



Department for  
Communities and  
Local Government

Mr Haydn Jones  
Pegasus Planning Group  
Unit 5  
The Priory  
Old London Road  
Canwell  
Sutton Coldfield  
B75 5SH

Our Ref: (A) APP/R0660/A/10/2140255  
(B) APP/R0660/A/10/2143265

Your Ref: BIR.3375

6 December 2012

Dear Mr Jones

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78  
APPEALS BY RICHBOROUGH ESTATES**

**APPEAL A: LAND EAST OF MARRIOTT ROAD/ANVIL CLOSE/FORGE FIELDS AND  
SOUTH OF HIND HEATH ROAD, SANDBACH, CHESHIRE (REF 10/2608C)**

**APPEAL B: LAND SOUTH OF HIND HEATH ROAD BETWEEN WHEELLOCK AND  
ETTILEY HEATH, SANDBACH, CHESHIRE (REF 10/2609C)**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Derek Thew DipGS MRCIS who held a public local inquiry on 22 – 25 February 2011 into your client's appeals under Section 78 of the Town and Country Planning Act 1990 against the decisions of Cheshire East Council to refuse outline planning permission for the erection of up to 269 dwellings provision of public open space, highway works and associated works (ref.10/2608C); and to refuse outline planning permission to provide a shared footpath and cycleway and associated works on land along the southern boundary of Hind Heath Road (ref.10/2609C).

**Procedural matters**

2. On 6 January 2011 the appeals (Appeal A: APP/R0660/A/10/2143256 and Appeal B: APP/R0660/A/102140255) were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990. Appeal A was recovered because it involves development of 150 or more dwellings on a site of over 5 hectares, which would significantly impact upon the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. Appeal B was also recovered as it is most efficiently and effectively decided together with Appeal A.

3. The Secretary of State issued his decision in respect of the above appeals in his letter

1

dated 4 July 2011. That decision letter was the subject of an application to the High Court and was subsequently quashed by order of the Court dated 18 October 2011. The appeals have therefore been re-determined by the Secretary of State. In re-determining the appeals, the Secretary of State has taken into account all of the evidence submitted prior to his earlier determination of the appeals, including the Inspector's report, and all other representations received following the close of the Inquiry (listed at Annex A to this letter).

### **Inspector's recommendation and summary of the decision**

4. The Inspector recommended that the appeals be allowed and planning permission granted, subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation and has decided to allow the appeals and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Matters arising since the decision letter of 4 July 2011**

5. Following the quashing of his decision, the Secretary of State issued a letter dated 5 December 2011 under Rule 19 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 to all interested parties, setting out a written statement of the matters with respect to which further representations were invited for the purposes of his re-determination of the appeals. These matters were:

a) the relationship of the proposal to those policies in the development plan and PPS3 for the provision of a five-year housing land supply, which the parties consider relevant to the Secretary of State's re-determination of the appeals.

b) representations concerning any material change in circumstances, fact or policy, which may have arisen since his decision of the 4 July 2011 was issued, whether or not they pertain to the matters set out above.

6. Representations received by the Secretary of State in response to his letter of 5 December 2011 are listed in Annex A and were circulated to parties under cover of his letter dated 18 January 2012. Responses to that letter are also listed in Annex A.

7. Following the publication of the National Planning Policy Framework (the Framework) on 27 March 2012, the Secretary of State wrote a letter dated 19 April 2012 to all interested parties inviting comments on the relevance, if any, of the Framework to the appeals. Representations received by the Secretary of State in response to this letter are listed in Annex A and were circulated to parties under cover of his letter dated 9 May 2012. Responses to that letter are also listed in Annex A. The Secretary of State concluded in his letter of 12 July 2012 that there were no substantive issues that required the inquiry to be re-opened.

8. Following the oral judgment in the Court of Appeal on the 20 July 2012 in the case of Fox Strategic Land and Property Ltd v SSCLG & Ors [2012], the Secretary of State issued a letter dated 7 August 2012 with respect to which further representations were invited for the purposes of his re-determination of these appeals. These matters were:

a) the spatial vision and objectives for the area in the development plan; and

b) precedent and prematurity, in respect of the emerging Cheshire East Core Strategy.

9. Representations received by the Secretary of State in response to this letter are listed in Annex A and were circulated to parties under cover of his letter dated 6 September 2012. Responses to that letter are also listed in Annex A. Copies of the representations received are not attached to this letter, but can be made available upon written request.

10. The Secretary of State has carefully considered all of the representations received in his determination of this case. He considers that for the most part the issues raised cover those already rehearsed at the inquiry. In considering these further representations the Secretary of State also wishes to make it clear that notwithstanding that the majority of former national planning policy guidance has been replaced by the Framework, he considers that the main issues identified by the Inspector essentially remain the same. He has reflected his views on the implications of the Framework in the relevant sections on main issues below.

### **Policy considerations**

11. In deciding these appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires proposals be determined in accordance with the development plan unless material considerations indicate otherwise. As stated in paragraph 12 of the Framework, that document does not change the statutory status of the development plan as a starting point for decision making.

12. In this case, the development plan comprises the North West of England Plan - Regional Spatial Strategy to 2021 (RS), (September 2008); saved policies of the Cheshire 2016: Structure Plan Alteration (2005); and the saved policies of the Congleton Borough Local Plan First Review (LP) (2005). The Secretary of State considers that the development plan policies most relevant to the proposals are those summarised in the Inspector's report at IR16-IR25 and the Statement of Common Ground (Inquiry Document 3). An emerging Core Strategy Issues and Options Paper (CS) (2010) had been published at the time of the inquiry. Consultation on a draft CS is expected in Spring 2013.

13. Other material considerations which the Secretary of State has taken into account include the Framework (see paragraph 7 above); *Technical Guidance to the National Planning Policy Framework* (March 2012); Circular 11/1995: *Use of Conditions in Planning Permission*; the *Community Infrastructure Levy (CIL) Regulations 2010*, as amended; Baroness Hanham's Written Ministerial Statement on Abolition of Regional Strategies of 25 July 2012; and his Written Ministerial Statement on Housing and Growth of 6 September 2012.

14. The Localism Act 2011 provides for the abolition of Regional Strategies by Order. However, the Secretary of State has attributed limited weight to the proposed plan to revoke the North West of England Plan RS. Any decision to revoke the RS will be subject to the environmental assessment, which is in train.

## **Main issues – Appeal A**

15. The Secretary of State considers that the main issues in this case are those set out by the Inspector in his conclusions at IR140 (Appeal A).

### The effect of the proposal upon countryside protection policies

16. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR141-143. He agrees with the Inspector that the appeal scheme is contrary to relevant LP policies that aim to restrict residential development in the open countryside (IR141). He also accepts the Inspector's view that while the land is not of significant landscape merit its development would represent an extension of the urban area of Sandbach outwards from a clearly defined established settlement boundary (IR142). The Secretary of State notes that the recognition of the intrinsic character and beauty of the countryside is one of the core principles of the Framework. He therefore agrees with the Inspector's conclusion that the proposal would cause material harm to countryside protection policies (IR143).

### The effect of the proposal upon housing land supply and delivery

17. The Framework indicates the importance of identifying and maintaining a 5 year supply of deliverable housing sites, including a buffer of an additional 5%, or 20% where there is a record of persistent under delivery. The Framework also indicates that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. The presumption in favour of sustainable development then applies and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

18. The Secretary of State has considered the Inspector's reasoning and conclusions at IR144-151 in light of the policies in the Framework. He notes that there is no dispute between the parties that across Cheshire East there is not a 5 year land supply. The Inspector recorded the parties assessments that there is between 2.75 - 3.25 years supply, which equates to an estimated 5 year shortfall of between 2000 to 2600 new dwellings (IR145). He agrees with the Inspector that the proposed development would have a materially beneficial effect in helping to overcome the shortage in the supply of deliverable housing land in Cheshire East. He accepts the Inspector's view that this sizeable shortfall is a factor to which significant weight should be attached (IR145-IR146).

19. Before reaching his conclusions in paragraph 18 above, the Secretary of State carefully considered the updated strategic housing land availability assessment (SHLAA) (2011 and 2012 update) and the representations made in relation to it. He finds that although there is no agreement on the updated 5 year housing requirement and supply figures, and new sites have come forward since the inquiry, all parties agree that there is still not a 5 year supply of deliverable housing sites in Cheshire East. As the revised supply figures are not agreed, he does not rely on them in his decision making. However the figures are calculated, the Secretary of State finds that there is a lack of a 5 year land supply, without including an allowance for any buffer factor (a minimum of 5%) as required in the Framework,. The Secretary of State considers that the lack of 5 year land supply is a material consideration that reduces the weight that he attaches to development plan policies for the supply of housing. In this case, the Secretary of State

considers that the failure to demonstrate a 5 year land supply is a significant factor weighing in support of the proposed development.

#### The effect of the proposal upon the provision of affordable housing

20. The Secretary of State has considered the Inspector's reasoning and conclusions at IR 152-159 in light of the policies in the Framework which indicate that the Government is committed to delivering a wide choice of high quality homes, widening opportunities for home ownership and creating sustainable, inclusive and mixed communities, including the provision of affordable housing. The Secretary of State notes that 40% of the development would be affordable housing (IR152). For the reasons given at IR153-157, the Secretary of State agrees with the Inspector that there is clearly a sizeable need for more affordable housing in the area, and that it is highly likely that the imbalance between supply and demand will get markedly worse in coming years. He further notes that since the Inquiry the Council has resolved to grant planning permission for brownfield sites in Sandbach, with lower percentages of affordable housing. The Secretary of State therefore agrees with the Inspector's conclusion that the proposed development would have a materially beneficial effect upon the provision of affordable housing in the area (IR158).

#### The effect of the proposal upon spatial objectives of the development plan

21. The Secretary of State has considered the Inspector's reasoning and conclusions on the effect of the proposal upon the spatial objectives of the development plan at IR160-166 in light of the policies in the Framework. He notes that there is no dispute between the parties that both the spatial strategy and the housing requirements of the RS should form the basis for the determination of the appeal. He recognises that the RS identifies Crewe as the priority town in Cheshire East for future growth (IR160). However, for the reasons given at IR161 he considers that there is still scope for new development in a town such as Sandbach. The Secretary of State notes that Crewe and Sandbach are two separate housing markets and not likely to be in direct competition (IR163). As the Secretary of State finds that there is a shortfall in 5 year land supply, he considers that the proposed development is required to assist Cheshire East meet its housing requirements. He agrees with the Inspector's conclusions at IR160 -164 and IR166 that the proposed development is consistent with the spatial objectives of the development plan.

22. For the reasons given at IR165, the Secretary of State gives the CS Issues and Options Paper very limited weight as the CS is still at a very early stage of preparation. He notes that since the inquiry, a place shaping consultation has been carried out, but consultation on a draft CS is not expected until spring 2013. The Secretary of State notes that Sandbach is a neighbourhood planning front-runner; that a Sandbach Town Strategy (STS) has been prepared by the community to inform the CS; and that it does not identify the appeal site for development. The Secretary of State considers that although a material consideration, it is an evidence base document and does not have the status of the development plan. It has been prepared in advance of the finalisation of future housing needs for Cheshire East and cannot prejudge the contribution that Sandbach may make to meeting those needs. For these reasons he considers that it should be given little weight at this stage.

23. The Secretary of State agrees with the Inspector for the reasons given at IR165 that the Interim Planning Policy for the Release of Housing Land (IPP) can only carry limited

weight. The Secretary of State has also taken account of the Council's draft review of the IPP produced in May 2012, but although updated, this does not affect his conclusion that the document should only carry limited weight.

24. In his letter dated 7 August 2012 the Secretary of State invited representations on precedent and prematurity, in respect of the emerging Cheshire East CS. The Secretary of State has carefully considered those representations, together with the guidance on weight to be accorded to emerging plans and prematurity in Annex 1 of the Framework and The Planning System: General Principles (2005). Taking account of this policy and guidance, the Secretary of State does not consider that the representations increase the weight that can be attached to the emerging CS as it has not progressed from the issues and options stage to the preparation of preferred options or a draft plan. The Secretary of State notes from the representations that there are other potential sites that may come forward for housing development in Sandbach, including the appeal that is before him for redetermination at Middlewich Road/Abbey Road (APP/ R0660/A/10/2141564).

25. The preparation of the CS and related plans will enable potential sites to be assessed together but the Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development. Each case must be considered on its merits and in the light of current policies. The Secretary of State has carefully considered representations on whether allowing this appeal would prejudice the plan making process. The Secretary of State considers that the size of development proposed in this case is not so substantial, or the cumulative effect would be so significant, that granting planning permission would prejudice decisions about the scale, location or phasing of land for new development in the CS. The Secretary of State notes from the representations that other sites not yet the subject of planning applications may come forward, but as the district housing requirement has yet to be determined through the CS, he does not consider that there is a strong prematurity argument in this case.

26. In concluding on this issue the Secretary of State agrees with the Inspector that the proposed development would be consistent with the spatial objectives of the development plan (IR166). Furthermore, the Secretary of State does not consider that there is a case for refusing this appeal on the grounds of prematurity.

#### The effect of the proposal upon regeneration proposals for the area

27. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR 167-171. The post-inquiry representations indicate that brownfield sites are still being progressed by developers but it appears that such sites alone will be insufficient to deliver the 5 year land supply, however calculated, and there remains a need for the release of greenfield sites. The Secretary of State agrees that there is no clear-cut basis for concluding that the development of the appeal site would prevent development on brownfield sites, and that the proposed development would not cause material harm to regeneration proposals in the area (IR170-171).

#### The effect of the proposal upon Government policies on planning and climate change

28. The Framework indicates that the purpose of planning is to contribute to the achievement of sustainable development and that at the heart of the Framework is a presumption in favour of sustainable development. The Secretary of State has considered

the Inspector's conclusions in IR172 – 177 and the extent to which the appeal proposals are consistent with the Framework. The Secretary of State notes that Sandbach has a good range of shops and other key facilities but is not a town where significant economic growth is expected and many of the residents work elsewhere. The Secretary of State agrees with the Inspector that the distance between the town centre and the appeal site is close to or probably over the limit that most people would be willing to walk on a regular basis. However, he also considers that the appeal site is in a location where future residents would have reasonable options to use sustainable methods of public transport should they choose to do so. In respect of this issue, the Secretary of State has also carefully considered the representations submitted in response to his letter of 19 April 2012, several of which addressed the issue of sustainable development.

29. The Framework identifies three dimensions to sustainable development. The Secretary of State considers that the proposal would fulfill an economic role by ensuring that housing is provided to meet needs and support growth, including the provision of infrastructure to support the development under the planning obligation. It would fulfill an important social role, by providing affordable housing to meet needs, as well as market housing. He finds nothing to indicate that the proposed development would not have the potential for good design. Whilst the Secretary of State agrees that the site is on the limits of regular walking distance from the town centre, he considers that it is reasonably located in respect of Sandbach and the proposed footpath and cycleway should encourage less reliance on the private car. In respect of the environmental dimension, the Secretary of State accepts that development of this site will inevitably change the character of the site and result in loss of open land. However, with the exception of LP general countryside protection policies, the site is not covered by any specific policy that indicates that development should be restricted. The Secretary of State notes the continuing concerns expressed in post-inquiry representations about impact on local services and traffic impacts of the proposed development, but like the Inspector, he does not consider that these matters preclude development on the site.

30. For the reasons given in the preceding paragraphs, the Secretary of State considers that the positive factors outweigh the negative factors when considering the sustainability of the proposed development. He further notes that the local planning authority has not contested the sustainability of the proposed development in its evidence to the inquiry (IR93) or in subsequent post-inquiry representations.

#### The effect of the proposal upon the hedgerow on the site frontage

31. The Secretary of State agrees with the Inspector that the loss of a large section of "important" hedgerow is undesirable, and one of the disadvantages of the scheme (IR178).

#### Other considerations

32. The Secretary of State agrees with the Inspector's assessment of other considerations in IR179-187.

#### Conditions

33. The Secretary of State has considered the proposed conditions at Annex 3 of the IR, the Inspector's assessment and conclusions on these at IR117-IR129 and the policy tests

set out in Circular 11/95. He is satisfied that the proposed conditions are reasonable and necessary and would comply with the provisions of Circular 11/95. He has made a minor change to the wording of condition 31 (condition 29 in Annex B of this letter) to reflect the current national policy position, but does not consider that this materially alters the intent of the condition. He has also deleted the Inspector's conditions 27 and 28 as he considers that these are unnecessary as he finds the planning obligation acceptable (IR124).

### Planning obligation

34. The Secretary of State agrees with the Inspector's reasoning and conclusions on the unilateral undertaking submitted under Section 106 of the Town and Country Planning Act 1990 as set out at IR130-IR137. Overall he is satisfied that the unilateral undertaking accords with the CIL Regulations.

