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## Appeal Decision

Inquiry held on 15-18 October 2013; 16, 17 January 2014

Site visit made on 16 January 2014

**by Christina Downes BSc DipTP MRTPI**

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

**Decision date: 12 February 2014**

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**Appeal Ref: APP/R0660/A/13/2192192**

**Land opposite Rose Cottages, Holmes Chapel Road, Brereton Heath, Cheshire CW12 4SP**

- 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 Bloor Homes, J Wilson, S Owen, Stracy & Son against the decision of Cheshire East Council.
  - The application Ref 12/3807C, dated 3 October 2012, was refused by notice dated 13 December 2012.
  - The development proposed is residential development of 25 dwellings, including 7 affordable units, together with the creation of a new access.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of 25 dwellings, including 7 affordable units, together with the creation of a new access on land opposite Rose Cottages, Holmes Chapel Road, Brereton Heath in accordance with the terms of the application, Ref 12/3807C, dated 3 October 2012, subject to the conditions in the attached Schedule.

### Preliminary Matters

2. The appeal was originally to proceed by written representations. The reason for refusal related solely to sustainability but identified no specific conflict with development plan policy. However following the publication of the *Strategic Housing Land Availability Assessment* (SHLAA) in 2013 the Planning Committee decided to contest the appeal on the basis that it could demonstrate a housing land supply in excess of 5 years. At this point the Appellant's request that the appeal should be dealt with by means of a public Inquiry was agreed by the Planning Inspectorate.
3. As previously advised to the parties, the Inquiry was closed in writing on 4 February 2014 to allow some further written representations from the main parties on housing issues and also a revision to the Planning Obligation by Unilateral Undertaking. The Council pointed out that an updated assessment of housing land supply had been placed on the agenda for the Strategic Planning Board to consider on 5 February 2014. It made clear however that this was a factual update and that it did not seek to change its position as agreed in the Statements of Common Ground and its closing submissions to the Inquiry. I note that the Appellant would have sought to have the Inquiry re-opened had the Council decided otherwise.

## Reasons

### ***Planning policy context and overview***

4. The development plan for the area comprises the *Congleton Borough Local Plan First Review* (CLP), which was adopted in January 2005. This related to the former local planning authority which, along with two others, was merged into the new unitary authority of Cheshire East in 2009. Saved Policy PS3 in the CLP sets out the settlement hierarchy. Brereton Heath is a hamlet of 131 dwellings within a rural area outside the Green Belt. There is no dispute that it falls within the category of "Settlements in the Open Countryside and Green Belt". These comprise the smaller villages that are washed over by a countryside or Green Belt designation. The supporting text indicates that these settlements have a very limited range, or no, facilities or services and that only very strictly controlled infill would be appropriate. The bulk of new development is to be concentrated within the Settlement Zone Lines of the higher order "Towns".
5. Saved Policy PS6 identifies Brereton Heath as one of the smaller settlements identified by an "Infill Boundary Line" (IBL). Within this zone, limited development in accordance with saved Policy H6 will be allowed provided it is in character in terms of use, intensity, scale and appearance. Most of the appeal site is within the IBL, although the rear part is outside of it. Saved Policy PS8 concerns development in the countryside. As well as reiterating the circumstances relating to an IBL, it restricts development in other places to a number of purposes, none of which apply to the appeal scheme.
6. The Framework does not change the primacy of the development plan. The CLP covered the period until 2011 but that does not necessarily mean that all of its policies are out-of-date. This will depend on their consistency with the Framework, as is made clear by Paragraph 215 of that document. There is no dispute that the policies relating to housing numbers in the CLP are now time-expired in view of the 2011 end-date of the plan period. However there was no agreement about whether other relevant policies, including those relating to the IBL, also fall within this category.
7. An IBL has a different function to a settlement boundary in that it allows for a limited amount of new development, but within the context of a countryside location. The IBLs have been drawn up with the rural setting in mind and also recognise that the settlements in question have few facilities. It is appreciated that a proportion of the Borough's housing requirement will meet needs within the rural areas. In the *Cheshire East Pre-submission Core Strategy* (the emerging CS) there is a settlement hierarchy of Principal Towns, Key Service Centres, Local Service Centres and Other Settlements and Rural Areas. In the previous iteration of the emerging Local Plan there was another tier of settlements called "Sustainable Villages" where it was considered that some development would be appropriate to help sustain local services. Brereton Heath was one such village but this category has been removed from the hierarchy in the emerging CS. It is noted that the Appellant has submitted representations objecting to this change. It is understood that the matter of Settlement Zone Lines will be considered in a later development plan document but that IBLs may well remain unchanged.
8. The main function of the IBLs is to protect the rural areas from unwarranted levels of development. Paragraph 55 in the Framework seeks to promote

sustainable development by locating housing where it will enhance or maintain the vitality of rural communities. It gives as an example development in one village supporting the services in another. The Appellant suggested that the current IBLs allow very limited scope for further development but offered no convincing evidence about their remaining capacity. It cannot therefore be concluded that the IBL policy would prevent sufficient housing coming forward to sustain the vitality of the communities concerned. It is not the case that new housing has not been built in Brereton Heath. There have been recent developments at Broomfields and Shackerley Place and there is an extant planning permission for 6 dwellings on the appeal site.

