Plan policies PS8 and H6 prescribe what development may be permitted on land defined as open countryside. Their prescriptions do not encompass development of the kind proposed.

11. Since 2010 the local planning authority has been conducting the preliminaries for replacing the local plan, so there appears to be common acceptance that it is life-expired. Nevertheless, one of the 12 core planning principles of the NPP Framework is that planning should take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside, so the issue, and previous policy, remains a matter of significance, as was similarly found in a number of appeal decisions to which I was referred; APP/R0660/A/10/2140255 and 2143265 (Richborough Estates), APP/G1630/A/11/2146206 and 2148635 (Bishop's Cleeve), APP/R0660/A/11/2158727 (Loachbrook Farm) and APP/H2835/A/12/2182431 (Irchester).
12. Extensive views across open land can be obtained from the length of Hassall Road to the north of Heath End Farm. In contrast, views from Hassall Road across the site are more limited because the hedgerows which form its western boundary and the boundary of fields to the north and south-west contain an extent of evergreen holly. These would form a natural boundary for development. In consequence, the loss of this appeal site to development would have limited effect on an appreciation of open countryside.
13. The site is divided from other parcels of land to the north and south by post and wire fences, not hedgerows, in contrast to its shorter east and west boundaries. This suggests that it once formed part of a larger field, an impression which is confirmed by historic maps. In consequence, neither of its two longer boundaries would form a natural boundary for development. The proposal includes the creation of hedgerows on these boundaries but they would take time to mature. In the meantime the two longer flanks of the appeal proposal's urban form of development would be starkly exposed.
14. The site itself is fallow. The parcel to the north is used as grazing land for horses. It is subject to planning applications for development but there is no information of any permission so no presumption of any kind can be made about the future of this neighbouring piece of open land. For the present at least, it remains an open and undeveloped neighbour to the appeal site. On its north side, housing development at Heath End Farm, Hassall Road and Pikemere Road bounds this open field and closes any further view.
15. To the south, half of the site's boundary abuts a recreation area. This appears to be simply a fenced off part of a formerly agricultural field, left in its pastoral state but with a few pieces of play equipment and a bench placed within it. It may be safely presumed that its open character will remain.
16. The other half of the appeal site's southern boundary abuts the sports fields of the Manchester Metropolitan University (MMU) Alsager Campus. Although the campus has long been designated for a mixed use development in the Local Plan and a development brief has been prepared, including provision for 300 houses, other uses and open space, no planning permission exists for its redevelopment and so no presumption can be made about the short term future of this neighbouring piece of open land. For the present at least, it too remains an open and undeveloped neighbour to the appeal site. Further within the campus, existing buildings terminate any longer view.
17. Two pieces of evidence are provided by which to help judge the intrinsic character and beauty of this piece of countryside. One is the Cheshire Landscape Character Assessment of November 2008. The other is the

Landscape and Visual Baseline Review and Assessment of Effects carried out by consultants on behalf of the appellant. The Council's landscape expert accepts that the latter was carried out in accordance with the Landscape Institute's Guidelines for Landscape and Visual Impact Assessment.

18. Nothing in the Cheshire Landscape Character Assessment identifies this particular piece of countryside, which it places in the Barthomley character area, extending between Crewe and Alsager, as valuable or remarkable. The site displays the loss of boundaries and the introduction of fences in the landscape which the Assessment notes as more recent events moderating the appearance of traditional countryside in this part of the world. The Character Assessment observes that communications networks have had a massive impact on the Barthomley character area, reflected on this site in the faint audibility of the M6 to the west, so it is not entirely tranquil. Although it has value to the people of Alsager, it is not designated in any way.
19. For all the above reasons, I concur with the conclusions of the appellant's consultants; that the sensitivity of the overall landscape character at the proposed site is moderate; that the effects of the proposal on landscape character will be adverse but minor and negligible within the Barthomley Character Area as a whole; that there would be substantially adverse visual effects for a few properties nearest the site but that the overall visual effects would be moderate to small. I also conclude that the shape of the site, with its short sides abutting existing development or screened by hedgerows but its long sides extending away from established development and exposed to view across other open land would result in the development appearing somewhat incongruous in the short term until the MMU site is developed.
20. There would therefore be harmful effects on the character and appearance of the area which would result in conflict with Local Plan policies PS8 and H6. They may be moderate, minor or short term and so are not overwhelmingly decisive but they cannot be ignored and must be weighed in the balance against any advantages which may result from the effects of the proposal on the supply of housing, to which I now turn.