### **Overall Conclusions – Appeal A**

35. In reaching his conclusions the Secretary of State has carefully considered all the relevant material considerations, including the Inspector's report and the post inquiry representations. The Secretary of State agrees with the Inspector's overall conclusions on Appeal A, as set out at IR188-190. The Secretary of State notes that the Framework sets out the need to boost significantly the supply of housing. He considers that the lack of 5 year land supply means that the relevant policies for the supply of housing should not be considered up to date and that the presumption in favour of sustainable development is engaged.

36. The Secretary of State has considered whether the proposals are sustainable development and considered whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits assessed against the policies in the Framework. He considers that, on balance, the proposal represents sustainable development; although there are factors weighing against the proposal (IR188), there are also factors weighing in favour, such as the significant shortfall in housing land supply and affordable housing, which the appeal proposal will help to rectify, resulting in economic and social benefits. He accepts that there will be environmental dis-benefits, including the loss of countryside, and conflict with specific development plan policies; but he agrees with the Inspector that the proposed development would be consistent with the spatial objectives of the development plan and that the significant need for housing outweighs the disadvantages of the scheme. In conclusion he does not consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in this case. In reaching his decision he has taken into account the concerns regarding prematurity and impact on the emerging CS and STS. However, he does not consider that they outweigh his decision to allow the appeal.

### **Main considerations and conclusion - Appeal B**

37. The Secretary of State agrees with the Inspector's identification of issues, reasoning and conclusions at IR191-195. He agrees that the benefit to local residents of the proposed footpath and cycleway outweighs the fairly limited harm that would be caused to the hedgerow (IR194).



## **Formal Decision**

38. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations and hereby allows your client's appeals and grants outline planning permission for:

- a) **Appeal A**, in accordance with application ref: 10/2608C, dated 7 July 2010 for up to 269 dwellings provision of public open space, highway works and associated works; and
- b) **Appeal B**, in accordance with application ref: 10/2609C, dated 7 July 2010 to provide a 3m wide shared footpath/cycleway adjacent to a section of Hind Heath Road, subject in both cases to the conditions listed at Annex B of this letter.

39. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

40. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

## **Right to challenge the decision**

41. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

42. A copy of this letter has been sent to Cheshire East Council. A notification letter / e-mail has been sent to all other parties who asked to be informed of the decision.

Yours sincerely

**Pamela Roberts**  
**Authorised by Secretary of State to sign in that behalf**

## ANNEX A; POST INQUIRY CORRESPONDENCE

### Post Inquiry correspondence following the Secretary of State's Rule 19 letter dated 5 December 2011

#### *First comments*

<b>Name / Organisation</b>	<b>Date</b>
David Boar	03/01/2012
John Minshull	06/01/2012
Roger Amies-King	09/01/2012
Eileen Varetto	10/01/2012
Ian Gresley-Jones	10/01/2012
Cheshire East Council	13/01/2012
Pegasus Planning Group on behalf of Richborough Estates Ltd.	13/01/2012

#### *Second comments*

<b>Name / Organisation</b>	<b>Date</b>
Cheshire East Council	13/02/2012
Richard Lee on behalf of Messers Holdcroft	12/02/2012
Harris Lamb on behalf of Muller Property Group	14/02/2012
Pegasus Planning Group on behalf of Richborough Estates Ltd.	14/02/2012
Roger Amies-King	14/02/2012

### Post Inquiry correspondence following publication of the NPPF following the Secretary of State's letter dated 19 April 2012

#### *First comments*

<b>Name / Organisation</b>	<b>Date</b>
David Boar	23/04/2012
John Minshull	26/04/2012
Eileen and Paul Varetto	01/05/2012
Cheshire East Council	03/05/2012
Pegasus Planning Group on behalf of Richborough Estates Ltd.	03/05/2012
Eileen Varetto	04/05/2012
John Minshull	04/05/2012
Roger Amies-King	04/05/2012
Mr and Mrs Beck	04/05/2012
Mr and Mrs Coats	04/05/2012

*Second comments*

<b>Name / Organisation</b>	<b>Date</b>
John Minshull	15/05/2012
Eileen and Paul Varetto	17/05/2012
Roger Amies-King	17/05/2012
Pegasus Planning Group on behalf of Richborough Estates Ltd.	17/05/2012
Cheshire East Council	17/05/2012

**Post Inquiry correspondence following the Secretary of State's letter dated 7 August 2012**

*First comments*

<b>Name / Organisation</b>	<b>Date</b>
Paul and Eileen Varetto	03/09/2012
Sandbach Town Council	03/09/2012
Richborough Estates Ltd.	04/09/2012
Cheshire East Council	04/09/2012

*Second comments*

<b>Name / Organisation</b>	<b>Date</b>
Richborough Estates Ltd.	13/09/2012

**Post Inquiry correspondence – other**

<b>Name / Organisation</b>	<b>Date</b>
Fiona Bruce MP	28/02/2011
Pegasus Planning Group on behalf of Richborough Estates Ltd.	30/03/2011
Fox Strategic Land & Property Ltd	05/05/2011
Fiona Bruce MP	15/09/2011
Fiona Bruce MP	16/01/2012
Aaron and Partners for Fox Strategic Land and Property Ltd	30/01/2012
Aaron and Partners for Fox Strategic Land and Property Ltd	07/02/2012
Aaron and Partners for Fox Strategic Land and Property Ltd	02/03/2012
Aaron and Partners for Fox Strategic Land and Property Ltd	12/03/2012
Fiona Bruce MP	22/03/2012
Roger Amies-King	23/03/2012
Fiona Bruce MP	01/08/2012

David Boar	16/10/2012
John Minshull	30/08/2012
Mike Beck	01/09/2012
Mike Beck	02/09/2012
David Boar	07/09/2012
Doreen Minshull	09/09/2012
David Boar	21/09/2012
Robert Lewis	25/09/2012
Mr and Mrs W Coats	25/09/2012
David Boar	07/10/2012
David Boar	16/10/2012
John Minshull	18/10/2012

## **ANNEX B: CONDITIONS**

### **Appeal A**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place until a scheme for the phasing of development on the site has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 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. The boundary treatment shall be carried out in accordance with the approved details and shall be completed in accordance with a timetable agreed in writing with the local planning authority.
- 6) No development shall take place on any approved phase until details of existing ground, 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.
- 7) No development shall take place on any approved phase until samples of the materials to be used in the construction of the external surfaces of the dwellings to be erected have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place on any approved phase until detailed plans showing the location, design and materials of proposed facilities for the disposal and storage of any refuse/recyclable materials, including details of any bin stores, for that part of the development have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and available for use prior to that part of the development being first occupied and shall be permanently retained thereafter.
- 9) Before the installation of any external lighting, details of the proposals shall be submitted to and approved in writing by the local planning authority. The works shall thereafter be carried out in accordance with the approved details.
- 10) No development shall take place until a scheme for the provision of a surface water regulation system, including arrangements for the management of overland flow from surcharging of the site's surface water drainage system (based on sustainable drainage principles), have been submitted to and approved in writing by the local planning authority. The scheme shall also include a programme for the implementation of the scheme, and details of how the scheme shall be maintained

and managed after completion. Development shall be carried out in accordance with the approved details.

- 11) No development shall take place until a scheme of construction for the proposed new wetland has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 12) No development shall take place until details of a scheme for the disposal of foul water from the development, including details of appropriate mitigation measures to prevent pollution of the Trent & Mersey Canal during and after construction, have been submitted to and approved in writing by the local planning authority. No dwelling in the site shall be occupied until the approved scheme of foul water disposal has been implemented in accordance with the approved details
- 13) No development shall take place until:
  - i) A contaminated land phase 1 report has been submitted to, and approved in writing by, the local planning authority.
  - ii) Should the phase 1 report recommend that a phase 2 investigation is required, a phase 2 investigation shall be carried out and the results submitted to, and approved in writing by the local planning authority.
  - iii) If the phase 2 investigations indicate that remediation is necessary, a remediation statement including details of the timescale for the work to be undertaken shall be submitted to, and approved in writing by, the local planning authority. The remedial scheme in the approved remediation statement shall then be carried out in accordance with the submitted details.
  - iv) Should remediation be required, a site completion report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the local planning authority prior to the first use or occupation of any part of the development hereby approved.
- 14) No development shall take place until detailed proposals for the incorporation into the scheme of features suitable for use by roosting bats, including a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The proposals shall be installed and thereafter permanently retained in accordance with approved details.
- 15) The proposed development shall be carried out in accordance with the submitted Badger Mitigation Strategy, including the provision of 30m buffer zone around any badger sett unless otherwise agreed.
- 16) Prior to any commencement of works between 1<sup>st</sup> March and 31<sup>st</sup> August in any year, a detailed survey of the site shall be undertaken to check for nesting birds. Where nests are found in any hedgerow that is to be removed, a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of breeding shall be deemed to have occurred when it is confirmed, by a suitably qualified person, in writing to the local planning authority.
- 17) No development shall take place on any approved phase until detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds, including a timetable for their implementation, have been submitted

to and approved in writing by the local planning authority. The proposals shall be installed and thereafter permanently retained in accordance with approved details.

- 18) The reserved matters applications shall make provision for a buffer zone of 8 metres alongside the Trent and Mersey Canal.
- 19) No development or other operations shall commence on site until a scheme (hereinafter called the approved protection scheme) which provides for the retention and protection of trees, shrubs and hedges growing on the south, east and west boundaries of the site has been submitted to and approved in writing by the local planning authority. No development or other operations shall take place except in complete accordance with the approved protection scheme, which shall be in place prior to the commencement of work. The approved protection scheme shall be retained intact for the full duration of the development hereby permitted and shall not be removed without the prior written permission of the local planning authority.
- 20) No storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
- 21) No development shall take place on any approved phase until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. Where appropriate, these details shall include proposed finished ground levels or contours; hard surfacing materials; minor artefacts and structures (e.g. street furniture, play equipment, refuse or other storage units, signs, lighting, etc.); retained historic landscape features and proposals for restoration, where relevant. The landscaping scheme shall include the provision of a 12m wide landscape buffer/wildlife corridor along the north-western boundary of the site and the provision of native species only.
- 22) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation or the completion of the phase of development to which it relates, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the landscaping scheme 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 consent to any variation.
- 23) No development shall take place until details of how the proposed development will secure at least 10% of its predicted energy requirements from decentralised and renewable or low-carbon sources has been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details, which shall thereafter be permanently retained.
- 24) No development shall take place until details of the design and construction specification of the proposed local highway improvements – including street lighting and signing have been submitted to and approved in writing by the local planning authority. The details shall include:
  - i) A traffic signal facility at the junction of Hind Heath Road with Crewe Road, to include pedestrian facilities.

- ii) The carriageway widening works, lining and lighting scheme proposed for Hind Heath Road.

These improvements shall be implemented in accordance with the approved details and shall be completed prior to the first occupation of any of the dwellings hereby approved.

- 25) No development shall take place until a method statement has been submitted to and approved in writing by the local planning authority, which outlines the method of construction, (including details of the method, timing and duration of any pile driving operations), details of deliveries to the site during construction, how and where materials will be unloaded and details of where contractors' vehicles will park. The details shall also include measures to prevent the deposition of extraneous matter (mud, debris, etc) on the public highway. The development shall then be constructed in complete accordance with the method statement
- 26) Construction hours (and associated deliveries to the site) shall be restricted to 08:00 to 18:00 hours Monday to Friday, 09:00 to 14:00 hours Saturday, with no working Sundays or Bank Holidays.
- 27) The reserved matters application shall make provision for not less than 25% low-cost market dwellings as defined in paragraphs 3.14 and 4.5 of the Council's Draft Interim Policy Statement on Affordable Housing (September 2010).
- 28) The reserved matters applications shall make provision for a footpath link in the south east corner of the site between the application site and Forge Fields. The footpath link shall be provided in accordance a scheme that has previously been submitted to and approved in writing by the local planning authority, prior to the occupation of the last dwelling to be constructed on the site.
- 29) The reserved matters application for each phase of the development shall include full details of the amenity greenspace to be provided on site as part of that phase. These details shall include:
  - (a) the location, size, layout and landscaping (including fencing) of the proposed amenity greenspace;
  - (b) details of all proposed finished levels or contours;
  - (c) a programme of works to provide the amenity greenspace; and
  - (d) a mechanism and plan for the future management, retention and maintenance of the amenity greenspace.

The works for the provision of the amenity greenspace shall be carried out in accordance with the approved details and in accordance with the programme agreed with the local planning authority. The amenity greenspace shall thereafter be made available for use by the public at all times.
- 30) The reserved matters applications shall make provision for a local equipped area of play (LEAP). Details of the LEAP shall be submitted to and approved in writing by the local planning authority. These details shall include:
  - (a) The location, size, layout and landscaping (including fencing and signage) of the proposed LEAP.
  - (b) Details of the proposed play equipment, which shall include at least five pieces of equipment to Euro Standard EN 176.



- (c) The proposed method of installation of the play equipment (including details of the installation contractors).
- (d) Details of all materials to be used including surfacing materials and boundary fencing.
- (e) A programme of the works for the installation of the LEAP.
- (f) A mechanism and plan for the future management, retention, renewal and maintenance of the LEAP.

The works for the provision of the LEAP shall be carried out in accordance with the approved details and in accordance with the programme agreed with the local planning authority. The LEAP shall be made available for use by the public at all times. The LEAP shall not be used for any purpose other than as children's play space and nothing shall take place on the land to prevent its use as such.

- 31) Prior to the first occupation of any dwelling on the land, the footpath/cycle link (the subject of planning application reference 10/2609C) shall be completed and made available for public use.

### **Appeal B**

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Lighting shall be provided along the length of the development in accordance with a scheme that has been submitted to and approved in writing by the local planning authority.
- 5) No development or other operations shall commence on site until a scheme (hereinafter called the approved protection scheme) which provides for the retention and protection of hedges growing adjacent to the development has been submitted to and approved in writing by the local planning authority. No development or other operations shall take place except in complete accordance with the approved protection scheme, which shall be in place prior to the commencement of work. The approved protection scheme shall be retained intact for the full duration of the development hereby permitted and shall not be removed without the prior written permission of the local planning authority.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation or the completion of the phase of development to which it relates, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the landscaping scheme 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 consent to any variation.

- 7) Prior to any commencement of works between 1<sup>st</sup> March and 31<sup>st</sup> August in any year, a detailed survey of the site shall be undertaken to check for nesting birds. Where nests are found in any hedgerow that is to be removed, a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of breeding shall be deemed to have occurred when it is confirmed, by a suitably qualified person, in writing to the local planning authority.
- 8) No development shall take place until detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds, including a timetable for their implementation, have been submitted to and approved in writing by the local planning authority. The proposals shall be installed and thereafter permanently retained in accordance with approved details.
- 9) Construction hours (and associated deliveries to the site) shall be restricted to 08:00 to 18:00 hours Monday to Friday, 09:00 to 14:00 hours Saturday, with no working Sundays or Bank Holidays.



---

# Report to the Secretary of State for Communities and Local Government

by Derek Thew DipGS MRICS

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

Date: 25 March 2011

---

## TOWN AND COUNTRY PLANNING ACT 1990

### Section 78

#### CHESHIRE EAST COUNCIL

#### Appeals by

#### RICHBOROUGH ESTATES

Inquiry held on 22 -25 February 2011  
Site Visit held on 28 February 2011

Appeal A: Land east of Marriott Road/Anvil Close/Forge Fields and south of Hind Heath Road,  
Sandbach, Cheshire

Appeal B: Land south of Hind Heath Road between Wheelock and Ettiley Heath, Sandbach, Cheshire

File Refs: APP/R0660/A/10/2140255; APP/R0660/A/10/2143265

---

## Contents

<i>Section</i>	<i>Page</i>
Procedural Matters	2
The Site and Surroundings	2
The Appeal Proposals	3
Reasons for Refusal & Recovery	3-5
Consideration of Appeal B	5
Planning History	5
Planning Policy	5-6
The Case for the Richborough Estates	7-13
The Case for Cheshire East Council	13-18
Other Oral Representations to the Inquiry	19-21
Written Representations	21-22
Conditions	22-24
Section 106 Undertaking	24-25
Conclusions	26-36
Recommendations	36
Table 1: Sandbach Sites – Estimated Net Completions	37
Annex 1: Appearances	38
Annex 2: Documents & Plans	38-43
Annex 3: Conditions	43-50

## Abbreviations List

<i>Term</i>	<i>Acronym</i>
Affordable Housing	AH
Borough Council	BC
Canal Fields/Rookery Bridge site	CF
Congleton Borough Local Plan First Review	CBLP
Core Strategy - Issues & Options Paper	CSIOP
Development Plan Document	DPD
Foden's former factory site	FFS
Foden's test track site	FTTS
Key Service Centre	KSC
Local Development Framework	LDF
North West of England Plan - Regional Spatial Strategy	RSS
Planning Policy Statement	PPS
Registered Social Landlords	RSL
Southern Part of the Manchester City Region	SPMCR
Statement of Common Ground	SCG
Strategic Housing Land Availability Assessment	SHLAA
Strategic Housing Market Assessment	SHMA
Supplementary Planning Document	SPD
Registered Social Landlords	RSL

## **APPEAL A**

**File Ref: APP/R0660/A/10/2140255**

**Land east of Marriott Road/Anvil Close/Forge Fields and south of Hind Heath Road, Sandbach, Cheshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Richborough Estates against the decision of Cheshire East Council.
- The application ref.10/2608C, dated 7 July 2010, was refused by notice dated 28 October 2010.
- The development proposed is the erection of up to 269 dwellings, provision of public open space, highway works and associated works.