9. IBLs are not a tool that primarily relates to housing supply. Countryside protection is a clear objective in the Framework and saved Policies H6 and PS6 have an important function in this regard. They are not therefore considered to be out-of-date or otherwise contrary to the Framework in this case. Even if they were, it was agreed at the Inquiry that 5 of the houses would stand on land that is outside the IBL. There is no dispute that this element of the scheme would not comply with the countryside protection provisions of saved Policy PS8.
10. The emerging CS is still at a relatively early stage in the adoption process and has not yet been submitted for examination. Whatever the fate of the Sustainable Villages or the settlement hierarchy, the emerging CS and its policies can be afforded very limited weight at this stage. The Council is rightly not relying on any prematurity argument in this appeal.

***Issue One: Whether the proposal is necessary to meet the requirements of the Borough for market and affordable housing.***

*Housing land supply*

11. Paragraph 47 of the Framework indicates that in order to boost significantly the supply of housing, local planning authorities should ensure that they meet their full and objectively assessed needs for market and affordable homes. Both the Council and the Appellant relied on numerous appeal decisions to support their evidence. However on the issue of housing land supply in Cheshire East one of the most recent and therefore up-to-date is the decision by the Secretary of State that relates to land off Abbey Road and Middlewich Road, Sandbach<sup>1</sup>. This appeal has a long history but the relevant point for these purposes is that it was concluded that the Council could not demonstrate a 5 year housing land supply on the basis of its updated 2013 SHLAA. There have been several other appeal decisions subsequently, which reached a similar conclusion. As a consequence the Council chose not to contest the appeal on the basis of housing land supply at the Inquiry and most of its evidence in respect of this matter was withdrawn. In the supplementary statement of common ground, agreed in January 2014, the Council confirmed that for the purposes of this appeal it could not demonstrate a five year supply.
12. There was no agreement about the extent of the shortfall. This largely arose from different conclusions by the parties about the deliverability of sites and the buffer that should be applied, taking account of Paragraph 47 of the

<sup>1</sup> Appeal relating to the erection of up to 280 dwellings on land off Abbey Road and Middlewich Road Sandbach dated 17 October 2013 (APP/R0660/A/10/2141564).

Framework. It is the Appellant's view that there would be a 3.31 supply of housing land on the basis of a 20% buffer. The Council has included a range of figures based on two recent appeal decisions. From the information available I find it very difficult to understand how these have been deduced from the Hassall Road, Alsager<sup>2</sup> decision. The Inspector in that case referred to a 30% contingency on the supply side but in any event he did not reach a firm conclusion on the extent of the shortfall. In the circumstances I am not convinced that these figures are reliable. The Sandbach Road North, Alsager<sup>3</sup> decision is more easily discernable because my colleague concluded that on the basis of a 20% buffer the supply would be about 4-4.2 years. The Council recalculated on the basis of a 5% buffer, which it maintains is preferable, and came to a figure of between 4.53 and 4.86 years.

13. I have considered all of the evidence on the buffer, including that submitted after the Inquiry closed. However, on reflection it seems unnecessary for me to reach a conclusion on whether or not there has been "persistent" under delivery. This is because the Council proposes to take a "middle ground" position of both sets of figures, which would result in a 4.48 year supply. Even on this basis, which is considerably more favourable than the Appellant's assessment, there would be a shortfall of over 500 homes. To my mind this is not only significant but also gives cause for serious concern. Although new housing is being built in the rural areas, including at Brereton Heath, this does not justify an argument that the appeal scheme is not needed. The housing land supply deficit is a Borough-wide problem and should not be considered on anything other than a Borough-wide basis.

#### *Affordable housing*

14. There is no dispute that the Borough as a whole has a serious mismatch between the need for affordable housing and its supply. This in part reflects the high cost of housing relative to income when compared with other local authorities in the region and the North West generally. The most up-to-date evidence base is provided by the 2013 *Strategic Housing Market Assessment Update* (2013 SHMA). This indicates that in total there is a net annual requirement for 1,401 affordable dwellings. Looking at the local level, the appeal site is at the boundary of Congleton Rural Area and Sandbach Rural Area. The 2013 SHMA indicates an annual need for 11 affordable units in the former and 12 in the latter. This has increased since the 2010 SHMA when the figures were 10 and 1 respectively. Further information is provided by the *Rural Housing Needs Survey 2013*. This shows that in Brereton Parish there were at least 12 people who expressed a need for affordable housing within the next 5 years. However the survey indicated that this should be treated as a minimum because, amongst other things, the response rate was less than 40% and so would not have captured the full extent of the need. This takes account of the new residential developments in the village, apart from at Shackerley Place, where 3 affordable units have been provided.