Housing supply

21. Government policy, set out in paragraph 49 of the NPP Framework is that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Where relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
22. The relevant suite of policies in the Congleton Local Plan which govern the supply of housing include PS3 and PS4. They define settlement zone lines which are intended (according to paragraph 2.62 of the plan) to allow for sufficient growth to meet future land use needs for the plan period (up to 2011). In turn (as also explained by paragraph 2.62 of the plan), they define what is to be regarded as open countryside to which policies PS8 and H6 apply.
23. It is commonly accepted that there remains no identifiable five-year housing land supply from within the adopted but outdated local plans for Cheshire East. The claim that there is nevertheless an identifiable five-year housing land

supply depends on information outside and untested by the local plan process. This information is represented by the SHLAA 2013.

24. To a degree, the claim is undermined by the Disclaimer contained within the SHLAA 2013 itself; "It does not determine whether any site is acceptable for future housing development as that will be determined through the Local Plan." The government's Strategic Housing Land Availability Assessments Practice Guidance advises (in paragraph 33) that assessing the suitability, availability and achievability of a site will provide the information on which the judgement can be made in the plan making process as to whether a site can be considered deliverable, developable or not currently developable for housing development. In consequence, inclusion of a site within the SHLAA does not, of itself, indicate that the site would meet the specification, set out in footnote 11 to NPP Framework paragraph 47, for a deliverable site to be included within an identified five-year supply of housing sites but it provides the information on which that judgement can be made.
25. A new local plan is in preparation. A Development Strategy, representing preferred options for a Core Strategy has been published, including Strategic Sites for housing development. They are said to represent about 80% of the total land to be allocated for housing. Options for the remaining 20% will be canvassed through a Site Allocations Development Plan Document. The Core Strategy preferred options are said to have attracted a large number of representations (variously reported as 15,000 or 16,000) so the Development Strategy is clearly controversial. Submission for examination is not now expected until 2014 and so adoption is still some way off. At this stage therefore, reliance cannot be placed on a provision in the Development Strategy to endorse an item in the SHLAA.
26. A pragmatic view must therefore be taken of the probability of the SHLAA 2013 identifying a five-year housing land supply, in the light of the uncertainties surrounding the SHLAA. The first uncertainty concerns the housing need or demand which the supply is meant to satisfy, which itself has several uncertainties.
 - (i) *The target need or demand*
27. The first of these subsidiary uncertainties concerns the measurement of growth. Previous policy, set out in the now cancelled Regional Spatial Strategy for the North West (the RSS) indicated an annual requirement for Cheshire East of 1150 dwellings per annum. The Development Strategy (representing preferred options for a Core Strategy) suggests a "medium growth option" averaging 1350 per annum for the life of the plan but ramping up from an initial five year requirement of 1150, rising to 1250 for the second five years and to 1500 for the third five years. The later phases are said to align with the government's 2011-based household projections.
28. The second subsidiary uncertainty concerns the handling of previous shortfalls. Up until 2008, Cheshire East exceeded its housing land supply targets. The excess carried it over the early years of the economic downturn as far as 2010 but a shortfall has arisen since that date. In calculating housing targets there are two accepted ways of dealing with shortfalls. One is known as the Liverpool method by which previous shortfalls are to be made good over the lifetime of the plan. The other is known as the Sedgefield approach, in which previous shortfalls are to be made good within the first five years.

29. The arguments in favour of the phased incrementation of the annual housing target and in favour of the Liverpool method for dealing with the previous shortfall are similar. They are threefold. One is that housing development needs to be coordinated with infrastructure delivery, expected on the back of large strategic sites delivered in the later stages of the Development Strategy. The second is that the strategy seeks to direct development more to the north of the Borough but sites there are less likely to be available until later periods. The third is that the medium growth option would require a doubling of the recent construction rates of the house building industry and that the industry could not be expected to make such a large and sudden step change in output.
30. All three of these arguments are based on supply considerations. In effect they are saying that satisfaction of current needs should be postponed into the future because there are difficulties with current supply. For that reason I am not convinced that they are legitimately used to argue for a reduction in a needs or demand-based target.
31. Therefore, although both parties agree that a target of 1150 homes per annum, derived from the former RSS, is the only figure tested by examination or enquiry, I regard it as a minimum. The Council's response to the questions put in my note following the adjournment of the hearing (Appendix 46 to Mr Fisher's Proof of Evidence) supports this view; "the phasing as set out does not act as a "cap" on development but should be seen as a minimum amount of development envisaged to take place over the individual phasing periods."
32. On the evidence before me, it seems unlikely that the forthcoming examination of the Council's Core Strategy would be presented with a lower target. Some studies, such as that carried out by Nathaniel Lichfield and Partners for the Housebuilders' Consortium argue in favour of a much higher target. It is quite within the bounds of possibility that a higher target may be the outcome of the examination, when it occurs.
33. For the same reason, I am not convinced that the Liverpool method is the right approach to dealing with the recent shortfall as a result of the economic downturn. Even though, in practice, the market might struggle to meet the step change in output required, that is not a reason to deny that the need or demand exists.
34. The third uncertainty surrounding the housing target is the size of the "buffer" needed to comply with government policy set out in paragraph 47 of the NPP Framework. From the evidence given at the Inquiry, it is clear that deficiencies in the supply of housing are recent; explicable by the national economic downturn and that the Council has continued to grant planning permissions at a rate which would not hold up supply. For those reasons, I take the view that a 5% buffer would comply with national policy.
35. Given that the uncertainties surrounding the setting of housing targets can only be resolved through the Local Plan examination, a decision on this appeal can only be taken in the context of that uncertainty. For the purposes of this appeal therefore, I take the five year housing requirement as likely to be falling within a range of between 6776 (based on RSS and Liverpool) and 8415 (based on Development Strategy average and Sedgfield).