**Summary of Recommendation: That the appeal be allowed**

---

## **APPEAL B**

**File Ref: APP/R0660/A/10/2143265**

**Land south of Hind Heath Road between Wheelock and Ettiley Heath, Sandbach, Cheshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Richborough Estates against the decision of Cheshire East Council.
- The application ref.10/2609C, dated 7 July 2010, was refused by notice dated 21 December 2010
- The development proposed is the construction of a shared footpath and cycleway, and associated works.

**Summary of Recommendation: That the appeal be allowed**

---

## **Procedural Matters**

1. Before the inquiry opened, an e-mail was sent at my request by the Planning Inspectorate to the main parties (*Document 7/40*). In that e-mail I asked the appellant to address me at the inquiry as to the extent to which the proposal is consistent with two of the Government's key planning objectives to deliver sustainable development.
2. The inquiry opened on 22 February 2011 and it sat for four consecutive days until 25 February 2011. I made an accompanied inspection of the appeal site and the surrounding area on 28 February 2011. As part of that inspection I visited a number of other residential developments and locations in Sandbach (*Document 7/43*).

## **The Site and Surroundings**

### Appeal A

3. The appeal site is an open field, still in active agricultural use, with an area of about 7.5 hectares. It is bounded to the east by housing development built mostly during the 1970s and 1990s. The southern boundary is defined by the Trent and Mersey Canal. Adjacent to the western boundary is a single vehicle-width road, that serves a sewage treatment works situated on the opposite side of the canal, and adjacent to the northern boundary is Hind Heath Road (B5079) (*Plan A*).
4. The land is generally flat but slopes down towards the canal from the centre of the site. Mature hedges define its eastern, northern and western

boundaries, and within the southern and eastern boundaries near the canal there are a number of mature trees which are the subject of a tree preservation order.

5. The site is located directly to the west of the built-up area of Wheelock, a village about one mile to the south of Sandbach. The village now forms part of the civil parish of Sandbach. Hind Heath Road connects Wheelock to the village of Ettiley Heath, which is now also a part of Sandbach. The two villages are separated by predominantly open countryside (*Document 7/39: OS map*).
6. The site is approximately 2.5 miles from junction 17 on the M6 motorway and about 4.5 miles from the centre of Crewe.

### Appeal B

7. This appeal site is a strip of land, up to a maximum of about 12m wide, adjacent to the southern side of Hind Heath Road. It extends from the site of Appeal A, for approximately 595m, up to the built-up area of Ettiley Heath. The land is mainly in agricultural use but, near Ettiley Heath, the strip of land crosses the frontage of Sandbach Cricket Club's ground.

## **The Appeal Proposals**

### Appeal A

8. The application was made in outline with all matters, other than access, reserved for subsequent approval. It was accompanied by a number of documents that give further information about the proposed development. These include a Design and Access Statement and a Planning Statement (*Documents 5/3 and 5/4*). The supporting documents submitted with the application are listed in section 1 of the Planning Statement and comprise *Documents 5/1 -5/17*.
9. The development would provide up to 269 dwellings in a mix of 60% market housing and 40% affordable housing (AH). Of the AH (108 units in total), half would be social rented units and half would be intermediate tenure units. In addition, 25% of the homes (67 units) would be low-cost market housing. This would leave 94 open market dwellings.

### Appeal B

10. The application was made in outline with all matters reserved for subsequent approval. The proposal is to provide a 3m wide shared footpath/cycleway adjacent to a section of Hind Heath Road. Further information about the scheme is contained in sections 8.3 and 8.4 of the Transport Assessment (TA) (*Document 5/11*), which was submitted with the planning application the subject of Appeal A.

## **Reasons for Refusal & Recovery**

11. The development the subject of Appeal A was refused permission for the following reasons (*Document 6/1*):
  - i) The proposed residential development within the open countryside would be contrary to the provisions of Policies PS8 and H6 of the

adopted Congleton Borough Local Plan First Review. Whilst it is acknowledged that the Council does not currently have a five year housing land supply and that, accordingly, in the light of the advice contained in PPS3 it should consider favourably suitable planning applications for housing, the current proposal is not considered to be "suitable" as it is located on the periphery of Sandbach, rather than Crewe. It would undermine the spatial vision for the area and wider policy objectives as it would be contrary to the general thrust of the Core Strategy Issues and Options which directs the majority of development towards Crewe, as well as the Council's Draft Interim Planning Policy on the Release of Housing Land, which articulates the same spatial vision. This would be contrary to advice in PPS3 and PPS1, which state these emerging policies are material considerations. For these reasons the Housing Land Supply arguments advanced by the applicants are considered to be insufficient to outweigh the general presumption against new residential development within the Open Countryside as set out in the adopted development plan.

- ii) Release of this site would prejudice the development of the significant number of brownfield sites within Sandbach with extant planning permission, which would provide significant regeneration benefits, and would be sufficient to address housing requirements within the Sandbach area. The proposals are therefore contrary to Policy advice within PPS3 which gives priority to the development of previously developed land, and the provisions of Policy H2 of the adopted Congleton Borough Local Plan First Review.
- iii) The proposal would involve the removal of an "important" hedgerow as defined in the Hedgerow Regulations 1997. Policy NR3 of the adopted Congleton Borough Local Plan First Review states that proposals for development that would result in the loss or damage to important hedgerows will only be allowed if there are overriding reasons for allowing the development. For the reasons stated above, in this case there are not considered to be overriding reasons for allowing the development and the proposal is therefore contrary to Policy NR3 of the adopted Congleton Borough Local Plan First Review.

12. The development the subject of Appeal B was refused permission for the following reasons (*Document 6/1*):

- i) The proposed development would involve the introduction of features more commonly associated with an urban or suburban area and would be an incongruous intrusion in the landscape which would detract from the rural character and appearance of Hind Heath Road to the detriment of the visual amenity of the area, and in the absence of any material considerations or overriding public benefits to outweigh this harm, it is considered to be contrary to policies PS8, GR1 and GR2 of the adopted Congleton Borough Local Plan First Review.
- ii) The proposal would involve the removal of an "important" hedgerow as defined in the Hedgerow Regulations 1997. Policy NR3 of the adopted Congleton Borough Local Plan First Review states that proposals for development that would result in the loss or damage to important hedgerows will only be allowed if there are overriding reasons for allowing the development. For the reasons stated above, in this case there are not considered to be overriding reasons for

allowing the development and the proposal is therefore contrary to Policy NR3 of the adopted Congleton Borough Local Plan First Review.

13. The appeal was recovered by the Secretary of State for Communities and Local Government on 6 January 2011. The reason for this direction was that *"Appeal A involves a proposal for residential development of over 150 units on a site of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities; and Appeal B is most efficiently decided with Appeal A."*

### **Consideration of Appeal B**

14. The Council accepts that if Appeal A succeeds, then the public benefit of providing the footpath and cycleway (Appeal B) outweighs its harm to the local environment. It is agreed between the parties that if Appeal A fails then so too should Appeal B (*Document 3, section 7*). Consequently, the inquiry was devoted almost entirely to consideration of Appeal A and it is that appeal upon which I concentrate in the remainder of this report.

### **Planning History**

15. There are no relevant previous planning applications relating to either site.

### **Planning Policy**

16. Cheshire East Council is a unitary authority which came into existence on 1 April 2009. It was formed from the amalgamation of Congleton Borough Council, Crewe and Nantwich Borough Council, Macclesfield Borough Council and Cheshire County Council. Sandbach is within the area formerly administered by Congleton Borough Council.
17. The development plan for the purposes of these appeals comprises:
- North West of England Plan - Regional Spatial Strategy to 2021
  - Cheshire 2016: Structure Plan Alteration
  - Congleton Borough Local Plan First Review

#### North West of England Plan (RSS)(September 2008)

18. The RSS provides a framework for development and investment in the region over the period to 2021. The regional spatial framework contained in policy RDF1 (*Document 4/DS/16*) sets out priorities for growth and development, and it identifies Manchester and Liverpool as the first priority, followed by the inner areas around those regional centres. The third priority should be named towns in the region. Within Cheshire East those named towns are Crewe and Macclesfield. In rural areas, policy RDF2 requires that development should be concentrated in "Key Service Centres" (KSCs). Paragraph 5.9 indicates that KSCs should be defined in Local Development Frameworks (LDFs).
19. For the purposes of the RSS, the former Congleton Borough is within the "Southern Part of the Manchester City Region" (SPMCR) (policy MCR3 refers). Crewe and the surrounding rural area, including Nantwich, is



referred to as "South Cheshire" (policy MCR4 refers). Paragraph 10.13 states that "*South Cheshire is within the Manchester City Region, but lies on the periphery and has certain economic links with both Manchester City Region and the North Staffordshire/Potteries urban area*".

20. Policy DP4 requires that development should accord with the following sequential approach: first, using existing buildings and previously developed land within settlements; secondly, using other infill opportunities within settlements; and thirdly, "*the development of other land where this is well-located in relation to housing, jobs, other services and infrastructure and which complies with the other principles in DP1-9*". The indicative target proportion of housing provision on brownfield land in the former Congleton Borough area is "*at least 80%*" (*Document 4/DS/16: Table 7.1*).

#### Cheshire 2016: Structure Plan Alteration

21. None of the saved Structure Plan policies are relevant to this appeal.

#### Congleton Borough Local Plan First Review (CBLP)

22. The CBLP was adopted in January 2005. Policies referred to in this report were "saved" by the Secretary of State (pursuant to a direction under paragraph 1(3) of Schedule 8 to the Planning & Compulsory Purchase Act 2004) with effect from 27 January 2008 (*Document 6/2*).
23. In accordance with the Plan's strategy, policy H2 provides that, averaged over a 5-year period, the proportion of housing built within Sandbach "*shall not materially exceed*" 25% of the total provision in Congleton Borough".
24. The site of appeal A lies in the open countryside, as defined in the CBLP. Policy H6 provides that new residential development will not be permitted in such an area unless it falls within one of six categories. Policy PS8 lists the range of purposes for which new development in the open countryside will be permitted.

#### Congleton Borough Council SPD No.6 "Affordable Housing & Mixed Communities"

25. The SPD was adopted in April 2006 (*Document 4/DMS/4*). Paragraph 3.2 of the SPD indicates that on windfall sites the "*general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2004 Housing Need Survey*". The same minimum percentage is described as being desirable on allocated sites. Paragraph 6.1 of the SPD relates to low-cost market housing and states that on any housing development of 10 dwellings or more, "*generally the Council will look for a minimum of 25% of the total housing units on such sites to be unsubsidised low-cost market housing*".

#### Local Development Framework (LDF)

26. A Core Strategy - Issues & Options Paper (CSIOP) (*Document 6/3*) was subject to public consultation from 8 November until 17 December 2010.

The paper designates settlement areas into 3 categories: Principal Towns, Key Service Centres (KSCs) and Local Service Centres. The proposed designation for Sandbach is as a KSC. The paper offers alternative growth options for Cheshire East.

Interim Planning Policy for the Release of Housing Land (IPP)(Document 7/3)

27. In order to address the Council's inability to demonstrate a 5-year supply of housing land, the IPP allows for the release of a limited number of sites for housing on the edge of Crewe. Following public and stakeholder consultation, the IPP was approved by the Council on 24 February 2011 (during the course of the inquiry).

### **The Case for Richborough Estates**

The material points are as follows:

#### Supply of housing land

28. There is a very serious shortfall of deliverable housing sites in Cheshire East.
29. The distribution of housing provision in the RSS is based on Council areas in existence prior to 1 April 2009 (*Document 4/DS/16: Table 7.1*). In accordance with advice from the Government Office for the North West (*Document 4/DS/14*), the annual average housing requirement for Cheshire East is to be determined by adding together the individual requirements for each of the 3 former Borough Councils. On this basis, the RSS average net annual requirement for Cheshire East is 1150 new dwellings. Over 5 years this amounts to a requirement for 5750 new dwellings.
30. It is estimated that there are currently deliverable sites sufficient to accommodate 3146 dwellings. That is equivalent to 2.75 years supply (*Document 7/35*). (This is a revised figure arrived at following discussions that took place between the main parties during the course of the inquiry. The position of the appellant at the opening of the inquiry was that there are deliverable sites sufficient for only 2469 new dwellings which amounts to a 2.15 years supply of land (*Proof of Evidence of D Stentiford: page 39, Table 2*)).
31. Within Cheshire East the total net completions between 2003 and 2010 was 8,084 dwellings (*Proof of Evidence of D Stentiford: paragraph 4.71*). This compares favourably with an RSS requirement of 8,050 dwellings for the same 7 year period (based upon the annual requirement of 1,150 dwellings). But the reason for the adequacy of these completions is that between 2003/2004 and 2007/2008 there was a significant over-provision of housing against the RSS requirement. This changed dramatically in 2008/2009 when there were only 741 completions, and in 2009/2010 a total of 634 completions was little more than half the RSS annual requirement (*Document 6/6: Figure 5.1*).

32. As for the local picture, the RSS requires a total net housing provision in the Congleton Borough area between 2003 and 2021 of 5,400 dwellings, which is equivalent to an annual average net rate of 300 dwellings. The spatial strategy in the CBLP is that 25% of the housing built in Congleton Borough should be within Sandbach. Applying this percentage to the annual average net rate of 300 dwellings, means that 75 new dwellings a year should be provided in Sandbach – 375 over 5 years.
33. However there is good reason to be very concerned about the deliverability of three of the major brownfield sites in Sandbach: Foden's former factory site (FFS); Foden's test track site (FTTS) and the Canal Fields/Rookery Bridge site (CF) (*Proof of Evidence of S Horan: section 8*). FFS is some 10has in size. Consent was granted in 2008 (subject to a s.106 obligation that was signed in March 2009) for a mixed development of 80 care bed homes, 250 dwellings, 62 retirement homes, 5,480m<sup>2</sup> of Class B1 floorspace and 929m<sup>2</sup> of retail floorspace. A contract is in place with Bellway Homes to develop the site but there has been no start. In December 2010 a new application was submitted for a materially different scheme and that application has yet to be determined. FTTS is some 3.3has in size. In February 2008 outline planning permission was granted, again subject to a s.106 obligation that was signed in March 2009. Since then there has been no application for approval of reserved matters and no obvious progress on the site. The land is understood to be heavily contaminated by reason of its earlier use as a tip. CF is about 3.8has in size and is a disused bone works. In 2007 the Council resolved to grant planning permission for a residential scheme, subject to the signing of a s.106 obligation, but that obligation has not been signed. The site is owned by Bellway Homes. These three sites are all recorded in the SHLAA as being capable of delivering housing within the next 5 years. Yet it is doubtful there will be any development on two of the sites (FTTS and CF), and the third site (FFS) is likely to deliver fewer houses than the Council expects (*Document 7/35*).
34. In addition the SHLAA includes 107 units on the former Council depot in Newall Avenue, Sandbach. But the permitted scheme is for extra care units within Use Class C2 and, as such, this site should not be included in the SHLAA (*Document 7/19*).
35. In the light of all these concerns it is possible that as few as 173 new dwellings might be built in Sandbach over the next 5 years, rather than the 375 required (*Document 4/DS/17: Table 2*).