<sup>2</sup> Appeal relating to the erection of 30 dwellings on land at Hassall Road, Alsager, dated 12 December 2013 (APP/R0660/A/12/2188001).

<sup>3</sup> Appeal relating to the erection of 155 dwellings on land off Sandbach Road North, Alsager, dated 18 October 2013 (APP/R0660/A/13/2195201).

15. A rural exception site at Dunkirk Farm, which is just outside Holmes Chapel, was granted planning permission on appeal for 18 affordable homes. Whilst the site is actually within Brereton Parish the Inspector concluded that it would best meet the needs of Holmes Chapel. He recognised that there were other developments being carried out within that settlement but did not consider that they would be likely to satisfy the need. I was told that another site providing affordable homes in Holmes Chapel is now coming on stream. However the evidence suggests that the Dunkirk Farm development would still be required to help satisfy affordable housing need in Holmes Chapel.
16. Saved Policy H13 in the CLP indicates that the Council will negotiate an appropriate element of affordable housing on sites comprising 25 or more dwelling units. No specific percentage is included but in this case the Appellants are offering 30%, which would amount to 7 affordable units. The *Cheshire East Rural Housing Guide* (2012) indicates that affordable housing needs are particularly acute in smaller rural settlements of less than 3,000 residents. Whilst it is acknowledged that market housing is not the only way of meeting such needs, there is no doubt that it makes an important contribution. Furthermore as viability is a matter to be taken into account, it is prudent to ensure a buoyant supply of market housing.
17. The Planning Obligation establishes that the subsidised dwellings would comprise two and three bedroom units with a mix of tenure. The 2013 SHMA indicates that there is a requirement for these types of unit within Sandbach Rural and Congleton Rural and the Council is satisfied that they would meet local needs. The proposal is supported by the Plus Dane Housing Group which works with the Council to deliver affordable housing in Cheshire East. It is difficult to support the argument of objectors that affordable housing should not be provided in rural areas because such occupiers would be reliant on motor transport. I will consider issues of accessibility shortly but there is no reason to believe that those living in affordable homes do not have access to a car. There is clearly a local need and a considerable requirement in the Borough as a whole. I am not aware of any rural exception site in Brereton Heath that would provide an alternative. In the circumstances, the affordable housing provision from this scheme would be a considerable benefit and would comply with Paragraph 54 of the Framework.

### *Conclusion*

18. Paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development. Furthermore, in the absence of a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up-to-date. In such circumstances Paragraph 14 of the Framework indicates 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 of the Framework as a whole. It is relevant to note at this point that the Framework does not suggest that the weight to be given to a shortfall should be tempered by its size. Nor does it say that weight should be reduced for a scheme that does not eliminate the backlog.

### ***Issue Two: The effect on the character of the rural settlement***

19. Brereton Heath is a small rural settlement on the south-western side of the A54, between the larger settlements of Holmes Chapel and Congleton.

Although there is a linear pattern of frontage housing along this section of the A54 and the adjoining Brereton Heath Lane, more recent development has taken place in the form of small residential estates served by a number of culs-de-sac. The settlement sits within a countryside setting although it is relevant to note that unlike many other parts of Cheshire East it is not within the Green Belt nor affected by any other landscape or ecological designation.

20. Saved Policy PS6 refers to "limited development" within the IBLs. The supporting text to saved Policy H6 indicates that "limited" means the building of a single or small group of dwellings. Looking at this in a straightforward way it is difficult to conclude that the development of 20 dwellings within the IBL would be "limited". In this respect the appeal scheme would not comply with saved Policies PS6 or H6. In any event the 5 dwellings outside the IBL would conflict with saved Policy PS8.
21. Saved Policy PS6 seeks to ensure that development in the IBL is appropriate to local character in terms of use, intensity, scale and appearance. The extant planning permission also includes the rear part of the appeal site outside the IBL. Although the houses would be along the site frontage there would be detached garages behind. The reserved matters layout shows these would be sited inside the IBL but it also shows the access road beyond it and running close to the rear site boundary. Whilst the reserved matters have not yet been approved, it seems likely that the implementation of this scheme would result in the whole site having a domesticated appearance and its existing rural character would largely be lost.
22. The approved layout, due to its depth, would not be typical of either the other frontage development along the A54 or the cul de sac developments of Shackerley Place and Broomfields. It is relevant to note that the rear of the appeal site is level with the rear of the Broomfields estate which was, I understand, an existing housing commitment when the IBL was drawn up. Furthermore, my site visit confirmed that the IBL is not defined by any natural feature as it crosses the appeal site.
23. There has been no criticism by the Council of the appearance of the development or the design of the dwellings. These would be very similar to the adjoining housing which has also been built by the same developer. It is the case that the lower density of the approved scheme would provide a transition between the mainly linear pattern of frontage housing to the north-west and the higher density housing at depth around the junction of the A54 and Brereton Heath Lane. The density of the appeal scheme would be similar to that of Shackerley Place but higher than that of Broomfields. One of the reasons for this difference is that the adjacent development did not include any affordable homes. There is now a continual development at depth between the Brereton Heath Lane junction and the southern boundary of the appeal site. In the circumstances it is not considered that the scale and intensity of the appeal scheme would be harmful to the character of Brereton Heath as it now exists.
24. In conclusion the appeal proposal would be contrary to the relevant saved policies in the CLP. The part within the IBL would not comprise limited development and would therefore conflict with saved Policies H6 and PS6. The part outside the IBL would not comprise any of the types of development deemed acceptable in a countryside location and would thus conflict with Policy PS8. On the other hand the actual impact arising from this policy conflict