(ii) Delivery

36. The second major uncertainty surrounding the reliability of using the SHLAA 2013 to confirm a five-year housing land supply is the set of presumptions within the SHLAA itself. The Council's SHLAA 2013 identifies sites sufficient to provide 49,645 homes, 9771 in the first five years (adjusted to 9367 in the Statement of Common Ground (SOCG)).
37. At the time the SHLAA was prepared, only 14% of the claimed five-year supply had planning permission. This has since increased to 22%, leaving 78% without planning permission. Footnote 11 to the NPP Framework advises that to be considered achievable (and so valid for inclusion in an identified 5-year supply), there should be a realistic prospect of delivery and viability within five years. That does not mean that the 78% without planning permission should be deleted from the identified five-year supply but it does require an exercise of judgement to establish that there is that realistic prospect of that 78% being delivered within the timescale.
38. Excluding Strategic sites (of which more anon), the Council's view (set out in the SOCG) is that sites without planning permission would provide 954 homes within five years; the appellant's view is that 384 would result. There is no compelling evidence to convince me that either is correct.
39. A number of such sites are subject to a resolution to grant planning permission, subject to the conclusion of a planning obligation. However, some such sites have been in that position for several years. It follows that no reliance can be placed on their delivery within five years and that a view must be taken as to the likelihood of implementation within that time. The parties' views, set out in the SOCG, are that such sites would deliver either 1576 or 1446 homes within a five year period. There is no compelling evidence to convince me that either is correct.
40. Likewise, there is no compelling evidence to convince me to come to a view between the Council's and the appellant's estimates for the outcome for sites with outline planning permission but awaiting submission or approval of details or for the likely outcome from the development of small sites.
41. A number of sites have various obstacles to their implementation, such as site constraints, prior infrastructure requirements and land assembly requirements. Although the Council's witness, whose job remit includes the task of resolving such difficulties, was sanguine about his chances of success, there can be no guarantees which would allow me to say, with certainty, that such-and-such a figure would be the outcome.
42. There are also uncertainties about the presumed density of development of sites without planning permission, the take up rate of planning permissions and the completion rate (build-out rate) of permissions once taken up. Despite reservations about the degree of involvement of the Housing Market Partnership in the preparation of the SHLAA, the appellant's witness specifically accepted the feasibility of the build-out rates in the SHLAA 2013. Other evidence generally confirms that the Council has used accepted or justifiable norms in making its estimates. Nevertheless, inherent variability and uncertainties remain; for example there is some evidence (e.g. Appendix 23 to Mr Fisher's proof) to suggest that the density presumptions (in terms of

dwellingings per hectare) may be optimistic as the market moves away from small flatted apartments outside the centre of urban areas.