#### Strategic Housing Market Assessment (SHMA)

36. The Cheshire East SHMA, was published in September 2010 (*Document 6/4*). Household projections indicate that within the unitary authority's area there will be a rise from 154,000 households in 2006 to 191,000 by 2031: equivalent to an annual increase of 1480 households. This is higher than the RSS build rate of 1150 dwellings each year (*Document 6/4: paragraph 6.4*).
37. The SHMA sets out 4 priorities taken from the Cheshire Sub-Regional Housing Strategy (*Document 4/DMS/3*). Priority 1 is to increase the supply

of affordable housing to support economic growth and development (*Document 4/DMS/3: paragraph 6.12*). In this context the SHMA suggests there is:

*" ... a considerable imbalance between affordable requirements and supply. Existing planning policies across Cheshire East require upwards of 25% of development to be affordable: evidence from the SHMA would suggest increasing this to 30-35% across the District."* (*Document 4/DMS/3: paragraph 6.13*)

38. The SHMA notes that the delivery of affordable housing is heavily dependent on private development sites and therefore the current problems in the housing market jeopardise this delivery. As such, the SHMA suggests that the Council fully explores all options available to ensure an on-going supply of affordable homes.
39. Priority 4 of the SHMA is to increase the supply of market housing to support continued economic growth and regeneration and to meet local housing needs (*Document 4/DMS/3: paragraph 6.26*). In this context the SHMA states:

*"Evidence suggests that across Cheshire East there is considerable market imbalance, with demand exceeding supply. Preferences are predominantly for houses (76.9%) followed by bungalows (15.4%) and flats (7.8%). Aspirations are therefore traditional and a key challenge is to reconcile this with development opportunities and site density requirements"* (*Document 4/DMS/3: paragraph 6.26*).

40. The appeal proposal is consistent with these priorities in the SHMA.

#### Affordable Housing (AH)

41. It is proposed that 40% of the units on the appeal site would be AH and that 25% would be low-cost market housing. Assuming the provision of 269 dwellings, then the proposal would deliver 108 affordable homes, which would make a massive difference to the supply of such housing in Sandbach. The scheme would also provide 67 low-cost market dwellings.
42. Cheshire East is ranked the 8<sup>th</sup> least affordable District in the North West (*Document 6/4: Table 3.1*).
43. Paragraph 10.11 of the RSS, includes the following sentence in relation to SPMCR: *"Residential development in these areas will be focused on meeting identified local needs particularly affordable housing, continuing the approach established in RPG13"*. The appeal proposal is completely in accordance with this approach.
44. With regard to demand, the SHMA identifies an annual requirement for AH in Cheshire East of 1243 dwellings (*Document 6/4: Table D14*). With regard to supply, Communities & Local Government (CLG) figures for 2009/2010 show that the total delivery of new affordable dwellings in Cheshire East was just 420 units (*Document 4/DMS/13*). When this figure is related to the annual requirement for 1243 dwellings a year, there is a shortfall of 823 units.

45. From Table D14 of the SHMA it is also possible to identify a specific AH requirement for Sandbach. The figure is 75 units each year. It is the highest figure for any settlement in the former Congleton Borough area. Looking forward, and without the appeal site, the provision of AH in Sandbach looks bleak. The forecast delivery of AH on all identified sites in the next 5 years is just 32 units, which is less than half of one years annual requirement (75) as identified in the SHMA. Even on the Council's own figures the number will only increase to between 41 and 44 (*Document 4/DMS/17: Table 2*).
46. Brownfield sites are not producing the level of AH hoped for by the Council. At a former employment site in Congleton, known as Bath Vale Works, permission was granted in June 2008 for the residential redevelopment of that site subject to a requirement for 20% AH provision. However that level of AH provision was not viable and in April 2009 permission was granted on appeal for a scheme with only 5% AH (*Document 4/DS/3*). At "The Hop Yard" site, currently being redeveloped in Sandbach, only 7 of 41 units (17%) are AH, whilst at "The Cross", also in Sandbach, only 3 out of 43 of the units (7%) are AH. On the one brownfield housing site in Sandbach where detailed viability evidence has been provided, the CF site, the proposed level of AH is just 5% (*Document 7/22, paragraph 4.7*).
47. The Government's Comprehensive Spending Review on 20 October 2010 fundamentally changed the funding climate for AH, with cuts to the budget of the Homes and Communities Agency (HCA) from £8.4bn over 3 years to £4.5bn over 4 years. This will have a significant adverse impact upon stand-alone affordable housing schemes being promoted by registered social landlords (RSL). So in future there will be considerable reliance on s.106 obligations to secure the provision of new AH.

#### Planning Policy

48. In February 2006 the former Congleton BC published, as part of its LDF preparation, an alternative options document "Site-Specific Allocations/Sandbach West Area Action Plan" (*Document 4/DS/4*). That document identified possible sites for housing development, one of which was the appeal site. In September 2006 a "Preferred Option" report was published (*Document 4/DS/5*) which again included the appeal site. Finally in September 2007 a "Revised Preferred Options" report was published (*Document 4/DS/5*) which excluded the appeal site. Work on the Congleton Borough LDF then ceased.
49. The RSS sets an average net annual rate of housing provision for the former Congleton BC of 300 dwellings (*Document 4/DS/16: Table 7.1*). At the examination in public into the RSS, the former Council made representations for that number to be raised to 500 per annum (a 67% increase) (*Document 4/DS/5*). Representations were also made that the indicative target for brownfield development should be reduced from 80% to 55%. The Council was particularly concerned over the affordability of dwellings and the impact of the moratorium on new consents imposed by the Structure Plan (*Document 4/DS/13*).

50. Since the inception of the new development plan system, no meaningful progress has been made in relation to adopting an LDF for Cheshire East. A draft "Congleton Area Strategic Housing Land Availability Assessment", published by Cheshire East Council in 2009, states with regard to the appeal site that its development "*would represent an incursion into open countryside but would provide an opportunity for related highway improvements which may outweigh impact*" (Document 4/DS/6).
51. The Core Strategy-Issues & Options Paper (CSIOP) can only be given very limited weight. It is simply a series of options which have been chosen by officers; it has not been subject to any refinement through the consultation process and the preferred option has not been identified. Even so, the appeal proposal does not conflict with the geographical aspirations of the CSIOP. Options 1-3 in chapter 7 of the CSIOP (Document 6/3) variously attribute 44%, 36% and 38% of new dwellings to the KSCs. In any of the development scenarios contemplated within these three options there would be a requirement for significant new residential development at Sandbach over the plan period.
52. The Interim Planning Policy for the Release of Housing Land (IPP) should be given no weight. It is a document that seeks to manage the release of additional land for housing but it is neither a DPD nor an SPD, and the Council accepts as much. It has not been subject to any meaningful sustainability appraisal because it does not consider any alternatives (Document 4/DS/27). The only alternative to the release of land on the edge of Crewe is the "do-nothing" scenario. The prospect of the adoption of the draft IPP only emerged during a meeting with Council officers on 8 October 2010. The appellant sought a legal opinion on this matter (Document 4/DS/23) and this was relayed to the Council on 15 October 2010 (Document 4/DS/23). This opinion stated that the adoption of a document such as the draft IPP was "*very susceptible to a successful Judicial Review*". Nevertheless the Council proceeded to adopt the draft document and to use it as reason to refuse planning permission for the appeal scheme.
53. The Council is concerned that in the absence of a LDF Core Strategy, they need a mechanism which will allow them to manage the release of land. However, the Council does have such a mechanism available to it: it is the Strategic Housing Land Availability Assessment for Cheshire East (SHLAA). What the Council needed to do was to acknowledge it did not have a five year supply and then identify the most suitable sites through the SHLAA. The appeal site appears in the SHLAA (site ref.2615) as suitable, with a policy change, for development in years 6-10 (Document 4/MJ/1 –page 39).
54. The Council contends that, as a consequence of adopting the IPP, land adjacent to the settlement boundary of Crewe will now come forward for development which will provide an additional 1350 dwellings, thereby increasing supply to a level above the 5-year requirement. However, that conclusion is disputed and an analysis of the deliverability of residential completions at Crewe pursuant to the IPP is that it would only provide 395

units on greenfield sites in a 5-year period to March 2016 (*Document 4/DS/28*).

### Housing Market

55. A distinction can be made between the housing markets of Sandbach and Crewe. Sandbach is considered a highly desirable South Cheshire market town which is independent of Crewe. In contrast Crewe is a location which offers lower-priced housing mainly for those who both live and work in the immediate locale.
56. There was a moratorium on housing developments in the former Borough of Congleton between 2003 and 2008. Sites that were developed tended to be small, high-density, brownfield sites and, as a result, there has been a build-up of demand in the Sandbach area for new family housing. Builders are currently very risk averse, but there is a high demand for family housing, which means that 3 and 4-bed properties are the most sought after. Given the limited development in the area in recent years, there is scope to sustain significant growth by providing additional developments to meet demand and by allowing multiple sites to be developed simultaneously.
57. To deliver a fully-serviced site with a detailed planning consent can, in today's market, take up to 3 years. Consequently over the initial 5-year period there is generally a plot selling time of only 2 years. On this basis, and with an anticipated annual build-rate of 20-25 dwellings per annum, the appeal site would probably deliver about 50 dwellings in the first 5-years.

### Sustainability

58. In response to questions raised by me before the opening of the inquiry (*Document 7/40*), Mr Stentiford produced a paper (*Document 7/33*). It states that the appeal site is about 1 mile from, and within easy pedestrian, cycle and bus access of the town centre of Sandbach. In response to a question from a local resident, Mr Stentiford acknowledged that this distance was taken from that part of the appeal site closest to the town centre. The nearest bus stops on Crewe Road are within 500m of the site frontage and from these stops a generally half-hourly bus service operates. On cross-examination, Mr House for the Council accepted the bus service on Crewe Road is one of the best in the area. The main employment areas in Sandbach are towards its western edge, with the most notable being Springvale Industrial Estate which is within a mile of the appeal site. The proposed footpath/cycleway (appeal B) will make access on foot and by cycle between the two areas well within the thresholds outlined in PPG13. The former Borough of Congleton commissioned an employment land study in 2005 (*Document 7/33: Appendix 2*). This document identifies a 12ha office development site at junction 17 of the M6. Table 4.5 of the study attributes 51% of future office space in Congleton Borough to Sandbach. Paragraph 5.27 of the study states that "*Sandbach and Middlewich are best provided for in terms of strategic and regional development land*". Overall, the appeal site is located in a position where there are reasonable practical choices for

future residents to use means of transport other than a private car for the most frequent journeys made.

### Conclusions

59. The proposal should be treated favourably in light of the guidance in paragraph 71 of PPS3. The scheme does not offend any part of paragraph 69 of PPS3 and there are no specific constraints to the site being developed. Permission should, therefore, be granted to address the serious shortfall in land to meet the requirement for both market housing and AH. This proposal addresses the latter shortfall to such an extent that the largest category of housing on the site will be AH. There is also a desperate need for low-cost market housing and the proposal provides a significant quantum of this as well.

### **The Case for Cheshire East Council**

The material points are as follows:

#### Congleton Borough Local Plan First Review (CBLP)

60. The appeal site is in designated open countryside, where development is only to be permitted if it accords with policies PS8 or H6 of the saved Congleton Local Plan First Review (*Document 6/2*). These are the main policies of relevance to the proposed scheme. There is no dispute that the proposal is for none of the purposes listed in either policy and hence the scheme is contrary to the development plan.

61. In such circumstances it is necessary to address whether there are any material considerations arising from the appeal proposals which would outweigh this conflict with the development plan.

#### Supply of housing land

62. There is no dispute that the RSS figure of 5750 should be used to determine the requirement for new dwellings in Cheshire East during the next 5 years (2011-2016). A Strategic Housing Land Availability Assessment for Cheshire East (SHLAA) was published in November 2010. It identifies that there are deliverable sites sufficient for 5147 net new dwellings in the next 5 years. Relating this figure to the RSS requirement indicates a 4.48 years supply of deliverable sites (*Document 4/RH/2*).

63. However, following discussions with the appellant during the inquiry the Council revised its estimate as to the number of deliverable new dwellings for East Cheshire in the next 5 years to a net figure of 3746, which is equivalent to 3.25 years supply (*Document 7/35*).

64. With regard to Sandbach, there is no dispute that the requirement is for 75 new dwellings a year, which amounts to a requirement for 375 new dwellings over 5 years. However there are currently planning permissions for 891 dwellings in the town (*Document 4/RH/3*) and, in such



circumstances, to grant further consents would adversely affect the spatial strategy for Cheshire East.

65. The Council does not dispute that for Cheshire East it cannot demonstrate a 5-year supply of deliverable housing land. However, through the IPP, broad locations for future growth have been identified which will enable the Council to adequately address any shortfall.

#### Previously developed land

66. With regard to paragraph 69 of PPS3, the Council does not dispute that the appeal proposals are in accord with the first four criteria listed in that paragraph. However the proposals are not in line with the final criterion being contrary to planning for housing objectives, the spatial vision for the area and wider policy objectives.
67. With regard to planning for housing objectives, paragraph 40 of PPS3 states that a "*key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed.*" Paragraph 41 then identifies that the "*national annual target is that at least 60 per cent of new housing should be provided on previously developed land.*" The Council's approach is entirely consistent with these objectives. Its approach is also consistent with the advice in paragraph 67 on how to address "*significant underperformance against the previously-developed land trajectory/ies.*"
68. RSS policy DP4 requires that development should accord with a sequential approach and Table T1 requires that at least 80% of new housing in the former Congleton Borough area should be on previously developed land (*Document 4/DS/16*). For the former Congleton Borough area, the SHLAA identifies that, of the deliverable new dwellings in the first 5 years, 67% would be on previously-developed land, 7% on greenfield sites and 25% on a mixture of the two. If the appeal proposal were to be allowed, this would result in only 59% on previously-developed land, 18% on greenfield sites and 22% on mixed sites. This would be significantly below the RSS target.
69. In Sandbach there is a considerable supply of previously-developed sites where housing is either under construction, with planning permission, subject to a current application or subject to a resolution to grant planning permission (*Document 4/RH/3*). In 2010 three new schemes were brought to the market in Sandbach. "The Hop Yard", a brownfield scheme of 41 houses which is approaching completion; "The Cross", a brownfield scheme of 32 houses and 12 apartments; and "Farriers Green" a mixed brownfield/greenfield scheme within the settlement boundary for 41 houses.
70. To the west of Sandbach there is a large area of former industrial land comprising 3 sites: Foden's former factory site (FFFS); Foden's test track site (FTTS); and the Canal Fields/Rookery Bridge site (CF). The redevelopment of this land for housing would bring forward significant regeneration benefits. FFFS and FTTS both have the benefit of outline planning permission, the former for a mixed-use scheme including 312

dwellings, the latter for 149 dwellings. A full application for mixed-use development including 248 dwellings at FFFS is currently with the Council. The Council has resolved to grant outline planning permission for 100 dwellings on the CF site, subject to a section 106 obligation. That obligation has yet to be signed.

71. The reason why sites with planning consents are not coming on to the market is a direct consequence of the change in market conditions. Since 2007 all national house-builders have had severe financial problems, and any problems with the delivery of sites in Sandbach is likely to be symptomatic of the problems with the housing market rather than with the quality of the brownfield sites. This is well-illustrated by the scheme at "The Cross", which took time to get started because a new planning permission had to be obtained and the s.106 agreement had to be re-negotiated. But these changes to the scheme were only a consequence of the market downturn. With regard to FTTS, the principal reason for delay is due to protracted negotiations between land owners, intermediate site assemblers and house builders, but it is not as a direct consequence of the site's brownfield status.
72. On the larger brownfield sites the housing mix is likely to be similar to that proposed for the appeal site and, as such, the development of these areas would be in direct competition with each other. Due to the fairly small size of Sandbach, there is a restricted demand for new housing. And, in such circumstances, allowing housing development on the appeal site is likely to make it extremely difficult for brownfield sites to be developed.

#### Cheshire East emerging LDF

73. The Council has made limited progress in the preparation of its LDF. However, it relatively recently went through a resource-intensive period of local government reorganisation. That was bound to have an effect upon LDF preparation. The Core Strategy and Site Allocations documents are, however, unlikely to be adopted until 2013 and 2014 respectively (*Document 4/RH/3*).
74. The Core Strategy - Issues & Options Paper (CSIOP) sets out 3 growth rates and three spatial distribution options for housing growth to 2030. It directs growth primarily to Crewe. Under option 3, about 4% of new housing in Cheshire East would be directed to Sandbach, which would be equivalent to about 920 dwellings. Currently in the Sandbach area over 600 dwellings are either under construction or with the benefit of planning permission, a further 120 are awaiting the completion of a s.106 obligation, and 107 are the subject of a current application. In such circumstances, permitting the appeal scheme would cause the proportion of development to be directed to Sandbach to exceed the option 3 figure in the low growth scenario. To allow the appeal could, therefore, prejudice the preparation of the Core Strategy.
75. Given the stage that the CSIOP has reached, one has to be careful in attributing too much weight to it, but the appellant's assessment that it attracts very limited weight is unrealistic. That is because, first, the CSIOP is not merely the work of officers but has been approved by elected

members as a suitable basis for consultation. Secondly, the CSIOP is in conformity with the RSS and that increases the weight which can be attached to it.