would be largely benign. Bearing in mind the extant permission and the other housing to the south, the appeal scheme would not have a significant adverse impact on the rural character of Brereton Heath or its countryside setting.

***Issue Three: Whether the proposal would comprise a sustainable form of development.***

*Introduction*

25. The spatial strategy in the CLP is based on accommodating the development needs of the Borough in a sustainable way. There was a considerable amount of debate about whether the measures set out in Paragraph 2.31 of the CLP accord with the approach to sustainability promulgated by the Framework. It was contended by the Appellant that the Council had adopted a narrow, one dimensional "tick-box" approach, which concentrated on locational factors rather than considering the three interrelated dimensions of sustainability set out in Paragraph 7 of the Framework. The important point to make, as referenced in a number of appeal decisions, is that locational sustainability is one element of a number of factors to be considered. The Secretary of State endorsed the view of the Inspector in the Tarporley appeal decision<sup>4</sup> that the sustainability credentials of a development will fall somewhere along a spectrum once the benefits and disadvantages of the various factors have been considered.
26. Whilst it is not a policy document, the 2008 review of the rural economy and affordable housing: *Living Working Countryside* (the Taylor Review) is an important piece of work commissioned by the Government to consider the issues faced by rural communities and how they may be addressed. Lord Taylor was concerned about villages that are protected from development and become exclusive communities where homes become increasingly unaffordable. He felt that too often a narrow tick-box approach to sustainable development was taken and villages were assessed by how they are now rather than how they could be. That seems to me to sit squarely with Paragraph 55 of the Framework, which seeks to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities.
27. Returning to the CLP, which pre-dated the Taylor Review, there is recognition in Paragraph 2.30 that economic and social factors as well as environmental factors are important facets of sustainable development. Nevertheless, the settlement hierarchy has been drawn up partly on the basis of settlement character but also in terms of locational factors and the need to minimise the need to travel and support existing services and facilities. The range of such facilities seems to have been key to identifying where further development would be allowed. This approach seems to me to encourage a tick-box exercise when looking at the issue of whether a development proposal is sustainable or not. Although the Council contended that it had not approached the issue in this way its consideration of the appeal scheme relied heavily on an assessment of accessibility and whether new occupiers would be able to reach facilities by modes of travel other than the car. I consider this matter below

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<sup>4</sup> Appeal relating to the erection of up to 100 dwellings on land off Nantwich Road, Tarporley dated 29 August 2013 (APP/A0665/A/11/2167430).

but I agree with the Inspector in the Clitheroe appeal<sup>5</sup> that a proposal can be a sustainable one even if it suffers from limitations in terms of accessibility.

28. I turn now to consider the sustainability credentials of the appeal scheme, starting with the issue of accessibility before considering the other factors that contribute to the overall assessment.

#### *Locational sustainability*

29. Both local and national planning policy encourages sustainable travel choices by modes other than the private car. Apart from a bus stop and a post box Brereton Heath has no other facilities. It is however located on the A54, which is the main road running between Holmes Chapel and Congleton. These larger settlements are about 4 km and 3.5 km away respectively and contain higher order services, including shops, employment and leisure facilities. They also both have a railway station. Brereton Green is the other village in the Parish and is about 4 km away. It has a primary school, church, scout hut and public house. There are also a number of job opportunities locally. The Somerford Equestrian Centre is opposite the junction of the A54 and Brereton Heath Lane. This is an equine facility of regional importance and has recently been granted planning permission for a new veterinary centre. This is likely to provide additional employment above the existing 30 or so that work there at present. The Somerford Business Court is about 1.9 km away towards Congleton and includes nine office-based businesses employing an estimated 54 people.
30. From the evidence I was given and from my own observations it seems unlikely that many new residents would travel on foot unless they were posting a letter, going to the bus stop or visiting the equestrian centre. This is because the A54 is a busy main road carrying heavy traffic. The section that passes through Brereton Heath has a 50 mph speed limit but the footway that runs along the northern side of the road is only about one metre wide. I do not consider that it would provide an attractive option for pedestrians to venture any distance from the new development. Many of the local representations mentioned this and that it was especially disadvantageous for those with disabilities, young children and those with prams and pushchairs. Whilst I understand that the Highway Authority has no in-principle objection to a reduction in the speed limit, the appeal proposal makes no provision for carrying this forward.
31. I also heard evidence about the unsuitability of the A54 for all but the most intrepid cyclists. It seems unlikely that many would make regular daily trips in this way to Congleton or Holmes Chapel although these places and Brereton Green are also accessible by the quieter country lanes. These comprise part of the South East Cheshire Cycle Network and provide an alternative, if more indirect, route. It seems to me that cycling is a possibility for some people but that it is most likely to be a recreational pursuit rather than a means of undertaking essential journeys.
32. There is a regular hourly bus service that runs along the A54 between Congleton and Holmes Chapel and stops close to the site. There was some debate at the Inquiry about whether it could be used for journeys to work. The bus operator has recently introduced a pre-0900 hour service and is supportive of the appeal scheme. No doubt this reflects the potential for additional