43. These uncertainties, the Council's efforts to resolve them and the constant passage of time in which the uncertainties either firm up into confirmed obstacles or disappear entirely mean that the identification of a five-year housing supply in Cheshire East is in a continuous state of flux. It is apparent that at the present time a number of appeals are concerned with this issue and that up to date assessments of the housing supply are submitted to each appeal but all are subject to the same uncertainties.
44. The Council accepts that there is uncertainty. As its witness at the Inquiry repeatedly observed, the five year housing supply can only be a snapshot at a single moment in time. The appellant's witness concurred that the position changes weekly. I agree and so it follows that there is no point in examining each and every site contained within the SHLAA to determine whether it will or will not deliver the precise number of homes indicated within the precise timescale indicated; such an approach could only lead to a judgement which would be out of date as soon as it was arrived at. A more abstracted and probabilistic approach is required in order to arrive at an assessment which would be robust in the context of an uncertain future.
45. The Council's witness pointed out that the SHLAA's identification of 9771 (SOCG: 9367) dwellingings for the first five year period did not represent an expectation that 9771 (SOCG: 9367) homes would be delivered in that five-year period but was identified so that the housing target, a much lower figure, would have a reasonable expectation of delivery. In other words, the Council's approach accepts that an identification of 9771 (SOCG: 9367) is necessary to expect a delivery of 6766; i.e. an overidentification of about 30%.
46. Because the appellant's approach was different, seeking greater certainty in order to arrive at a finite figure for a five-year housing supply there is little other evidence from which to judge whether such a degree of contingency provision is adequate. There is a parallel which can be drawn with the advice contained in the Planning Advisory Service publication *Strategic Housing Land Availability Assessment and Development Plan Document Preparation*. This advises that "Where an authority can only just demonstrate a 5-year supply it may find that it needs to update the database more frequently for the purpose of planning appeals. It follows that ideally authorities should be able to show a supply of deliverable sites sufficient to meet more than five years' requirements, perhaps a six to seven year supply." That too represents an overidentification of 20-40%. It confirms that the margin of contingency, necessary to deal with uncertainty of delivery, should be set at the sort of level which the Council has adopted.

(iii) Suitability

47. Footnote 11 to paragraph 47 of the NPP Framework advises that to be included in a five-year housing supply, a site must be available, achievable and suitable. The appeal site is included in the SHLAA but not within the first five-year phase. The appeal site (and many others identified in the SHLAA) is regarded as not suitable for inclusion in the first five year supply because its development would contravene local plan policy PS8.

48. Yet the Council's claimed five-year supply includes a number of "Strategic" sites, development of which would also contravene local plan policy PS8. Some others conflict with other policies of adopted (but outdated) plans. It accepts that a five year housing supply cannot be demonstrated without including sites contravening policy PS8. It argues that certain of these (the Strategic Sites) should be counted because they are included in the draft Development Strategy. But this is a circular argument; they are included in the draft Development Strategy because they have been identified in the first five-year period of the SHLAA, because they are large (ie "Strategic") sites and because they may also offer other benefits besides housing provision, whereas smaller sites (such as the appeal site) are to be identified in a subsequent development plan document.
49. I accept that the Council has been pressing on with implementation of its Development Strategy in advance of the adoption of its Core Strategy by granting planning permission for some of these sites. Those that now have planning permission must be regarded as suitable and therefore are legitimately included within the SHLAA calculation even though some of the Council's decisions have been threatened with judicial review.
50. But others of these Strategic sites remain controversial and there is no guarantee that they will pass the test, either of Local Plan examination or of planning permission. A number of appeal decisions to which I was referred (e.g "Fox Land"; APP/R0660/A/10/2141564) confirm that little weight should be attached to the Core Strategy in the stage it has reached.
51. Nor am I convinced by the arguments that these sites should be preferred to any other site excluded by conflict with policy PS8. For consistency, these "Strategic" sites should also therefore be regarded as not suitable and so should be excluded from the calculation of the five-year supply. This view is consistent with that taken in the "Ottery St Mary" case, to which my attention was drawn (APP/U1105/A/12/2180060). The five-year supply would then be reduced by about 1500 (PS8 contraventions alone) or 2000 dwellings (PS8 and other policy conflicts.)
52. This additional uncertainty is over and above the normal uncertainties which beset any calculation of a five year housing supply and which have been discussed earlier.
(iv) Summary and conclusion on housing supply
53. In summary; the target for housing supply has yet to be set by an up to date adopted local plan. For the purposes of this appeal, I take the five year housing requirement as likely to be falling within a range of between 6776 (based on RSS and Liverpool) and 8415 (based on Development Strategy average and Sedgefield). To meet the uncertainties of delivery, PAS advises the identification of a contingency of 20-40% so as to ensure the adequacy of a five-year supply of housing land. The Council has chosen 30% as a contingency, which is within the range recommended by PAS. Thus an identified supply sufficient to accommodate between approximately 8800 and 10,900 homes would be needed to justify the assertion that a five-year housing land supply had been identified.
54. The Council claims to have identified enough to supply 9771 (SOCG: 9367) homes within five years. That is marginal in terms of the likely target and so I

am not convinced that it would demonstrate a reliable five-year housing supply even if there were no other concerns. But, even to arrive at that marginal and unconvincing figure, the Council relies on sites contravening the very policy on which it relies, both to refuse planning permission for this proposal and to conclude that this appeal site would not be "suitable" for inclusion within the five year supply. Correcting that inconsistency means that some 1500-2000 dwellings must be deducted from its calculation of an identified five-year housing land supply. That clearly takes its identified five-year housing supply figure below that which (allowing for contingencies) is required to be confident of delivering the target requirement.