76. The Interim Planning Policy for the Release of Housing Land (IPP) is intended to control the release of land for housing development to ensure there is sufficient land available prior to the adoption of the LDF. The document has been subject to a 6 week period of public consultation, plus a sustainability appraisal and a Habitats Regulations assessment. In the absence of a LDF, it is entirely sensible and appropriate for the Council to put in place the IPP in order to maintain an adequate supply of housing land.
77. It is anticipated the effect of the IPP will be to increase the housing supply by approximately 1100 units, through the release of land for about 600 additional dwellings on the edge of Crewe and about 500 additional dwellings in town centre/regeneration areas. A statement of intent to proceed with the provision of up to 400 new family homes on land adjacent to the settlement boundary of Crewe, has been submitted to the Council on behalf of two firms of house builders (*Document 4/RH/6*).
78. For the following reasons the IPP deserves some weight in the decision making process. First, there is nothing objectionable about the IPP as a concept. The Council has been very careful to ensure that it is not attributed undue weight. The October 27<sup>th</sup> update report to the Strategic Planning Board was at pains to point out to Members of the Board that it carries only limited weight and must not be afforded any status akin to a DPD or an SPD (*Document 4/DS/25*). The Council is addressing the Core Strategy as efficiently as it can, but until such time as it can be adopted, the IPP can properly be seen as a species of management action to which PPS3 refers in paragraph 65.

#### Spatial Vision and Priorities

79. The Council accepts the spatial vision contained in the RSS and is not looking to adopt an alternative approach.
80. RSS policy MCR3 relates to the SPMCR, which includes Sandbach. The policy allows for "*residential development to support local regeneration strategies and to meet identified local needs (particularly for affordable housing), in sustainable locations which are well served by public transport*". The release of a greenfield site in a town such as Sandbach would be unlikely to support local regeneration strategies which seek to direct new housing schemes to previously-developed land.
81. The RSS clearly directs growth to Crewe rather than the smaller towns, such as Sandbach. Crewe is a focus for economic growth with two large allocations for employment development of regional significance. In contrast, Sandbach is not an area where significant economic growth is expected. It has one site earmarked for employment development at junction 17 of the M6 (Capricorn Business Park). This site has been allocated since 1990 but no development has yet taken place.

82. This point is reinforced when the size of the economically active population in Sandbach is compared to the number of jobs. On the basis of the 2001 census, Sandbach had a working age population of 10,905, but jobs in the town only numbered 5,480 (*Document 7/4*). Providing significant amounts of new housing in Sandbach would increase both the imbalance between jobs and working age population, and the amount of out-commuting that would have to occur if the economically active population are to be employed. That can be contrasted with Crewe, which in 2008 could be expected to have had more jobs per head of working age population than Sandbach (*Document 7/4*). On this basis, if one is looking to locate housing close to job opportunities, then Crewe is to be favoured.
83. At the sub-regional level, the Council has signed-up to an economic strategy with Cheshire West & Chester and Warrington Borough Council. The strategy, entitled "Unleashing the Potential" formed the basis for a successful submission to the Government in 2010 for a Local Enterprise Partnership. The document states that growth will be concentrated in key settlements, one of which is Crewe, where *"there is agreement that the town needs to significantly increase its economic productivity, and is well positioned to do so in terms of unique strategic connections and major development sites. To facilitate this, there is a clear emerging ambition to have "super-charged" growth in Crewe – in the order of 25% growth in jobs and population – to fulfil its wider potential"* (*Document 6/8: section 4*) .
84. In parallel with the sub-regional economic strategy, the Council has produced its own economic development consultation document entitled "All Change for Crewe". The strategy in this document is that by 2031, Crewe will be a nationally significant economic centre with a total population in excess of 100,000 people.
85. The development of the appeal site for housing is not consistent with, and risks undermining the regional, sub-regional and local strategy to make Crewe the focus for major new development.

### Housing Market

86. A housing study prepared by Congleton BC in 2004 and the SHMA (*Document 6/4 – paragraphs 3.79-3.81*) confirm that there is little correlation between the Crewe and Sandbach housing markets in terms of migration between the locations. They are regarded as distinct and separate markets. In Sandbach, residential values are significantly higher than in Crewe (*Mr Mackay's proof of evidence, page 5: Tables 1 and 2*).
87. According to local agents the Sandbach housing market was reasonable in 2010 and far stronger than in 2009. Most agents reported more demand in the higher value houses (£250,000+) and this is a reflection of the difficulty encountered by first-time buyers seeking to enter the market.
88. The "build-rates" contained in the SHLAA indicate that from outline planning permission stage on sites of more than 50 dwellings a lead-in time of 2.5 years is needed for the first properties to be completed.

### Affordable Housing

89. It is accepted that the affordable housing provision which would be made on the appeal site is a benefit to which weight should be attached. But that weight should not be excessive.
90. The RSS housing requirement figures must have been prepared taking into account issues of affordability and the need to increase AH provision (see paragraph 33 of PPS3). However, for the appellant, Mr. Sammons accepted that it is not unusual for the AH need in an area to exceed the annual RSS housing requirement. This can be demonstrated by looking at the 2004 Housing Needs Study prepared for Congleton BC (*Document 4/DMS/5*). Table 5-20 of that study shows a need for 1,675 affordable dwellings in the former Borough. But that figure was not seen as a target and Congleton BC was assigned a total annual housing requirement figure of 300 in the RSS in 2008. Similarly the SHMA annual requirement for AH in Cheshire East of 1243 dwellings (*Document 6/4: Table D14*), must not be taken to be a target (*Document 6/4: page 195, paragraph H8*). Instead, it is a measure of the backlog to be used in assessing how to balance the need to provide market and AH when considering development at the RSS level (see *Document 6/4: page 71 Table 5.2*).
91. If reference is to be made to the annual AH requirement of 75 units for Sandbach (*Document 6/4 Table D14*), then it is pertinent to note that the figure for Crewe is 256 units per annum. So the shortfall in Crewe is greater, which provides a further reason for providing housing in Crewe.
92. The provision of AH in Cheshire East over recent years has not been as poor as a simple comparison of number units provided against estimated need would suggest. The table at paragraph 3.32 of Mr. Sammons' evidence shows the proportion of AH completions as a proportion of overall housing completions for the period 2005/6 to 2009/10. The figures for overall housing completions include sites which provided too few units to be required to provide AH and sites where low levels of AH were negotiated. Yet the average percentage of AH completions was still 21.7% and Mr. Sammons accepted that was a good rate of provision.

### Sustainability

93. The development of the site for housing is not inconsistent with Government policies which seek to deliver patterns of urban growth that help secure the fullest possible use of sustainable transport and which overall reduce the need to travel, especially by car.

### Prematurity

94. The proposed development is of a size sufficient to substantially prejudice the LDF by pre-determining decisions about the scale and location of new development which are being addressed in the preparation of the Core Strategy. It is accepted that development should not be refused solely on the grounds of prematurity. But this scheme is also contrary to the development plan, contrary to wider planning objectives and contrary to the spatial vision for the area.

### Loss of Important Hedgerow

95. The proposal would involve the removal of part of an "important" hedgerow as defined in the Hedgerow Regulations 1997. The result of a survey commissioned by the appellant is that the roadside hedges onto Hind Heath Road are "important" under the Regulations because they form an integral part of a field system pre-dating the Inclosure Acts (*Document 5/17*). A large section of the hedge would be removed to accommodate the main site access. This lost habitat could not be successfully recreated on or adjacent to the site, and so the loss would be contrary to CBLP policy NR3 (*Document 6/2*). This factor is a disadvantage of the appeal scheme.

### Conclusions

96. The granting of permission for this development on a greenfield site in Sandbach would clearly be prejudicial to the Coalition Government's desire, as set out in the white paper "Local Growth", for local people to influence the future shape of their area (*Document 7/12- paragraphs 3.1 and 3.9*).

### **Other Oral Representations to the Inquiry**

The material points are as follows:

#### Cllr Mrs G Merry

97. The appeal site is open countryside separating Wheelock and Ettiley Heath, and should be safeguarded as such in accordance with PS8 or H6 of the Congleton Local Plan. It is rich agricultural land, good for wildlife and, even though more housing is needed in the area, it should not be in this location.
98. On cross-examination she accepted that, as a Congleton Borough Councillor, she had supported the representation of the Council to the RSS Examination in Public panel for an increase in its allocation of housing for their local area from 300 to 500 dwellings a year. (*Document 4/DS/15*).

#### Cllr B Moran

99. The proposed scheme would alienate the local community. New housing should be on brownfield sites and thereby bring about significant regeneration for the area. The proposal is contrary to one of the main functions of the planning system which is "to give people the opportunity to shape the look and feel of their communities, including to protect and promote important environmental and social interests" (*Document 7/12- paragraphs 3.1*).
100. On cross-examination he accepted that another of the main functions of the planning system is "to provide sufficient housing to meet demand" (*Document 7/12- paragraphs 3.1*).

Mr D Boar

101. The scheme would severely compromise strategic planning policy for the area. The Council can supply 5 years of housing land and we must stop destroying farmland. We are heading for a world food crisis, with rapid food price inflation and critically low food stocks.
102. The proposed shared footpath and cycleway is unnecessary as the path on the former railway line (the Wheelock Rail Trail), to the north of the site, provides an adequate link between Wheelock and Ettiley Heath.

Mr D Penney

103. The appeal site is good quality agricultural land and locals do not want to see it developed. The town needs more affordable housing, but there are no local jobs and little public transport to get people to towns where they might find work. The proposed number of new houses would swamp Wheelock. This greenfield area should be protected from development until a planned strategy for the area is in place.
104. Hind Heath Road is a winding, narrow road and is unsuitable to carry 300 additional cars every morning and evening. Motorists will not use the proposed traffic-light controlled junction, where Hind Heath Road joins Crewe Road, but will go through the neighbouring housing estate on Oldfield Road and Forge Fields, turning that into a rat-run.

Mr I Gresley-Jones (*Document 7/37*)

105. It is necessary to consider the bigger picture. This is a situation where the Council is attempting to deliver the right number of houses in the right place, but has temporarily suffered due to a local government re-organisation which interrupted the preparation of the LDF. The Council is now developing the framework and plans to meet planned targets, but this risks being undermined by a developer who is seeking to exploit whatever loopholes or shortcomings can be found in the Council's efforts. This cannot be permitted to succeed. The harm against the public, against sustainable communities, and against the Council's plan to deliver the required housing in a more appropriate location must not be ignored.
106. Sandbach already has a disproportionately high allocation of new development. The former Congleton BC area has more committed residential developments proportionately than either Macclesfield or Crewe, yet less need for AH than either Macclesfield or Crewe (see table appended to written statement) (*Document 7/37*).
107. Sandbach has suffered significant employment losses over the last decade and it is likely that occupants of the proposed houses would have to commute elsewhere because the town does not offer good employment prospects. Housing should be located close to employment opportunities. At present this means building houses in Crewe and Macclesfield, but not in Sandbach until there are signs local employment might improve.

Mr J Minshull (Document 7/38)

108. Wheelock currently has about 600 houses, so the proposal would increase its housing numbers by 40%. This additional number of properties would decimate the local community, it would not help the environment, traffic movement or job creation. The scheme would result in the loss of some of the best, most productive agricultural land in the country. The scheme would put an additional 150–300 cars on Hind Heath Road which is barely 5m wide, has a 40mph speed limit, no lighting, no pavements and high bank sides. It is a renowned rat-run. The scheme would also create a precedent for more green field development in Cheshire East
109. Sandbach is largely a commuter town to the surrounding conurbations, and a better balance is needed between houses and jobs. In addition junction 17 on the M6 has no roundabout or traffic lights, and is subject to much congestion.
110. Approving this scheme will undermine the hopes of the people for a Big Society, when the views and needs of the local community might once again be heard.

Mr R Amies-King

111. The site is productive agricultural land and an important part of the rural setting of Wheelock village. The separation of Sandbach, Wheelock and Ettiley Heath has a direct bearing on the spatial vision of the area.
112. There has been considerable emphasis on the AH element of the scheme, but what safeguards are there that the 40% AH that has been offered will not be re-negotiated at a later date as has happened elsewhere?
113. There is a significant difference in the height of the land between the back gardens on part of Anvil Close and the planned location of some of the houses. Any building on top of this rise on the appeal site would adversely affect the amenity of neighbouring Anvil Close properties.
114. At the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone, now and for future generations. Forcing a housing estate on this field benefits no one except those who will make money out of it. Surely the bona fide absence of a LDF should not count against the interests of local residents.

**Written Representations (Document 2)**

115. A letter from Fiona Bruce MP, plus letters and e-mails from members of the public, object to the scheme on the following grounds:
- (i) the loss of productive farmland and open countryside;
  - (ii) contrary to the development plan;
  - (iii) new housing should be on brownfield sites;
  - (iv) harm to the spatial planning of the area and production of the LDF;



- (v) too much housing proposed in Sandbach compared with rest of Cheshire East;
- (vi) very little chance of local employment so occupants of houses will have to commute;
- (vii) scheme too large for the village of Wheelock;
- (viii) Hind Heath Road is unsuitable for likely traffic generation;
- (ix) few local amenities in reasonable walking distance;
- (x) loss of important hedgerows;
- (xi) contrary to the Coalition Government's localism agenda;
- (xii) harm to privacy of homes in Anvil Close;
- (xiii) local health and dental services are over-stretched; and
- (xiv) water supply system for the area is antiquated.

116. Letters of objection have been submitted by:

- Nathaniel Lichfield & Partners on behalf of Taylor Wimpey UK Ltd who intend to submit, in spring 2011, three planning applications for over 1000 dwellings in Crewe;
- Richard Lee Project Planning on behalf of the owners of two deliverable sites on Hassall Road and Houndings Lane, Sandbach; and
- Wadell Armstrong on behalf of the owners of land off Heath Road and Old Mill Road, Sandbach (*Document 7/36*).

All three letters express concern that the development of the appeal site may prejudice proposals for their clients' land.

## Conditions

117. *Document 7/8* lists planning conditions that were discussed at the inquiry. I have considered the final list of suggested conditions having regard to the advice in Circular 11/95: "The Use of Conditions in Planning Permissions" and have made minor amendments to that list both to reflect this advice and to improve consistency in the terminology used. The numbers of the conditions in the following paragraphs correspond with those used in Annex 3 unless otherwise stated.

### Appeal A

118. Conditions 1-3 are standard conditions on an outline planning permission. As the development is likely to be phased over a number of years, condition 4 is necessary to ensure the development progresses in a co-ordinated manner. Condition 5 relates to boundary treatments and is required to safeguard the appearance of the area. Condition 6, in respect of ground and slab levels, is necessary, particularly in the light of concerns expressed by certain occupants of Anvil Close about the potential harm to their outlook and privacy (see paragraphs 112 and 114 above). Conditions 7, 8 and 9 are conventional materials, refuse disposal and lighting conditions which I consider should be imposed in the interest of visual amenity.

119. Conditions 10 and 11 are required to comply with recommendations of the appellant's Flood Risk Assessment and the requirements of the Environment Agency (*Document 5/5*) and to ensure that the site is properly drained. Condition 12 imposes the requisite provisions for the disposal of foul water. With regard to condition 13, I understand that the neighbouring land to the east, before being developed for housing, was an industrial site. As a precaution I think it necessary to impose this condition to ensure the necessary measures can be taken should any contamination be found on the appeal site.
120. Conditions 14 and 15 reflect the advice contained in the bat survey and badger mitigation strategy submitted by the appellant (*Documents 5/14 and 5/16*); and condition 18 is required in order to safeguard water voles in accordance with the advice of the Council's Nature Conservation Officer (*Document 6/10*). All five conditions, 14-18, are consistent with the advice in PPS9 on mitigating the impact of development on biodiversity and, in the interests of nature conservation, I consider these conditions are necessary.
121. In order to safeguard trees and hedgerows on the boundaries of the site, conditions 19 and 20 should be imposed. Conditions 21 and 22 are largely standard landscaping conditions which should be imposed in the interest of visual amenity. The additional requirement for a 12m wide landscape buffer/wildlife corridor along the north-western boundary of the site is necessary in the interest of the visual amenity of the area and to provide an appropriate barrier between the proposed housing and neighbouring countryside.
122. The PPS1 supplement on Climate Change expects local planning authorities to promote and encourage renewable and low carbon energy development, and in this context I regard condition 23 as necessary.
123. Condition 24 sets out the required highway improvements near the site and, in the interests of highway safety, these works need to be carried out. Conditions 25 and 26 seek to control work during the construction phase and, in the interests of both highway safety and the amenity of those living nearby, these conditions are necessary.
124. The affordable housing to be provided on the site is set out in detail in conditions 27 and 28, these conditions are necessary if the s.106 undertaking is for any reason found to be unacceptable.
125. Condition 29 relates to the provision of 25% low-cost market housing. This level of provision is consistent with the advice in Congleton BC SPD No.6 – Affordable Housing (*Document 4/DMS/4: paragraph 6.1*) and the Council's Draft Interim Policy Statement on Affordable Housing (*Document 6/9: paragraph 3.13*).
126. Conditions 30-33 relate to the provision of footpaths, amenity greenspace and a play area. In the interests of the amenity of future occupants of the proposed dwellings, these facilities are all necessary and should be the subject of planning conditions.