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<sup>5</sup> Appeal relating to the erection of 270 dwellings and a doctor's surgery on land off Henthorn Road, Clitheroe (APP/T2350/A/11/2161186).



customers to make use of the facility. The bus journey into Holmes Chapel and Congleton takes 9-11 minutes. For those working in these two places it is feasible to undertake the journey to work by bus. For those working further afield and taking the train to Manchester or Crewe, the bus would arrive too late to allow arrival at work at a reasonable time. In addition, the bus to Congleton stops in the town centre and a further trip is required to reach the station on the other side of the town. Nevertheless it is quite possible to undertake the short journey to either station by car or perhaps bike, subject to my comments above. Both stations have parking facilities and even if a short car trip were needed the majority of the journey would be made by public transport. This type of modal split is not unusual for many commuters.

33. The bus would also offer the opportunity for some to undertake shopping or leisure trips although it is appreciated that these would have to be carefully planned to take account of the timetable, especially as on Saturdays the service is less frequent and on Sundays it is non-existent. The proposal would include provision for a new section of footway on the existing verge that runs up to the bus stop and a new bus shelter. These improvements would make for an easier walking route and better waiting experience for bus passengers travelling in the Holmes Chapel direction. The scheme would therefore offer some enhancement to accessibility that would not only benefit new occupiers but existing residents as well. There is a separate school bus service which runs through Brereton Heath and takes children to the primary school in Brereton Green on a request basis. The bus therefore seems to me to offer a realistic option for some journeys.
34. Nevertheless it is inevitable that many trips would be undertaken by car as happens in most rural areas. However in this case many such trips for leisure, employment, shopping, medical services and education have the potential to be relatively short. A survey of the existing population undertaken by the Parish Council confirmed that the majority use the car for most journeys. Its results should though be treated with some caution in view of the response rate of only 44%. The survey does not seem to have asked questions about car sharing or linked trips, both of which can reduce the overall mileage travelled. It is interesting to note that use of the school bus was a relatively popular choice for respondents. A few also used the bus and train for work journeys. It also should not be forgotten that more people are now working from home at least for part of the week, which reduces the number of employment related journeys. Shopping trips are also curtailed by the popularity of internet purchasing and most major supermarkets offer a delivery service. The evidence also suggests that the locality is well served by home deliveries from smaller enterprises of various kinds.
35. *The Cheshire East Rural Housing Guide 2012* refers to a series of maps which allow a comparison between the 15 rural areas in the Borough in terms of various facilities and services. Of course this provides a broad brush assessment but it does give an opportunity for a comparison between one area and another within the rural context. Whilst Sandbach Rural and Congleton Rural do not score highly in all respects they are within the top 5 for transport services and community facilities. For Brereton Heath this would reflect the bus service, proximity to rail stations and good main road connections to local towns within a relatively short distance.

36. The appeal scheme would include open space and a children's play area with equipment within the south-eastern corner of the site. Whilst it was said that Brereton Heath includes a high proportion of older residents, this facility would make the development an attractive choice for incomers with young families. There is no other similar facility in Brereton Heath. Those existing residents with young children or those with grandchildren would also benefit from having a convenient facility such as this, especially as the scheme would result in a continuous footway from Brereton Heath Lane to the site entrance.
37. The Council referred to three appeal decisions relating to development in Brereton Heath and the comments of the respective Inspectors about available facilities and sustainability. However these decisions were made in 2005 and 2006 well before the publication of the Framework. They tended to address sustainability in terms of accessibility and, in any event the Council subsequently granted permission for housing on two of the three sites. It is interesting to note that in a recent proposal for 10 new dwellings on land adjoining Lyndale and 2 Somerford View, the Council concluded that the location would not be an unsustainable one. Although planning permission was refused it was for reasons of character and not sustainability.