55. I therefore conclude that the Council cannot reliably identify a supply of specific deliverable sites sufficient to provide five years' worth of housing against its housing requirements in the terms sought by paragraph 47 (and footnote 11) of the NPP Framework. It follows that relevant policies in the local plan (including PS3 and PS4) should not be considered up to date. Planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits. The benefits of the proposal are that it would, in a small way, contribute towards providing that supply. But, before I apply the balancing test set out in the NPP Framework, I first consider a number of the other matters raised.

Other matters

(i) Alsager Town Plan

56. As a contribution to preparing its draft Core Strategy the Council has participated in the preparation of an Alsager Town Plan. Although the appeal site was included as a development site in an early version of this document and appeared to garner much public support, it was omitted from the version adopted by Alsager Town Council on 31 July 2012.
57. A number of third parties appeared at the hearing to express their pride in the production of the Town Plan and their satisfaction with the consultative and democratic process which was involved. Nevertheless, it has to be observed that the Plan's Strategic Theme 1: Sustainable Communities includes the identification and allocation of appropriate sites for new housing development to deliver in the order of 1,000 new homes by 2030 (raised to 1100 in the Council's Development Strategy), whereas the sites which the plan endorses to be taken forward amount to a provision of only 890 new homes (850 in the Development Strategy).
58. The Council produced evidence (Appendix 69 to Mr Fisher's proof) indicating that the shortfall would be reduced through permissions now given and through allocations intended to be made through the forthcoming Local Plan Site Allocation process. There can be no presumption that these suggested allocations would survive the examination process and even so, this document left a residual figure of 95 dwellings for which sites needed to be found.
59. It is therefore clear that additional development sites over and above those identified in the Town Plan will be necessary to achieve the delivery of the number of new homes which the Town Plan argues is necessary for Alsager. This reinforces the conclusion which I have reached above.

(ii) Affordable housing

60. The Town Plan records, though it does not specifically endorse, the findings of the Cheshire East Strategic Housing Market Assessment 2010 (the SHMAA) that there is a need for an additional 36 affordable houses each year in Alsager. Although there is no presumption that these need be provided by new build, as opposed to acquisition of existing dwellings by affordable housing providers, the nine affordable housing units proposed in this appeal would contribute to satisfying that need. However, the benefit must be discounted to a degree because, as noted by a third party, affordable housing commitments can be renegotiated after planning permission has been given, in the light of changes in development costs and the housing market.
61. The NPP Framework provides that where local planning authorities have identified a need for affordable housing, policies for meeting this need should be set. Local Plan policy H13 does so, providing that an appropriate element of affordable housing will be negotiated on unidentified housing sites of 25 or more dwellings. Both parties accept that 9 dwellings would be an appropriate element in this case and I have no reason to disagree. The provisions in the Unilateral Undertaking are therefore necessary to make the development acceptable, directly, fairly and reasonably related in scale and kind to the development and so I take them into account.

(iii) Settlement Strategy

62. From evidence submitted (e.g. Appendix 50 to Mr Fisher's proof), there is clearly a nervousness amongst local authorities in the Potteries about the potential impact of expansion and growth at Alsager upon their regeneration plans. That is understandable given its post code and the information about travel to work patterns which clearly establish that Alsager's connections are with the Potteries. Nevertheless, although those concerns were expressed at the time of the adoption of the Congleton Local Plan and supported by the Inspector who reported on objections, the adopted plan designated Alsager as a Town, defined as an urban area where continued growth realising the potential within the urban area and expansion only where necessary to meet identified needs would be appropriate.
63. The draft Development Strategy for Cheshire East proposes, in effect, to continue that designation, using the term Key Service Centre. These will see growth provided to meet local needs. As should be clear from earlier paragraphs, this relatively small proposal fits with that requirement, identified in the Alsager Town Plan.