## Appeal B

127. With regard to this appeal, the suggested conditions in *Document 7/8* are worded as if the application had been for full planning permission. However, the application is in outline with all matters reserved for subsequent approval, and this is reflected in the conditions listed in Annex 3.
128. Conditions 1-3 are standard conditions on an outline planning permission. Condition 4 relates to the provision of street lighting which is necessary in the interest of public safety. The safeguarding of the existing hedges is necessary in the interest of the visual amenity of the area and this is provided for in condition 5. Condition 6 is a standard condition relating to the implementation of any landscaping scheme approved as a reserved matter. Conditions 7 and 8 are consistent with the advice in PPS9 on mitigating the impact of development on biodiversity and, in the interests of nature conservation, I consider these conditions are necessary. Condition 9 is required in order to safeguard the amenity of those living nearby.

## Conclusion

129. I consider the conditions listed in Annex 3 to this report could be attached to the decision should planning permission be granted.

## **Section 106 Undertaking** (*Document 7/32*)

130. A unilateral undertaking under section 106 of the Town and Country Planning Act 1990 has been submitted. It relates to the provision of affordable and low-cost market housing, the provision of a shared footpath and cycleway, the provision of an on-site play area and amenity greenspace with a financial contribution for off-site open space, highway and traffic management contributions, and an education contribution.
131. Part VII of the Schedule to the undertaking relates to affordable housing. It undertakes to provide 54 social rent units and 54 intermediate tenure units, which is equivalent to 40% of the total development if 269 dwellings are erected. The Council's SPD No.6 "Affordable Housing & Mixed Communities" adopted in April 2006 (*Document 4/DMS/4*), indicates that on windfall sites the "*general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2004 Housing Need Survey*". In addition evidence from the SHMA, published in 2010, indicates "*a considerable imbalance between affordable requirements and supply*" and suggests increasing existing requirements by 5-10% (*Document 6/4 – paragraph 6.13*). Accordingly the proposed provision of 40% AH is based on evidence of local need. No RSL is a party to the obligation, but the arrangements for the delivery of the housing appear to be adequate.
132. The Council has expressed concern that difficulties could arise with the intermediate tenure units that are sold at a discounted price ("discounted market units") if they were to be re-possessed by the mortgagee. Under

clause 1.10 and 1.11 of the undertaking the Council envisages that situations could readily arise where either itself or the RSL end up indemnifying the mortgagee against loss. Full details of these concerns are set out at *Document 7/7*. In response, the evidence for the appellant is that clauses such as this have been used elsewhere on the recommendation of the HCA. Whilst mindful of the Council's concerns, I do not regard them as sufficient to undermine the weight that might otherwise be attached to this s.106 undertaking.

133. The shared footpath and cycleway is directly related to the proposed development, providing a safe pedestrian and bicycle route alongside Hind Heath Road from the appeal site to Ettiley Heath.
134. The requirement for an on-site play area and amenity greenspace has been determined with regard to the Council's "Interim Policy Note on Public Open Space Provision for New Residential Development" (*Document 6/7*). There is currently a quantitative excess in the amount of amenity greenspace in the vicinity of the site, but qualitative deficiencies have been identified within the 800m threshold of the site (*Document 7/31*). In such circumstances the possible new population in the area as a result of the development justifies the open space requirement being met partly by provision on the appeal site and partly by financial contribution towards the enhancement of existing provision nearby.
135. With regard to the highway contribution, this is to be applied towards the improvement of junction 17 on the M6. There is no dispute that this junction is operating at capacity (*Document 5/11A - paragraph 6.1.5*) and it is accepted by the appellant that traffic generated by the appeal scheme would have an impact at the junction. The payment of a sum towards the required works would be consistent with the advice on pooled contributions in paragraph B21 –B24 of Circular 05/2005: Planning Obligations. The traffic management contribution would be for small scale improvements to public transport facilities near the site and the management of traffic on Hind Heath Road. Such matters are related in scale and kind to the appeal scheme.
136. The education contribution is derived from the number of 2 bedroom or more dwellings proposed and the likely number of school pupils living in the completed scheme (*Document 7/31*). This sum is therefore directly related to the development.

### Conclusion

137. For the above reasons, each of the matters contained in the Section 106 undertaking are necessary to make the proposed development acceptable in planning terms, directly related to the development, and fairly and reasonably related to it in scale and kind. They therefore meet the tests contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010. They also meet the additional tests of relevance and reasonableness set out in paragraph B5 of Circular 05/2005: Planning Obligations. The undertaking should therefore be taken into account and given substantial weight in the decision on these appeals.

## Conclusions

[The numbers in square brackets refer to earlier paragraphs in the report]

### Introduction

138. There are two appeals to be determined. Appeal A relates to a proposed residential development and Appeal B relates to a proposed shared footpath and cycleway.

139. The Council accepts that if Appeal A succeeds, then the public benefit of providing the footpath and cycleway (Appeal B) outweighs its harm to the local environment. It is agreed between the parties that if Appeal A fails then so too should Appeal B. Consequently, the inquiry was devoted almost entirely to consideration of Appeal A and it is that appeal upon which I concentrate in the following paragraphs.

### ***Appeal A***

#### Main Considerations

140. From all the evidence and the representations, I find that the main considerations in the appeal are the effect of the proposal upon:

- (i) the countryside protection policies of the development plan;
- (ii) housing land supply and delivery;
- (iii) affordable housing provision;
- (iv) the spatial objectives of the development plan and other documents;
- (v) regeneration proposals for the area;
- (vi) Government policies on planning and climate change; and
- (vii) the hedgerow on the site frontage.

#### The effect of the proposal upon countryside protection policies

141. The appeal site is an open field, still in active agricultural use. It is situated within the open countryside, as defined in the CBLP. Policy H6 of the CBLP provides that new residential development will not be permitted in such an area unless it falls within one of six categories. Policy PS8 of the CBLP lists the range of purposes for which new development in the open countryside will be permitted. The appeal scheme is contrary to the provisions of both of these policies. [3],[60]

142. The land is not of significant landscape merit, but its development would represent an extension of the urban area of Sandbach, outwards from a clearly defined, established settlement boundary, into the open countryside. One of the key principles of PPS7: "Sustainable Development in Rural Areas" is that:

*"New building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled; the Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all."*

The proposed development is contrary to this key principle.

143. To conclude on the first consideration, it is clear the proposal would cause material harm to countryside protection policies.

The effect of the proposal upon housing land supply and delivery:

The Cheshire East situation

144. PPS3, paragraph 54, requires local planning authorities to identify sufficient land to provide an on-going 5-year supply of specific deliverable sites for housing.
145. There is no dispute between the parties that the annual housing requirement for Cheshire East is 1150 new dwellings, which amounts to a 5-year housing requirement of 5750 new dwellings. There is also no dispute that there are insufficient deliverable sites within Cheshire East to meet that requirement. Following discussions at the inquiry, the position of the Council is that there are deliverable sites sufficient for 3746 dwellings, which is equivalent to 3.25 years supply. The position of Richborough Estates is that there are deliverable sites sufficient for 3146 dwellings, which is equivalent to 2.75 years supply. On these bases there is in Cheshire East, therefore, an estimated 5-year shortfall of deliverable sites sufficient for between 2000 and 2600 new dwellings. [29-30], [62-63],[65]
146. PPS3, paragraph 71, identifies that where a local planning authority cannot demonstrate an up-to-date 5-year supply of deliverable sites, they should consider favourably planning applications for housing, "*having regard to the policies in this PPS including the considerations in paragraph 69*". I address these other considerations later in these conclusions, but the sizeable shortfall in deliverable sites for housing in Cheshire East is, in my view, a factor to which significant weight should be attached.

The Sandbach situation

147. On the basis of the RSS annual housing requirement for the former Congleton Borough area and the spatial strategy in policy H2 in the CBLP, some 75 new dwellings a year should be provided in Sandbach. Over a 5-year period this amounts to a requirement for 375 new dwellings. [32],[64]
148. If all the sites in Sandbach identified in the SHLAA as deliverable over the next 5 years were to come forward to the extent specified in the SHLAA then this would produce around 600 new dwellings. However, the appellant has strong reservations about the over-all deliverability of some of the major sites. Concern was also expressed about the building rates assumed in the SHLAA on some sites. A table produced for the appellant before the inquiry suggested that as few as 173 new dwellings would be built in Sandbach over the next 5 years. In order to narrow the gap between the parties on this matter, negotiations took place during the inquiry. From my own assessment of the joint schedules submitted on the final day of the inquiry (*Document 7/35*), I have calculated that the

appellant's revised estimate of the total number of dwellings (including an allowance for small sites of less than 10 units) likely to be built in Sandbach during the next 5-years is about 280. From the same schedules I have calculated that the Council's revised estimate of the total number of dwellings (again including an allowance for small sites of less than 10 units) likely to be built in Sandbach during the next 5-years is about 410. A table showing the basis for these figures is appended to these conclusions as Table 1. [33-35]

149. From these figures it is apparent that the number of deliverable sites over the next 5 years in Sandbach is likely to be significantly less than the SHLAA would suggest. If the Council's revised estimate is correct then there is sufficient land to meet the 5-year requirement for 375 new dwellings. However, if the appellant's assessment turns out to be more accurate, then there would be a significant shortfall in supply. Furthermore, there would not need to be a great deal of slippage from the Council's revised estimate for the requirement of 375 new dwellings not to be met. In such circumstances, I think there is scope for additional land to be allocated in Sandbach. This would provide some degree of flexibility in the supply of sites and help to ensure the required number of dwellings is provided.
150. As to how many new dwellings the appeal site is capable of delivering within the next 5 years, it seems likely that a scheme of this size would require a lead-in time of 2.5 to 3 years. With a likely build-rate of 20 to 25 dwellings per annum thereafter it would be reasonable to conclude the site might not produce many more than 50 dwellings in the first 5 years. I see no reason to suppose that such a level of provision would be disproportionate in relation to any shortfall in the number of completions that might otherwise arise in Sandbach during that 5-year period. [57],[88]
151. To conclude on the second issue, I consider the proposed development of up to 269 houses would have a materially beneficial effect in helping to overcome the significant shortage in the supply of deliverable housing land in Cheshire East. The scheme would also assist in averting the risk of the 5-year requirement for new dwellings in Sandbach not being met.

#### The effect of the proposal upon the provision of affordable housing

152. The development would provide up to 269 dwellings of which 40% would be affordable housing. Numerically that amounts to 108 dwellings, half of which would be social rented housing and half would be intermediate tenure housing. [9]
153. The SHMA identifies a net annual shortfall in Cheshire East of 1243 affordable homes for the five year period 2009/2010 to 2013/2014. The SHMA makes it clear that this should be seen as a measure of the degree of imbalance between supply and demand for AH and not a specific target. However, bearing in mind that this annual shortfall is greater than the RSS annual requirement of 1150 for all new dwellings in Cheshire East, there is clearly a sizeable need for more AH in the area. [44],[90]

154. With regard to Sandbach, the SHMA identifies a net annual shortfall of 75 affordable homes for the five year period 2009/2010 to 2013/2014. Again, this is not a target but a measure of the degree of imbalance between supply and demand for AH. Even so, this net annual shortfall in affordable homes of 75 is the same figure as the total number of new dwellings required in Sandbach each year on the basis of the RSS and the spatial strategy in policy H2 in the CBLP. In such circumstances it would be reasonable to conclude there is an evident need for more AH in Sandbach. [45],[91]
155. The minimum proportion of AH required by the Council for any site will normally be 30%. However, recent experience suggests that on brownfield sites, due to problems with viability, AH levels of 5% and 7% have been accepted. Future house building in Sandbach is currently expected to be mostly on brownfield sites and, in the light of current examples, there is reason to suppose that these forthcoming sites may not achieve the amount of AH hoped for by the Council. This factor can only add to concerns over the amount of AH likely to be provided in the future. [25],[46]
156. As for the likely increase in supply of AH in Sandbach, the appellant's forecast over the next 5 years is for an additional 32 units to be provided on identified sites. The Council's forecast, based on the same data, is that between 41 and 44 additional units will be provided. With this limited level of provision, it is highly likely that the imbalance between supply and demand will get markedly worse in coming years. The situation is aggravated by the fact that, following substantial cuts to the HCA budget over the next 4 years, it can be expected that there will be considerable reliance on s.106 obligations to secure the provision of new AH in the area. [45],[47]
157. Cheshire East is ranked the 8<sup>th</sup> least affordable District in the North West. In Sandbach residential values are significantly higher than in the sizeable nearby town of Crewe. These factors, coupled with the above concerns, suggest a difficult future for those seeking a home and unable to compete in the open market. [42],[86]
158. To conclude on the third issue, I consider the proposed development would have a materially beneficial effect upon the provision of AH in the area.
159. In addition the proposed provision of 67 low-cost market dwellings (25% of the total) would be an important part of the housing mix within the scheme. [9]

#### The effect of the proposal upon spatial objectives of the development plan

160. The spatial framework contained in the Regional Spatial Strategy (RSS) sets out priorities for growth and development. Of the towns in Cheshire East, Crewe is identified as the priority for future growth. A sub-regional economic strategy prepared jointly with Cheshire West & Chester and Warrington Borough Council, talks of "*super-charged*" growth at Crewe. In addition Cheshire East's own emerging economic strategy seeks to



make Crewe a "*nationally significant economic centre*". As such, it is clear where the focus for new development is intended to be. [18],[81-84]

161. There is also provision in the RSS for development in rural areas, which it is said should be concentrated in "Key Service Centre" (KSCs). The RSS does not identify KSCs. However, Policy H2 of the Congleton Borough Local Plan (CBLP) identifies Sandbach as a sub-division of the Borough that should accommodate about 25% of future housing growth. So, whilst the spatial objectives of the development plan and other economic plans seek to prioritise Crewe, there is still scope for new development in a town such as Sandbach. [18],[23]
162. The amount of the new housing expected in Sandbach in accordance with the provisions of the development plan is set out in my consideration of the effect of the appeal proposal upon housing land supply and delivery. In that consideration I conclude there is a significant shortage in the supply of deliverable housing land in Cheshire East and that the appeal scheme would also assist in averting the risk of the 5-year requirement for new dwellings in Sandbach not being met. In such circumstances the appeal proposal is required to enable both Cheshire East and Sandbach to meet their housing requirements under spatial objectives of the existing development plan.
163. Furthermore, and notwithstanding the Council's desire to see Crewe as the focus for housing development, there is no dispute that Sandbach and Crewe are two separate housing markets. As such, new open market houses built in Sandbach are not likely to be in direct competition with those built in Crewe. [55],[86]
164. In the context of this issue, I am mindful of the Secretary of State's intended abolition of the Regional Strategies and that his letter of 27 May 2010 foreshadowing this action may be taken into account as a material consideration. However, in this appeal there is no dispute between the parties that both the spatial strategy and the housing requirements of the RSS should form the basis for its determination. Furthermore, even if the RSS were to be afforded less weight because of its intended abolition, then I consider the appeal scheme is still consistent with the spatial strategy and the housing requirements of the CBLP.
165. The Council's first reason for refusing planning permission refers to the Core Strategy Issues and Options Paper (CSIOP) and the Interim Planning Policy on the Release of Housing Land (IPP). The CSIOP was subject to public consultation from 8 November until 17 December 2010, but there has been no further progress on this document. A Core Strategy, which includes an overall vision as to how the area and the places within it should develop, is the principal DPD and ultimately should be given substantial weight. However, as the Core Strategy for Cheshire East is still at a very early stage of its preparation, having not been subject to any refinement through the consultation process and with no preferred option having been identified, the CSIOP can only be given very limited weight at this stage. As for, the IPP, Council officers recognised, in reporting this document to their Strategic Planning Board, that it can

only carry limited weight and I see no reason to conclude otherwise. [51-54],[74-78]

166. To conclude on the fourth issue, I consider the proposed development would be consistent with the spatial objectives of the development plan.