*The three dimensions of sustainability*

38. The Framework identifies the three interdependent dimensions to sustainable development – economic, social and environmental. The appeal proposal would be deliverable in the short term and in this regard the Appellant would be willing to accept a shorter timescale for implementation. Whilst the scheme would not eliminate the Council's housing land supply deficit it would make an important contribution to reducing it. Furthermore, there is an immediate and pressing need for affordable housing in this Borough as well as in the locality and the 7 affordable homes that would ensue would provide an important benefit in this respect. The Council considers that the size and tenure would relate satisfactorily to local requirements.
39. There is no evidence that the scheme would result in other than a high quality, energy efficient built environment and provide a place where people would want to live. Brereton Heath has few local facilities itself. However within the Parish, Brereton Green is a larger village with a primary school, church, public house and scout hut. There is no evidence that these facilities are under threat of closure. However the fact that the school has the capacity to accommodate the children from the appeal development demonstrates that additional families would support the facility and help sustain it. Similarly it is not an unreasonable proposition that new residents would help maintain the vitality of the other facilities in Brereton Green including the church, public house and scouts. The new open space and children's play area would meet the needs of occupiers of the development and also provide a benefit for existing residents. I have already considered in detail the matter of accessibility and found that for a rural area the site scores reasonably well in terms of locational sustainability. Indeed the new footpath and bus shelter would convey a wider benefit to existing residents.
40. There would undoubtedly be advantages to growth and the economy during the construction phase. Furthermore those living in the new houses would spend a proportion of their income locally in places such as Holmes Chapel and Congleton. There would be some conflict with development plan policy relating

to the IBL and development in the countryside. However in this case there would be very limited environmental harm to the character of Brereton Green itself or its rural setting. My overall conclusion on sustainability is set out in the final section after considering other matters, conditions and the Planning Obligation.

### **Other Matters:**

#### Highway safety

41. The new access would be onto the A54. This is a busy main road carrying traffic that includes heavy goods vehicles. It is noted that occupiers of Rose Cottages opposite the appeal site have mentioned difficulties in getting in and out of their driveways. The equestrian centre is said to cause problems with slow moving vehicles holding up traffic, especially on event days. There is also mention of accidents along this stretch of road. Whilst I do not underestimate the strength of these objections, the new access would be built to a standard that would ensure good levels of visibility in both directions.
42. The Highway Authority is responsible for ensuring that the local road network operates efficiently and safely. It has raised no objections to the proposal either on safety grounds or in terms of the capacity of the A54 to accommodate the additional traffic that would be generated by the appeal development. This is a matter of some weight and I do not consider there is sufficient evidence to support an objection on road safety grounds.

#### Localism

43. Brereton Parish Council is in the process of preparing a Neighbourhood Development Plan, although this is currently at an early stage and no policy document has yet been produced for submission. A survey was undertaken which included questions about local residents' views on the need for more housing over the next 15 years. Of the responses received, the majority felt that less than 50 houses would be required. This would average less than 4 per year which was considered to be in keeping with the rural character of the Parish. However the plan is at an early stage at present and no policy document has yet been produced for submission. It can therefore have little weight as a material consideration in this appeal.

### **Planning conditions**

44. Planning conditions were discussed at the Inquiry. Where appropriate I have made changes to the wording in accordance with Circular 11/95: *The Use of Conditions in Planning Permissions*. As the proposal is seeking to meet the short term housing needs of the Borough it was agreed to be appropriate to reduce the implementation period. The Appellant was confident that the timescale put forward was reasonable and would be achievable.
45. In order to ensure a satisfactory appearance, details of materials and landscaping are necessary. For a similar reason and also to protect the privacy of existing residents as well as new occupiers, boundary treatments should be agreed. There was no objection to the scheme from the Jodrell Bank Observatory, subject to a condition requiring screening to be provided to direct any radio emissions generated within the houses away from the telescopes. This is clearly necessary to ensure the proper functioning of this facility.

46. Construction works can cause disturbance and inconvenience to nearby residents. In order to reduce this as far as possible it is reasonable to require a Construction Method Statement to be submitted, which includes such matters as hours of work, provision for parking and delivery, measures to control dust and dirt and the like. This should also include matters such as wheel washing in view of the nature of the site but it was confirmed that piling would be unlikely. The means of foul and surface water drainage have not been made clear at this stage so a condition relating to these matters is reasonable in order to ensure a satisfactory solution. The submitted plans show that a new footway would be provided along the site frontage. Details, including lighting, are required in order to ensure a satisfactory facility and this should be provided before the development is occupied in order to benefit new residents. In addition, the Appellant is constructing a footpath and bus shelter outside the site boundary. These are required to enhance accessibility and make bus travel more attractive as a potential modal choice. Again the facilities should be available by the time the development is occupied.
47. The access road itself is shown on the submitted plans but in order to ensure that it allows a safe egress onto the A54 it is necessary that adequate visibility splays are provided and retained. The submitted plans show the internal road system in adequate detail. It is intended for the roads to be adopted and it seems unnecessary to require specifications about carriageway drainage, internal street lighting and road signing at this stage. The parking and turning areas within the site should be provided prior to occupation and kept available for that purpose in order to provide a safe and attractive environment within the development and discourage kerbside parking.
48. The Council has suggested a requirement that 10% of the energy supply should be from renewable or low carbon energy sources. There was a policy in the Regional Strategy to this effect. Although this has now been revoked, the evidence base still exists. There is no specific policy requirement in the CLP but draft Policy SE 9 in the emerging CS includes such a provision, albeit that it is subject to representations. Paragraph 96 of the Framework advises a policy-led approach and Paragraph 97 encourages a positive strategy to promote such energy provision. The Appellant is willing to agree to the condition and does not raise viability as an issue. I am aware that in the Hassall Road, Alsager appeal decision a similar requirement was imposed and that in another relating to Congleton Road, Sandbach<sup>6</sup> there was an alternative condition regarding energy use. The requirement would result in an energy efficient solution which would contribute towards the sustainability credentials of the scheme. On balance I consider that there is sufficient justification to support the condition.
49. The ecological assessments make recommendations relating to protected species and nesting birds. Several conditions have been proposed to address this matter but it seems to me that a single one which requires compliance with the submitted ecological information would suffice. There is no evidence of contamination on this greenfield site and a condition relating to this matter is thus not needed. It is however necessary to specify the approved plans, for the avoidance of doubt and in the interests of proper planning.