(iv) Precedent and prematurity

64. During the preparation of the Alsager Town Plan a number of sites were put forward for consideration. A number have subsequently been the subject of planning applications. There are fears that allowing this appeal will prejudice consideration of those other sites and would inevitably lead to the construction of a large number of houses in and around Alsager, far greater than local needs would justify and allegedly causing an imbalance between housing supply and the availability of employment.
65. Putting aside disputes between the Council and the appellant about the size of the number of dwellings which might fall to be considered after this appeal

decision is made, it is the case that each proposal must be considered on its own merits. The reasons for allowing this appeal are specific to this case and are set out in earlier and subsequent paragraphs. It is unlikely that those circumstances could be repeated exactly on all other potential sites around Alsager and it is certainly the case that the shortfall in the identified housing needs for Alsager would be eliminated long before such a large figure as that feared were reached. In any event, this appeal is decided on its own merits.

66. The modest size of the proposal is so small in relation to the anticipated development in Alsager alone, let alone the local planning authority area overall, that it would not prejudice the consideration of proposals in the forthcoming Core Strategy or Site Allocations Local Plan. This view is reinforced by consideration of the relevant passages in the "Richborough Estates" and "Fox Land" decisions (APP/R0660/A/10/2140255 and 2143265 and 2141564) to which my attention was drawn.

(v) Agricultural land

67. Paragraph 112 of the NPP Framework advises that the economic and other benefits of the best and most versatile agricultural land should be taken into account and that the use of poorer quality land for development should be preferred to that of higher quality. This site is officially classified as Grade 2, which is classified as the "best and most versatile" agricultural land.
68. The Council's committee report accepts that because the land is extensively waterlogged it might be classed as 3a or 3b. Its report notes, and does not contest, the applicant's submitted agricultural land classification study which concludes that in reality the site comprises grade 3a land. The appellant's subsequently commissioned and submitted Agricultural Land Classification and Soil Resources report confirms a mixed grade 2 and 3a classification.
69. As noted above, my site visit established that this piece of land is separated by wire fences from other land with which it once formed a larger field. The other parts of the field are now in use as public open space or as sports fields for the MMU, or were seen to be used for grazing horses. The appeal site itself appears to have no economic benefit as agricultural land which needs to be taken into account. Its other benefits are its contribution to the character and appearance of the area, on which I have concluded earlier.

(vi) Drainage

70. At the time of my visit, standing water could be observed on the surface of the adjoining field. Anecdotal evidence from local residents suggests that the same is frequently true of the appeal site itself. Nevertheless the appellant's consultants are convinced that this is not due to high groundwater levels but to low permeability of underlying soils and poor surface water drainage. There is no information to the contrary. A surface water drainage strategy is put forward as part of the appeal proposal and could be secured by condition (7), so local residents' concern on this point is not a reason to dismiss this appeal. In the event that this requires raised ground or floor levels, condition (5) requires details.

(vii) Ecology

71. Local residents are also concerned about the ecological effects of development on this site but there is no information to show that the site is of any particular

ecological interest which could not be protected by condition (12) requiring the preservation of existing landscape features and enhanced by the provision of supplementary planting (condition 4) and facilities for birds and bats (condition 10). I am therefore not convinced that the provisions in the Unilateral Undertaking for the protection or enhancement of reptile environments are necessary to make the development acceptable in planning terms and so take no account of them in my decision.

72. On the other hand, the provisions to secure the maintenance of the highway trees fronting the site would be necessary to help preserve existing landscape features and so make the development acceptable. They would be directly related to the development and fairly and reasonably related in scale and kind and so I do take those into account. A condition to require a further Badger Survey is unnecessary in the light of the information supplied with the application.

(viii) Local infrastructure

73. The Council's committee report appraises the sustainability of the site using a toolkit developed by the former North West Development Agency by reference to its accessibility to a number of facilities of a certain standard. It confirms that it meets the standards in respect of a primary school, leisure facilities, public park and playground/amenity area.
74. Information is provided that although the primary schools serving the area currently have a small amount of unfilled places, that is likely to reduce to an inadequate level and that the development would give rise to a need for additional primary provision. Secondary schools are reported to have adequate space to accommodate the needs arising from the development.
75. On the other hand, there is no information to show that the development would give rise to demands overwhelming the provision of leisure facilities or the public park and playground immediately adjoining the site. The Council's committee report advises that on site open space is not required but that there are "opportunities" for enhancing Hassall Road Recreation Ground and play area.
76. "Opportunities" are not the same as necessity and so I conclude that although the provision in the Unilateral Undertaking for a contribution to Primary schooling is necessary, directly related and fairly and reasonably related in scale and kind to the development, the same is not true of the contributions to providing and maintaining open space and recreation space. I have therefore taken into account the former but not the latter in making my decision.