The effect of the proposal upon regeneration proposals for the area

167. The RSS, policy DP4, gives priority to development re-using existing buildings and previously developed land within settlements. It also sets indicative targets for the proportion of housing that should be provided on brownfield land. The proportion for Congleton Borough is "*at least 80%*". The Council has calculated that, if the appeal were to be developed as proposed, then this would result in only 59% of housing built during the next 5-years within the Congleton Borough area being on brownfield land; markedly below the RSS indicative target. [20],[68]
168. The Council is also concerned that due to the limited size of the market in Sandbach, allowing housing development on a large greenfield site would make it extremely difficult for committed brownfield sites to be developed. And I accept this would be a most unfortunate outcome.
169. A judgement therefore needs to be made as to whether permitting this scheme to proceed would be likely to impede the best use being made of previously-developed land.
170. With regard to the impact of the appeal scheme upon the RSS indicative target for new housing on brownfield land, I am not aware of any additional and deliverable brownfield sites that in the next 5 years could make-up the supply shortfall in this area. In such circumstances it may well have to be accepted that the indicative target of at least 80% of new housing being provided on previously developed land cannot be met. As for the likely impact of the appeal proposal on brownfield site schemes, it seems to me that, if this were a location where the housing market was weak, then the release of a readily developable greenfield site could be expected to impede similar development on a more complicated brownfield site. However, Sandbach appears to be a desirable market town where the demand for housing is potentially strong. Clearly the current national economic recession has had, and will probably continue to have, some limiting effect upon the open-market demand for new housing. But the uncertainty of the future should not stop provision being made to meet the requirement for new housing that the main parties agree exists. The available evidence suggests that local brownfield sites alone may, in the short term, struggle to meet those requirements. The available evidence also indicates that releasing the appeal site for development would not result in an over-supply of housing land relative to the size of those requirements. In such circumstances, I see no clear-cut basis for concluding that the development of the appeal site would prevent development on brownfield sites that the Council is quite rightly keen to see re-developed. [33],[55-56],[69-72][87]
171. To conclude on the fifth issue, I consider the proposed development would not cause material harm to regeneration proposals in the area.

The effect of the proposal upon Government policies on planning and climate change

172. This consideration deals primarily with my assessment of the extent to which the proposal is consistent with two of the Government key planning objectives to deliver sustainable development:
- (i) ensuring the development supports existing communities with good access to jobs and key services; and
  - (ii) delivering patterns of urban growth that help secure the fullest possible use of sustainable transport and which overall reduce the need to travel, especially by car.
173. Sandbach is a market town with primary and secondary schools, two significant food stores (Waitrose and Aldi), a good range of shops, plus banks and other key service facilities. With regard to jobs, the picture is less satisfactory. On the basis of the 2001 census, Sandbach had a working age population of 10,905, but jobs in the town only numbered 5480. By 2008 the total number of employee jobs in the town stood at 5300, suggesting that the local situation has not improved in the last decade. Furthermore it is not a town where significant economic growth is expected and the one major employment site allocated since 1990, at junction 17 of the M6, has remained undeveloped. In such circumstances many of the residents work elsewhere and commuting is facilitated by the town's proximity to the M6. This arrangement is at odds with the objective of ensuring new housing is in an area with good local access to jobs. [58],[83],[103],[107],[109]
174. As part of my site visit the distance by road from the Hind Heath Road frontage of the appeal site to the Town Hall in the centre of Sandbach was measured as 1.3 miles. From the southern side of the site that distance would probably be about 1.6 miles. For anyone walking to and from the town centre that distance would be slightly reduced by using the footbridge off Hind Heath Lane that crosses over the Wheelock Rail Trail. PPG13: Transport, paragraph 74, identifies walking as offering "*the greatest potential to replace short car trips, particularly under two kilometres*" (about 1.2 miles). With this guidance in mind, I think that the distance between the town centre and the appeal site is close to or probably over the limit that most people would be willing to walk on a regular basis.
175. Sandbach railway station, about 1.2 miles from appeal site, offers through the main part of the day a twice hourly service to Crewe and Manchester. About 500m from the site are the nearest bus stops from which twice hourly services are available through the main part of the day to Crewe, Sandbach, Winsford and Northwich. [58]
176. In summary it would be difficult to conclude that the appeal site is a location where "*the fullest possible use of sustainable transport*" is possible. However, bearing in mind that Sandbach is a rural market town, I consider that the appeal site is in a location where future residents

would have reasonable options to use sustainable methods of public transport should they choose to do so.

177. To conclude on the sixth issue, I consider that in view of the shortage of local employment, and the distance between the appeal site and the town centre of Sandbach, the development of the appeal site is not wholly consistent with Government policies on planning and climate change.

The effect of the proposal upon the hedgerow on the site frontage

178. The loss, along the site frontage onto Hind Heath Road, of a large section of hedgerow defined as "important" in the Hedgerow Regulations 1997, is undesirable. Such loss is one of the disadvantages of the appeal scheme. [95]

Other considerations

179. In the following paragraphs I consider concerns expressed by local residents that have not been referred to elsewhere in my consideration of the evidence.

The scheme is too large for the village of Wheelock

180. The village of Wheelock currently has about 600 houses, so the proposal would increase its housing numbers by about 40%. However, the village is now part of Sandbach, and between the village and the town, along Crewe Road, there is no physical break between the two settlements. As such, I think it is right to view the proposed development in relation to the civil parish of Sandbach rather than its constituent historic parts. [5],[108]

The loss of productive farmland

181. The proposed development would inevitably result in the loss of productive farmland. The planning application consultation response from Natural England identifies that the site is both grade 2 and grade 3A agricultural land (*Document 6/10*). PPS7, paragraph 28, identifies that where "*significant development of agricultural land is unavoidable, local planning authorities should seek to use areas of poorer quality land (grades 3b, 4 and 5) in preference to that of a higher quality, except where this would be inconsistent with other sustainability considerations*". The loss of such high quality land amounts to a clear disadvantage of the appeal scheme. Even so there has been no formal objection from any statutory body to the loss of this agricultural land and this factor was not a reason used by the Council to refuse planning permission.

Hind Heath Road is unsuitable for the traffic likely to be generated

182. As part of the scheme a traffic-light controlled junction would be installed at the junction of Hind Heath Road with Crewe Road, there would be some widening of the carriageway of Hind Heath Road, a reduction in the speed limit to 30mph, plus the proposed footpath and cycleway, and highway crossing facilities for pedestrians (*Document 5/11*). The Council has accepted the proposed improvements as sufficient to accommodate

the traffic likely to be generated by the appeal scheme, and there is no substantial evidence to show that those works would not be adequate.

183. Concern has been expressed that neighbouring residential roads may end-up being used as a rat-run in order to avoid congestion at the junction of Hind Heath Road with Crewe Road. If this were to occur then it could be addressed by appropriate traffic management measures and I do not regard this concern as a reason to dismiss this appeal.

The water supply system for the area is antiquated

184. United Utilities, in their consultation response on the planning application, indicated that the water mains may need extending and that some network reinforcement would be necessary to serve the site. (*Document 6/10*). This matter could be addressed under the provisions of the Water Industry Act 1991 and is not a reason to reject the scheme.

Local health and dental services are over-stretched

185. No substantial evidence has been submitted to support this view and I am not aware of any appeal document that addresses this specific point. As such, it is not possible to reach any meaningful conclusion on this point.

Harm to privacy of homes in Anvil Close

186. As part of my site visit I entered one of the houses that backs onto the appeal site and I noted that natural ground levels on the site are markedly higher than in the adjoining gardens. If consent is granted for the appeal scheme then one of the suggested conditions requires that full details of existing and proposed site levels should be approved by the Council before development commences. This condition is necessary to ensure that new housing is not constructed at a height that would visually dominate or cause material harm to the privacy of existing residents.

The scheme is contrary to the Coalition Government's localism agenda

187. The White Paper "Local Growth" sets out, amongst other things, what the Coalition Government considers to be the three main functions of the planning system. One of these functions is "*to give people the opportunity to shape the look and feel of their communities, including to protect and promote important environmental and social interests*" and another is "*to provide sufficient housing to meet demand*". Part of the decision making process in this appeal inevitably involves deciding the relative weight to be given to these functions in this instance.

Conclusions on Appeal A

188. The development of the appeal site would cause material harm to countryside protection policies and result in the loss of both a sizeable area of good quality agricultural land and sections of important hedgerow. The shortage of local employment, and the distance between the appeal site and the town centre of Sandbach, are further causes for concern. When considered together these factors suggest that the

development of the appeal site is not wholly consistent with Government policies on sustainable development and climate change. These matters all weigh against the scheme and they are not matters which can be resolved by conditions attached to a planning consent.

189. However, the Government's key housing goal is "*to ensure that everyone has the opportunity to live in a decent home, which they can afford, in a community where they want to live*" (PPS3: paragraph 9). There is a significant shortage in the supply of deliverable housing land in Cheshire East and a risk of the 5-year requirement for new dwellings in Sandbach not being met. The scheme would have a materially beneficial effect upon the provision of affordable housing in the area. Furthermore I consider the proposed development would be consistent with the spatial objectives of the development plan and would not cause material harm to regeneration proposals in the area. These matters all weigh in favour of the scheme.
190. On balance, I consider the significant need for additional market housing and affordable housing in the area is of sufficient importance that it outweighs the disadvantages of the development. If the Secretary of State agrees I commend the planning conditions that are set out in Annex C to this report.

## ***Appeal B***

### Main Considerations

191. From all the evidence and the representations, I find that the main considerations in the appeal is whether the benefit of the shared footpath and cycleway outweighs the harm it would cause to the hedges along the affected section of Hind Heath Road.
192. The proposal is to construct a 3m wide shared tarmac surface adjacent to a section of Hind Heath Road between the appeal site and Ettiley Heath. This section of Hind Heath Road currently has no footway on either side, and due to its winding character is likely to be hazardous for both pedestrians and cyclists. The proposed route would provide a useful alternative to the car for people who wish to travel between Wheelock and Ettiley Heath. Although a similar facility is provide by the Wheelock Rail Trail a short distance to the north, access to that route is steep and somewhat restricted at the Wheelock end. I also understand the route is unlit along its length. [5],[10],[102]
193. It is proposed that, opposite a day nursery at Big Hind Heath Farm, a short section of hedging be removed to provide a crossing facility to a day nursery. A longer section of hedging would be removed near the Ettiley Heath end of the route and another crossing facility provided to proposed sports facilities at Abbeyfields.
194. On balance, I consider the benefit to local residents of the proposed footpath and cycleway outweighs the fairly limited harm that would be caused to the hedgerow. This conclusion is consistent with the stated view of the Council (see paragraph 14 above).

### Conclusions on Appeal B

195. I consider that planning permission should be granted for the shared footpath and cycleway. If the Secretary of State agrees I commend the planning conditions that are set out in Annex C to this report.

### **Recommendations**

#### Appeal A

196. That the appeal is allowed subject to the conditions in Annex C.

#### Appeal B

197. That the appeal is allowed subject to the conditions in Annex C

*Derek Thew*

Inspector

**TABLE 1****Sandbach Sites - Estimated Net Completions 2011-2016**

SHLAA Site No.	Address	Estimated Net Completions 2011-2016		
		SHLAA <sup>1</sup> Council <sup>3</sup>	Appellant <sup>2</sup>	
247	North of Chapel Street	41	41	41
308	Old Mill Road	43	43	43
2323	Zan Works, Crewe Road	0	39	39
335	Fodens Test Track	60	0	50
336	Fodens Factory Site	120	40	60
2211	Council Depot, Newall Avenue	107	0	0
324	Canal Fields / Rookery Bridge	75	0	60
323	Elworth Wire Mills	16	0	0
2353	Elworth Hall Farm	33	33	33
2355	Former Texaco Garage	17	0	0
2360	Albion Chemical Works	50	50	50
2872	Dingle Farm	12	12	12
	Small Sites <sup>4</sup>	23	23	23
	<b>TOTALS</b>	<b><u>597</u></b>	<b><u>281</u></b>	<b><u>411</u></b>

<sup>1</sup> Source: Strategic Housing Land Availability Assessment for Cheshire East (SHLAA)

<sup>2</sup> Source: Appeal document 7/35

<sup>3</sup> Source: Appeal document 7/35

<sup>4</sup> Source: Appeal document 4/DS/17-Table 1



## ANNEX 1

### APPEARANCES

#### FOR THE LOCAL PLANNING AUTHORITY:

Mr M Carter	Barrister, instructed by the Borough Solicitor
<i>He called:</i>	
Mr S Mackay BSc, MRICS	Partner, King Sturge LLP
Mr R House BA(Hons), MRTPI	Local Development Framework Manager

#### FOR THE APPELLANT:

Mr C Young	Barrister, instructed by Pegasus Planning Group
<i>He called:</i>	
Mr D Stentiford BA(Hons), BTP, MRTPI	Director, Pegasus Planning Group
Mr S Horan MRICS	Director, Savills
Mr D Sammons BSc (Hons)	Director of Affordable Housing Consultancy, DBK
Mr M Jones MRTPI	Strategic Land Director, Richborough Estates

#### INTERESTED PERSONS:

Cllr Mrs G Merry	Cheshire East Councillor
Cllr B Moran	Cheshire East Councillor
Mr D Boar	Local Resident
Mr I Gresley-Jones	Local Resident
Mr R Amies-King,	Local Resident
Mr J Minshull	Local Resident
Mr D Penney	Local Resident

---

## ANNEX 2

### DOCUMENTS

- 1 Letter of notification and list of persons notified
- 2 Letters of response to notification
- 3 Statement of Common Ground

#### 4/ **Appendices to Proofs of Evidence**

##### For the Council:

Simon Mackay (SM)  
SM/1 – Location Plan  
SM/2 – Rightmove Sold & Under Offer Comparables - Sandbach

SM/3 - Rightmove Sold & Under Offer Comparables - Crewe  
SM/4 – King Sturge Market Report

Richard House (RH)

RH/1 – Letter from GO-NW - 27 Oct.2008

RH/2 – Cheshire East SHLAA Table 8: 5-year supply assessment

RH/3 – Schedule of Sites in Sandbach under construction & with  
pp

RH/4 – Draft interim Planning Policy on the Release of Housing  
Land

RH/5 – HOW Planning – Statement of Intent, Parkers Road, Crewe

RH/6 – Cheshire East Local Development Scheme – timeline

RH/7 - SHLAA Sandbach sites

For the Appellant:

David Stentiford (DS)

DS/1 – Appeal Proposals

DS/2 – Site description

DS/3 – Former Bath Vale Works, Congleton – Appeal Decision 28  
April 2009

DS/4 – Congleton BC LDF - Sandbach West Area Action Plan –  
Feb. 2006

DS/5 - Congleton BC LDF – Site Allocations – Preferred Option

DS/6 – Cheshire East LDF – Draft SHLAA

DS/7 – E-mail exchanges re highway improvements Hind Heath  
Road

DS/8 – E-mail Richborough Estates to Council – 3 Feb. 2010

DS/9 – Note of meeting with Council – 12 March 2010

DS/10 – E-mails re housing land supply – April 2010

DS/11 – E-mails re housing land supply – Sept. 2010

DS/12 – Pegasus note of 8 Oct.2010 meeting

DS/13 – Congleton BC reps re RSS

DS/14 – Letter from GO-NW re housing figures – 27 Oct. 2008

DS/15 – Appeal decisions:

1. Cardway Premises, Alsager
2. Land off North Dean Avenue, Keighley
3. Former Holsworthy Showground, Holsworthy
4. Land SW of Old Mill Road, Sandbach
5. Glenfall Way, Cheltenham

DS/16 – North West of England Plan

DS/17 – Assessment of SHLAA sites in Sandbach over next 5  
years

DS/18 - Congleton BC LDF – AMR 2008

DS/19 – Cheshire East 2010 SHMA

DS/20 – Report to Strategic Planning Board – 27 Oct. 2010

DS/21 – Draft IPP on the Release of Housing Land

DS/22 – Richborough Estates comments on Draft IPP

DS/23 - Counsel's advice on Draft IPP

DS/24 – E-mails between Pegasus and Council re Draft IPP

DS/25 – Strategic Planning Board update – 27 Oct.2010

DS/26 – Letter from Council – 13 Sept.2010  
DS/27 – DIPP Sustainability Appraisal – Nov.2010  
DS/28 – Deliverability of sites at Crewe pursuant to Draft IPP  
DS/29 – Crewe Vision – background rationale  
DS/30 – Cheshire & Warrington Enterprise Commission info.  
DS/31 – Draft IPP  
DS/32 - Just Ecology – Hedgerow Assessment - 2010

Simon Horan (SH)

SH/1 – CV  
SH/2 – Location Plan  
SH/3 – Hind Heath Road Masterplan  
SH/4 - Residential Property Focus  
SH/5 – PropertyWeek.com Dec.2010 & Estates Gazette June 2010

David M Sammons (DMS)