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<sup>6</sup> Appeal relating to the erection of 160 dwellings on land north of Congleton Road, Sandbach, dated 18 October 2013 (APP/R0660/A/13/2189733).

### ***Planning Obligation***

50. The Planning Obligation by Unilateral Undertaking includes provisions for affordable housing and open space. In addition there is a contribution of £20,000 for off-site works comprising a footpath and an enhanced bus stop. Whilst the benefits are obvious I have various concerns about the contribution itself and, as a result, the Appellant company has decided to undertake the work itself. A Deed of Variation has been submitted accordingly.
51. The number, size and mix of the affordable houses have been agreed by the Council to reflect the local housing need. The Planning Obligation sets out the means of delivery, which would be linked to the provision of the market homes. There are also criteria for the occupation of the affordable homes, with priority given to those with a local connection. I have already considered the policy background and I am therefore able to conclude that the obligation meets the statutory requirements of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and can be taken into account.
52. The open space is in the south-eastern corner of the site and includes a children's play area. The Policy background is provided by saved Policies GR1, GR3 and GR22 in the CLP and supplementary planning guidance. The Planning Obligation includes arrangements for provision and future maintenance through a Management Company. This will include all owners of the new dwellings and their successors in title. I have already concluded that the facility will provide necessary recreational facilities for new occupiers. I am therefore satisfied that the obligation meets the statutory requirements of Regulation 122 of the CIL Regulations and can be taken into account.

### ***Overall conclusions and planning balance***

53. The Framework states that housing proposals should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 sets out what this means when policies relating to the supply of housing are out-of-date, as is the case here. I have considered the three dimensions of sustainability and concluded that the proposal would not comply with policies relating to development in the countryside or the IBL and that there would also be undoubted reliance on the private car for many journeys. However, for the reasons given, these adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Of particular importance is the provision of market and affordable homes, which would help address housing need and the reduction of the land supply deficit.
54. I have considered all other matters raised, including the local petition objecting to the scheme. However I have found nothing to alter my conclusion that this would be sustainable development and that the appeal should succeed.

*Christina Downes*

INSPECTOR



	Chapel
8a-8d	Council's appeal statement, Inspector's appeal decision, Committee Report and Inspector's costs decision relating to the erection of 18 affordable dwellings on land at Dunkirk Farm, Holmes Chapel
9	<i>Cheshire East Rural Housing Guide 2012</i> (Core Document 13) - Maps showing Strategic Housing Market Assessment Areas, housing and community needs in the rural areas of Cheshire East
10	Pre-application layout plan for the appeal site
11	Unilateral Undertaking relating to the Dunkirk Farm development
12	Table showing planning applications in Brereton Heath and objections from the parish Council and Mr Lindsay
13	Committee Report relating to residential development at Lyndale, Holmes Chapel Road, Brereton Heath
14	Table showing site densities of the appeal site and Shackerley Place site
15	Table showing affordable housing completions
16	Notes for the NW Sustainability Checklist for Developments
17	Planning Statement in support of an earlier proposal for 6 dwellings on the appeal site (Nov 2010)
18	Extracts from the Inset Maps to the Local Plan Proposals Map showing the various settlement boundaries
19	Secretary of State appeal decision and Inspector's Report relating to land off Abbey Road and Middlewich Road, Sandbach
20a/20b	Brereton Primary School Homepage and Newsletter (4/10/13)
21	Homepage of the Bear's Head, Brereton pub and restaurant
22	Plan showing layout of land west of High street, Irchester
23	Table of Housing supply sites no longer in dispute between the Council and Appellant
24	Appeal decision relating to land north of Congleton Road, Sandbach (18/10/13)
25	Appeal decision relating to land off Sandbach Road North, Alsager, Stoke-on-Trent (18 October 2013)
26a/26b	Planning Obligation by Unilateral Undertaking and Deed of Variation