(ix) Highway safety

77. Public concerns about traffic generation and highway safety are not supported by any technical information which would controvert the findings of the appellant's highway consultants. These are not challenged by the highway authority and so do not give rise to any reason to dismiss the appeal. Condition (13) is necessary to secure the safety features which are shown to be provided. Condition (11) is necessary to secure the safety of users of the footpath presently crossing the site and the eventual users of all footpaths within the site. Condition (9) is necessary to ensure that the operations

involved in constructing the development would not adversely affect the safety of Hassall Road, which is not over-wide and carries a bus route.

(ix) Others

78. I have considered all other matters raised, including other appeal decisions referred to by the parties but not specifically referenced in this decision, but they do not give rise to any issue which would cause me to come to a conclusion other than that reached by consideration of the main issues.

Conclusions and Conditions

79. In summary, I find that there are harmful effects on the character and appearance of the area which are moderate, minor or short term and so not overwhelmingly decisive. For that reason, I do not adopt the appellant's offer to reduce the period within which the permission may be taken up, because it would require an early start and so maximise the period during which this development would stand isolated awaiting the development of the MMU site, which is what I have found to be the principal harmful effect of the proposal.
80. There are no economic effects from the loss of agricultural land to be taken into account. The Council cannot reliably identify a supply of specific deliverable sites sufficient to provide five years' worth of housing against its housing requirements in the terms sought by paragraph 47 (and footnote 11) of the NPP Framework. The proposal would, in a small way, contribute towards providing that supply. More significantly, it would contribute towards meeting the local needs, including affordable housing, identified (and not satisfied) by the Alsager Town Plan and draft Core Strategy. This benefit is not outweighed by the limited harm the development would cause and so I allow the appeal.
81. A number of conditions are suggested by the Council in the event of the appeal being allowed. These have been considered in the light of Circular 11/95, *the Use of Conditions in Planning Permissions*, eliminating duplication and preferring the model conditions therein where appropriate. In addition to the conditions which have been referred to earlier in this decision, conditions are necessary to secure an investigation into potential soil pollution which may have resulted from the infilling of ponds on the site and remediation if required (condition 3), to secure submission and approval of details which are missing from the submitted plans (condition 6), or required to comply with the advice on renewable energy contained within paragraphs 96 and 97 of the NPP Framework (condition 8) and to secure the retention of features which are designed into the development (condition 15). Plots 22 to 30 would be particularly small and so, exceptionally, it is necessary to withdraw certain permitted development rights for development which would further reduce their amenity space (condition 14).
82. A condition to require details of boundary treatments is not necessary because these are supplied in the approved plans. I have limited the requirement to submit and implement a landscaping plan to details of the planting illustrated in the Landscape Masterplan only, because there would be little other public interest in the planting of private gardens to individual dwellings.

P. W. Clark

Inspector

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 519-LOC-01, 519-SA-01, 519-FP-01, SCP/12070/F02, 5190CP-01A, 519-SL-01N, 644-100C dated 12.10.12, 519-SS-01/02, 519-2512-01/02, 519-1865-01/02, 519-1332-01/02, 519-1208-01/02, 519-1183-01/02, 519-801-01/02, 519-700-01/02, 519-GAR-01A, 519-BT-01 and SCP/12070/F001D.
- 3) No development shall take place until details of a scheme of investigation for, and, if needed, remediation of, land contamination has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. No dwelling shall be occupied until all remediation measures required in accordance with the approved scheme have been completed.
- 4) No development shall take place until full details of the hard landscape works of communal parts and the details of the planting proposed in the Landscape Masterplan (drawing number 644-100C) have been submitted to and approved in writing by the local planning authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 5) No development shall take place until details of existing and proposed ground levels and the level of proposed floor slabs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building 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.
- 7) No development shall take place until details of surface water drainage have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the details. No dwelling shall be occupied until surface water drainage is completed and made operational in accordance with the approved details. The drainage system shall be kept operational thereafter.
- 8) Before the development begins details of a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. No dwelling shall be occupied until the approved scheme relevant to that dwelling has been completed and made operational. The scheme shall be retained as operational thereafter.

- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) The hours of work
 - ii) the parking of vehicles of site operatives and visitors
 - iii) loading and unloading of plant and materials
 - iv) storage of plant and materials used in constructing the development
 - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - vi) wheel washing facilities
 - vii) measures to control the emission of dust and dirt during construction
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 10) No development shall take place until details of features suitable for use by breeding birds (including swifts and house sparrows) and roosting bats have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No dwelling shall be occupied until the approved features have been completed.
- 11) No development other than the diversion of public footpath Alsager N^o 3 shall commence until that diversion has been completed in accordance with the approved details. All footpaths and footways shall be constructed to a standard capable of adoption by the local highway authority.
- 12) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 1 year from the date of the occupation of the last dwelling to be first occupied.
- i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment,

machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.