DMS/1 - North West of England Plan  
DMS/2 – Congleton BC Local Plan  
DMS/3 – Cheshire Sub-Regional Housing Strategy 2009-2012  
DMS/4 – Congleton BC SPD No.6 – Affordable Housing  
DMS/5 – Congleton BC Housing Needs Survey 2004  
DMS/6 - Congleton BC Housing Needs Survey 2006  
DMS/7 - Cheshire East 2010 SHMA  
DMS/8 – Economic Viability of Affordable Housing Requirements -  
2010  
DMS/9 - DIPP  
DMS/10 – CLG Housing Statistics – House Building Sept. Quarter  
2010  
DMS/11 – CLG Housing Building Starts & Completions - England  
DMS/12 – CLG Housing Building Starts & Completions – North  
West  
DMS/13 – CLG Additional Affordable Dwellings  
DMS/14 – Cheshire East Council – draft AMR 2010  
DMS/15 – Home Truths 2009  
DMS/16 - Land SW of Old Mill Road, Sandbach (appeal decision)  
DMS/17 - Former Bath Vale Works, Congleton – Appeal Decision  
28 April 2009  
DMS/18 – E-mail from Council's Affordable Housing Officer – 8  
Sept. 2010

Mike Jones (MJ)

MJ/1 – Cheshire East SHLAA  
MJ/2 – Spreadsheets of SHLAA analysis  
MJ/3 - Letter from Muller – 12 January 2011  
MJ/4 – Supporting evidence

5/ **Application Documents**

1. Pre Application Consultation Statement
2. Desk Study Report
3. Design & Access Statement

4. Planning Statement
5. Flood Risk Assessment & Environment Agency's consultation response
6. MMS – Area Appraisal
7. Affordable Housing Statement
8. Air Quality Assessment
9. Travel Plan
10. Hind Heath Road/Crewe Road Signals – Technical Note
11. Transport Assessment
- 11A. Supplementary Transport Statement M6 Jctn 17 & associated e-mails
12. Landscape & Visual Appraisal
13. Arboricultural Advice
14. Bat Survey
15. Ecological Assessment
16. Badger Mitigation Strategies - April & September 2010
17. Hedgerow Assessment

6/ **Council's "Core" Documents**

1. Decision Notice 10/2608C & 10/2609C
2. Congleton Borough Local Plan First Review (extracts)
3. Cheshire East LDF – Core Strategy Issues & Options Paper
4. Cheshire East SHMA – September 2010
5. Ambition for All – Cheshire East's Sustainable Communities Strategy
6. Cheshire East LDF – AMR 2009/10
7. Congleton BC – Public Open Space Provision (Interim Policy Note)
8. "Unleashing the Potential" – Sub-Regional Strategy July 2010
9. Cheshire East - Draft Interim Policy Statement on Affordable Housing - September 2010 (extract)
10. Officers report to Planning Committee on planning applications and related consultation responses

7/ **Documents Submitted at the Inquiry**

Council's Documents

1. Opening statement for the Council.
2. Rebuttal proof of Richard House
3. Interim Planning Policy - Feb.2011
4. Employment data for Cheshire East Settlements
5. North West of England Plan – policy MCR1
6. Ingersley Vale Works, Bollington – 4 photos
7. Comments on Unilateral Undertaking
8. Suggested conditions
9. Note of Council's resolution to adopt IPP – 24 February 2011
10. Decision 10/3471C – Land S of Middlewich Rd, Sandbach
11. Closing submissions for the Council.

#### Appellant's Documents

12. Local Growth White Paper
13. Note of Congleton Area SHLAA Meeting – 15 Jan.2008
14. Committee report re 10 houses at Cranage – 16 Oct. 2007
15. Planning report re former Foden Factory Site - 16 Feb.2011
16. Minutes of meeting of Strategic Planning Board – 16 Feb.2011
17. Planning report re former Foden Test Track, Sandbach – 6 March 2008
18. Planning report re former Sutherland Works, Congleton - 2010
19. Planning report re Council Depot, Newall Ave, Sandbach - 2009
20. Photographs of land E of Congleton Road, Macclesfield
21. Planning report re Albion Chemical Works, Moston – 2009
22. DTZ – Financial Viability Appraisal – Canal Fields, Moston
23. "Continuing Care for Retirement Communities"
24. Permission ref. 07/0430P – TA Ypres Barracks, Macclesfield
25. HOW planning statement – TA Ypres Barracks, Macclesfield – Feb. 2007
26. Permission ref. 09/3602N – Rose Terrace, Crewe
27. E-mail from David Sammons re Old Silk Mill, Congleton – 17 Feb.2011
28. E-mail from David Sammons re funding for affordable housing – 17 Feb.2011
29. E-mail correspondence re "mortgagee in possession" clauses – Feb.2011
30. Appeal decision re Former Vesuvius Works, Worksop
31. Proposed S.106 Heads of Agreement
32. Unilateral Undertaking – draft and signed copies
33. Appellant's response to Inspector's pre-inquiry questions
34. Closing submissions for the appellant

#### Joint Document

35. Updated 5-year supply figure

#### 3<sup>rd</sup> Party Statements & Letters

36. Letter from Wardell Armstrong – 24 February 2011
37. Statement by Mr I Gresley-Jones
38. Statement by Mr J Minshull
39. Statement and supporting plans and photos by Mr R Amies-King

#### Inspector's Documents

40. E-mail to main parties – 18 Feb.2011
41. Main issues identified by Inspector
42. CLG Model condition for land affected by contamination
43. Site visit itinerary

## PLANS

- A Application ref.10/2608C – site plan
  - B Application ref.10/2609C – plan no.10004 drg.no.02
  - C Indicative site layout - plan no.10004 drg.no.01
  - D Cheshire East SHLAA - Sandbach
  - E Sandbach Street Map
- 

## ANNEX 3

Suggested Conditions:

### Appeal A

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place until a scheme for the phasing of development on the site has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 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. The boundary treatment shall be carried out in accordance with the approved details and shall be completed in accordance with a timetable agreed in writing with the local planning authority.
- 6) No development shall take place on any approved phase until details of existing ground, 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.
- 7) No development shall take place on any approved phase until samples of the materials to be used in the construction of the external surfaces of the dwellings to be erected have been submitted to and approved in writing by the local planning authority.

Development shall be carried out in accordance with the approved details.

- 8) No development shall take place on any approved phase until detailed plans showing the location, design and materials of proposed facilities for the disposal and storage of any refuse/recyclable materials, including details of any bin stores, for that part of the development have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and available for use prior to that part of the development being first occupied and shall be permanently retained thereafter.
- 9) Before the installation of any external lighting, details of the proposals shall be submitted to and approved in writing by the local planning authority. The works shall thereafter be carried out in accordance with the approved details.
- 10) No development shall take place until a scheme for the provision of a surface water regulation system, including arrangements for the management of overland flow from surcharging of the site's surface water drainage system (based on sustainable drainage principles), have been submitted to and approved in writing by the local planning authority. The scheme shall also include a programme for the implementation of the scheme, and details of how the scheme shall be maintained and managed after completion. Development shall be carried out in accordance with the approved details.
- 11) No development shall take place until a scheme of construction for the proposed new wetland has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 12) No development shall take place until details of a scheme for the disposal of foul water from the development, including details of appropriate mitigation measures to prevent pollution of the Trent & Mersey Canal during and after construction, have been submitted to and approved in writing by the local planning authority. No dwelling in the site shall be occupied until the approved scheme of foul water disposal has been implemented in accordance with the approved details
- 13) No development shall take place until:
  - i) A contaminated land phase 1 report has been submitted to, and approved in writing by, the local planning authority (LPA).
  - ii) Should the phase 1 report recommend that a phase 2 investigation is required, a phase 2 investigation shall be carried out and the results submitted to, and approved in writing by the LPA.
  - iii) If the phase 2 investigations indicate that remediation is necessary, a remediation statement including details of the timescale for the work to be undertaken shall be submitted to, and approved in writing by, the LPA. The remedial scheme in

the approved remediation statement shall then be carried out in accordance with the submitted details.

- iv) Should remediation be required, a site completion report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by, the LPA prior to the first use or occupation of any part of the development hereby approved.
- 14) No development shall take place until detailed proposals for the incorporation into the scheme of features suitable for use by roosting bats, including a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The proposals shall be installed and thereafter permanently retained in accordance with approved details.
- 15) The proposed development shall be carried out in accordance with the submitted Badger Mitigation Strategy, including the provision of 30m buffer zone around any badger sett unless otherwise agreed.
- 16) Prior to any commencement of works between 1<sup>st</sup> March and 31<sup>st</sup> August in any year, a detailed survey of the site shall be undertaken to check for nesting birds. Where nests are found in any hedgerow that is to be removed, a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of breeding shall be deemed to have occurred when it is confirmed, by a suitably qualified person, in writing to the local planning authority.
- 17) No development shall take place on any approved phase until detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds, including a timetable for their implementation, have been submitted to and approved in writing by the local planning authority. The proposals shall be installed and thereafter permanently retained in accordance with approved details.
- 18) The reserved matters applications shall make provision for a buffer zone of 8 metres alongside the Trent and Mersey Canal.
- 19) No development or other operations shall commence on site until a scheme (hereinafter called the approved protection scheme) which provides for the retention and protection of trees, shrubs and hedges growing on the south, east and west boundaries of the site has been submitted to and approved in writing by the local planning authority. No development or other operations shall take place except in complete accordance with the approved protection scheme, which shall be in place prior to the commencement of work. The approved protection scheme shall be retained intact for the full duration of the development hereby permitted and shall not be removed without the prior written permission of the local planning authority.
- 20) No storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.



- 21) No development shall take place on any approved phase until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. Where appropriate, these details shall include proposed finished ground levels or contours; hard surfacing materials; minor artifacts and structures (e.g. street furniture, play equipment, refuse or other storage units, signs, lighting, etc.); retained historic landscape features and proposals for restoration, where relevant. The landscaping scheme shall include the provision of a 12m wide landscape buffer/wildlife corridor along the north-western boundary of the site and the provision of native species only.
- 22) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation or the completion of the phase of development to which it relates, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the landscaping scheme 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 consent to any variation.
- 23) No development shall take place until details of how the proposed development will secure at least 10% of its predicted energy requirements from decentralised and renewable or low-carbon sources has been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details which shall thereafter be permanently retained.
- 24) No development shall take place until details of the design and construction specification of the proposed local highway improvements – including street lighting and signing have been submitted to and approved in writing by the local planning authority. The details shall include:
  - i) A traffic signal facility at the junction of Hind Heath Road with Crewe Road, to include pedestrian facilities.
  - ii) The carriageway widening works, lining and lighting scheme proposed for Hind Heath Road.These improvements shall be implemented in accordance with the approved details and shall be completed prior to the first occupation of any of the dwellings hereby approved.
- 25) No development shall take place until a method statement has been submitted to and approved in writing by the local planning authority, which outlines the method of construction, (including details of the method, timing and duration of any pile driving operations), details of deliveries to the site during construction, how and where materials will be unloaded and details of where contractors' vehicles will park. The details shall also include measures to prevent the deposition of extraneous matter (mud, debris, etc) on the public

highway. The development shall then be constructed in complete accordance with the method statement

- 26) Construction hours (and associated deliveries to the site) shall be restricted to 08:00 to 18:00 hours Monday to Friday, 09:00 to 14:00 hours Saturday, with no working Sundays or Bank Holidays.
- 27) No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of PPS3 or any future guidance that replaces it. The scheme shall include:
- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 40% of dwellings:
- a) With regard to types of dwellings the scheme shall provide the following:

Unit Type	Number of units	Percentage
1 bedroom flat	16	14.8%
2 bedroom flat	8	7.4%
2 bedroom house	63	58.33%
3 bedroom house	16	14.8%
4 bedroom house	5	4.6%
	<b>108</b>	<b>100%</b>

- b) With regard to tenure the scheme shall provide the following:

Unit Type	Tenure	Number of units	Percentage
1 bedroom flat	Social Rent	16	14.8%
2 bedroom flat	Social Rent	8	7.4%
2 bedroom house	Social Rent	15	13.89%
3 bedroom house	Social Rent	12	11.11%
4 bedroom house	Social Rent	3	2.78%
2 bedroom house	Intermediate Tenure	48	44.44%
3 bedroom house	Intermediate Tenure	4	3.7%
4 Bedroom house	Intermediate Tenure	2	1.85%
		<b>108</b>	

- c) In both cases above if the development approved at reserved matters stage comprises less than 269 dwellings the mix of dwelling types and tenures shall be in the same proportion as above, or as otherwise approved by the Council.
- d) The affordable dwellings shall be provided in clusters of no more than 15 units and so far as reasonably practical, no cluster shall have a boundary with another.

- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider;
  - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 28) The affordable housing units shall be built to comply with the following minimum development and sustainability standards:
- o Housing Corporation Development & Quality Standards April 2007
  - o Housing Quality Indicators Version 4 May 2007 (achieving minimum scores as set out in DQA)
  - o Code for Sustainable Homes Level 3
  - o The following minimum gross internal floor areas as set out in HQI V4:
    - 1 Bed 2 Person Flats 45 m<sup>2</sup>
    - 2 Bed 3 Person Flats 57 m<sup>2</sup>
    - 2 Bed 4 Person Houses 67 m<sup>2</sup>
    - 3 Bed 5 Person Houses 82 m<sup>2</sup>
    - 4 Bed 6 Person Houses 95 m<sup>2</sup>
- 29) The reserved matters application shall make provision for not less than 25% low-cost market dwellings as defined in paragraphs 3.14 and 4.5 of the Council's Draft Interim Policy Statement on Affordable Housing (September 2010).
- 30) The reserved matters applications shall make provision for a footpath link in the south east corner of the site between the application site and Forge Fields. The footpath link shall be provided in accordance a scheme that has previously been submitted to and approved in writing by the local planning authority, prior to the occupation of the last dwelling to be constructed on the site.
- 31) The reserved matters application for each phase of the development shall include full details of the amenity greenspace (as defined in PPG17) to be provided on site as part of that phase. These details shall include:

- (a) the location, size, layout and landscaping (including fencing) of the proposed amenity greenspace;
- (b) details of all proposed finished levels or contours;
- (c) a programme of works to provide the amenity greenspace; and
- (d) a mechanism and plan for the future management, retention and maintenance of the amenity greenspace.

The works for the provision of the amenity greenspace shall be carried out in accordance with the approved details and in accordance with the programme agreed with the local planning authority. The amenity greenspace shall thereafter be made available for use by the public at all times.

- 32) The reserved matters applications shall make provision for a local equipped area of play (LEAP). Details of the LEAP shall be submitted to and approved in writing by the local planning authority. These details shall include:

- (a) The location, size, layout and landscaping (including fencing and signage) of the proposed LEAP.
- (b) Details of the proposed play equipment, which shall include at least five pieces of equipment to Euro Standard EN 176.
- (c) The proposed method of installation of the play equipment (including details of the installation contractors).
- (d) Details of all materials to be used including surfacing materials and boundary fencing.
- (e) A programme of the works for the installation of the LEAP.
- (f) A mechanism and plan for the future management, retention, renewal and maintenance of the LEAP.

The works for the provision of the LEAP shall be carried out in accordance with the approved details and in accordance with the programme agreed with the local planning authority. The LEAP shall be made available for use by the public at all times. The LEAP shall not be used for any purpose other than as children's play space and nothing shall take place on the land to prevent its use as such.

- 33) Prior to the first occupation of any dwelling on the land, the footpath/cycle link (the subject of planning application reference 10/2609C) shall be completed and made available for public use.

## Appeal B

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and

- approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
  - 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
  - 4) Lighting shall be provided along the length of the development in accordance with a scheme that has been submitted to and approved in writing by the local planning authority.
  - 5) No development or other operations shall commence on site until a scheme (hereinafter called the approved protection scheme) which provides for the retention and protection of hedges growing adjacent to the development has been submitted to and approved in writing by the local planning authority. No development or other operations shall take place except in complete accordance with the approved protection scheme, which shall be in place prior to the commencement of work. The approved protection scheme shall be retained intact for the full duration of the development hereby permitted and shall not be removed without the prior written permission of the local planning authority.
  - 6) All planting, seeding or turving comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation or the completion of the phase of development to which it relates, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the landscaping scheme 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 consent to any variation.
  - 7) Prior to any commencement of works between 1<sup>st</sup> March and 31<sup>st</sup> August in any year, a detailed survey of the site shall be undertaken to check for nesting birds. Where nests are found in any hedgerow that is to be removed, a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of breeding shall be deemed to have occurred when it is confirmed, by a suitably qualified person, in writing to the local planning authority.
  - 8) No development shall take place until detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds, including a timetable for their implementation, have been submitted to and approved in writing by the local planning authority. The proposals shall be installed and thereafter permanently retained in accordance with approved details.

- 9) Construction hours (and associated deliveries to the site) shall be restricted to 08:00 to 18:00 hours Monday to Friday, 09:00 to 14:00 hours Saturday, with no working Sundays or Bank Holidays.



## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

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

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

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

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

#### **Challenges under Section 288 of the TCP Act**

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

#### **SECTION 2: AWARDS OF COSTS**

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

#### **SECTION 3: INSPECTION OF DOCUMENTS**

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