- 27 Letter from Emery Planning Partnership concerning the resumption of the Inquiry (19/11/13)
- 28 Skeleton and costs application by the Appellant against the Council (subsequently withdrawn) and letter from Bloor Homes (24/12/13) and Council's response (3/1/14)
- 29 Supplementary statement by Mr Fisher (13 January 2014)
- 30 Supplementary Statement of Common Ground
- 31 Supplementary information on affordable housing submitted by Mr Lindsay
- 32 Pre-submission Core Strategy (November 2013)
- 33 E-mail from Mr Haywood to Mrs Freeman concerning the affordable housing on the approved scheme for 6 dwellings (15 January 2014)
- 34 E-mail from Mr Haywood to Mrs Freeman concerning the speed limit along the section of A54 running through Brereton Heath (15 January 2014)
- 35 Letter attached to the Saving Direction on policies in the Congleton Borough Local Plan (25 January 2008)
- 36 Housing land supply table
- 37 Information regarding the housing supply position in the rural areas including the "Sustainable Villages" (submitted by Mr Young from data derived from the Council)
- 38 Committee Report relating to an application for housing development on land off Crewe Road, Alsager
- 39 List of relevant policies in the pre-submission Core Strategy agreed between the Council and Appellant
- 40 Agreed wording for a Grampian style condition relating to the footpath and bus shelter
- 41 Representations on the pre-submission Core Strategy by the Appellant
- 42 Plan showing the area intended for the new footpath
- 43a-43d Correspondence from the Appellant and Council regarding housing land supply received after the close of the Inquiry

## **PLANS**

- A/1-A/26 Application Plans



## **SCHEDULE OF PLANNING CONDITIONS**

- 1) The development hereby permitted shall begin not later than one year from the date of this decision.
- 2) No development shall take place until details or samples of the materials to be used in the construction of the external surfaces of the buildings 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 or samples.
- 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping, including a timetable for implementation. Details shall include indications of all existing hedgerows on the land, and any to be retained, together with measures for their protection during the course of development.
- 4) The hard and soft landscaping shall be carried out in accordance with the approved details and timetable. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 5) 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 boundary treatment to be erected and a timetable for implementation. The boundary treatment shall be carried out in accordance with the approved details and timetable.
- 6) No development shall take place until there have been submitted to and approved in writing by the local planning authority details of the anti-radio interference shielding materials to be incorporated into the buildings hereby permitted. Development shall be carried out in accordance with the approved details and the shielding shall be retained in position once installed for the lifetime of the development.
- 7) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
  - a) The hours of construction work and deliveries;
  - b) the parking of vehicles of site operatives and visitors;
  - c) loading and unloading of plant and materials;
  - d) storage of plant and materials used in constructing the development;
  - e) wheel washing facilities;
  - f) measures to control the emission of dust and dirt during construction.
- 8) No development shall take place until details of a scheme for the disposal of foul and surface water from the development has been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved drainage scheme has been carried out.

- 9) No development shall take place until details of the footway and street lighting to be provided along the site frontage have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved footway and lighting details have been carried out.
- 10) No development shall take place until details of the visibility splays at the site access have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the visibility splays shall not be obstructed by anything in excess of 0.9 metres.
- 11) No dwelling shall be occupied until the parking and turning areas have been constructed in accordance with the details shown on the approved plans. These areas shall be kept available for the parking and turning of vehicles and not used for any other purpose.
- 12) No development shall take place until 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. The approved scheme shall be implemented and retained as operational thereafter, unless otherwise agreed in writing by the local planning authority.
- 13) The development shall be carried out in accordance with the ecological mitigation measures in the Ecological Assessment by TEP (April 2012) and the Great Crested Newt Mitigation Proposals by TEP (April 2012).
- 14) Prior to the first occupation of the development hereby permitted, a footpath connecting the existing footpath along the frontage of Shackerley Place and the existing footpath to the north-west side of the junction of Brereton Heath Lane and Holmes Chapel Road (A54), and a clear sided bus shelter, shall be provided on the land edged red on the Footpath Plan 1-HCR-S\_FP\_01 where the Footpath Plan 1-HCR-S\_FP\_01 is the same as Plan D (as defined in the Planning Obligation).
- 15) The development hereby permitted shall be carried out in accordance with the following approved plans: ROSE COTTAGES\_01A; ROSE COTTAGES\_02; 248-APP1; 2B4P-PL01; 2B4P-PL02; 3B5P-PL01; 3B5P-PL02; 4255s-PL01; 4255s-PL02; 4258s-PL01; 4258s-PL02; 4259-PL01; 4259-PL02; 4260s-PL01; 4260s-PL02; 4280-PL01; 4280-PL02; 4285-PL01; 4285-PL02; 5250-PL01; 5250-PL02; 5526-PL-01; 5526-PL02; 5530-PI01; 5530-PL02; G-PL01.

*End of conditions*