- 13) The approved vehicular access shall not be brought into use until visibility splays have been provided at its junction with Hassall Road. The visibility splays shall extend 2.4m into the site from the kerb line in Hassall Road and shall extend from the centre line of the access 38m to the north and 40m to the south, measured along the kerb line of Hassall Road. The visibility splays shall be kept clear of any obstruction to sight exceeding 1m in height above the level of the carriageway.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development as may otherwise be permitted by virtue of classes A to E inclusive of Part 1 Schedule 2 of the Order shall be carried out within plots 22 to 30 inclusive.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls other than those expressly authorised by this permission shall be erected within the curtilage of any dwellinghouse hereby permitted.

APPEARANCES on 3 April 2013

FOR THE APPELLANT:

John Barrett	Of Counsel
Xanthe Quayle	Landscape Architect, Camlin Lonsdale
Sarah Wozencroft	Associate, Indigo Planning Ltd
Peter Todd	SCP Transportation Planning
Roy Spruce	Picea Design

FOR THE LOCAL PLANNING AUTHORITY:

Alan Evans	Of Counsel
Sue Orrell	Principal Planner
Jan Gomulski	Landscape Architect

INTERESTED PERSONS:

Councillor Shirley Jones	Ward member
Councillor Derek Hough	Ward member
Hon Alderman Derek Bould	Alsager Residents' Action Group
Carl Davey	Property developer
Jill Naylor	Planning consultant
Rafe Wakelin	Local resident
Charles Howard	Local resident
Professor Goldshurst	Local resident
Representative of Margaret Taylor	Local resident

DOCUMENTS handed in on 3 April 2013

- 1 Landscape Masterplan drawing number 644_100C
- 2 Congleton Borough Plan First Review 2005
- 3 Cheshire East Local Plan Shaping Our Future Summary Document
- 4 Cheshire East Local Plan Shaping Our Future Policy Principles
- 5 Cheshire East Local Plan Shaping Our Future A Development Strategy
- 6 Interim Planning Policy: Release of Housing Land
- 7 Interim Planning Statement: Affordable Housing
- 8 Cheshire East Local Plan Draft Alsager Town Strategy March 2012
- 9 Cheshire East Local Plan Alsager Town Strategy August 2012
- 10 Technical Note by Campbell Reith; Surface Flooding Issues

APPEARANCES on 3, 4, 5 and 6 September

FOR THE LOCAL PLANNING AUTHORITY:

Richard Humphreys QC	Instructed by the Borough Solicitor, Cheshire East Council
He called	
Adrian Fisher BSc (Hons) MTPI MRTPI	Head of Strategic and Economic Planning, Cheshire East Council

FOR THE APPELLANT:

Morag Ellis QC	Instructed by Indigo Planning
She called	
Bill Davidson BA (Hons) DipTP DipUD MRTPI	Consultant to Indigo Planning

INTERESTED PERSONS:

Hon Alderman Derek Bould	Alsager Residents' Action Group
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DOCUMENTS handed in at Inquiry

- 1 Statement on behalf of Alsager Residents' Action Group (not delivered)
- 2 Letter from Councillor Derek Hough
- 3 Notification of date, time and place of Inquiry
- 4 Correction to Mr Davidson's rebuttal evidence
- 5 Statement by Derek Longhurst (not delivered)
- 6 Cheshire East Affordable Housing Targets
- 7 Statement of Common Ground on Housing Matters
- 8 Statement on behalf of Alsager Residents' Action Group (as delivered)
- 9 E-mail from Adrian Fisher instructing Tim Claxton
- 10 Extract from Borough of Crewe and Nantwich Replacement Local Plan 2011
- 11 Indigo Assessment of PS8/Other sites in CEC 1-5 Year Estimate
- 12 Unilateral Undertaking dated 2 September 2013
- 13 Community Infrastructure Levy Compliance Note
- 14 Revised Indigo Assessment of PS8/Other sites in CEC 1-5 Year Estimate
- 15 Policy GC7 Extract from Macclesfield Borough Local Plan
- 16 Extract from Macclesfield Borough Local Plan concerning Green Belt and Countryside
- 17 Letter dated 14 August 2013 from Newcastle under Lyme Borough Council
- 18 Appeal decisions APP/R0660/A/12/2188195 and 2188198