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## Appeal Decision

Site visit made on 4 July 2017

by **Daniel Hartley BA Hons MTP MBA MRTPI**

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

Decision date: 07 July 2017

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**Appeal Ref: APP/R0660/W/17/3173355**

**Land to the South of Nantwich Road, Nantwich Road, Wrenby CW5 8EL**

- 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 Siteplan UK LLP against the decision of Cheshire East Council.
  - The application Ref 16/2433N, dated 18 May 2016, was refused by notice dated 25 January 2017.
  - The development proposed is an outline application for residential development to include details of access.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is submitted in outline with all detailed matters reserved apart from access. An indicative layout plan and street-scene elevation plans accompany the outline planning application. I have considered such plans only in so far as ascertaining whether or not it would be possible in principle to develop the site for residential purposes.
  3. The Council confirmed on 6 June 2017 that trees 13, 16, 17 (two oak trees and a willow tree) in the appellant's Tree Survey and three groups of trees on the southern boundary of the site had been protected by virtue of a provisional Tree Preservation Order made on 6 June 2017. I have taken this into account as part of the determination of this appeal.
  4. The Council received the Inspector's Report on the Examination of the Cheshire East Local Plan Strategy Development Plan Document (CELPS) on 20 June 2017. This clearly post-dates the Council's decision to refuse planning permission and the deadline for the submission of appeal statements. The Examining Inspector has concluded that "*with the recommended Main Modifications set out in the attached Annex, the Cheshire East Local Plan Strategy satisfies the requirements of Section 20(5) of the 2004 Act, meets the criteria for soundness in the National Planning Policy Framework, and is capable of adoption*".
  5. In view of the above, I obtained further views from the main parties in terms of the weight to be given to the CELPS, the housing land supply position and whether or not any of the CELPS policies listed in the Council's refusal notice would be required to be amended. I have taken the responses from the main parties into account and refer to them in my reasoning below. The CELPS is
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not yet adopted and so, for the avoidance of doubt, I continue to refer to it as an emerging plan.

6. The Council confirmed on 29 June 2017 that it was preparing a report to be considered by a full meeting of the Council on 27 July 2017 which would recommend the adoption of the Cheshire East Local Plan Strategy Development Plan Document. They state that upon adoption of such a plan some of the saved policies in the Crewe and Nantwich Replacement Local Plan 2011 (RLP) would be deleted including Policies NE.2 (Open Countryside) and NE.12 (Agricultural Land Quality). However, as the Cheshire East Local Plan Strategy Development Plan Document has not yet been adopted, all of the RLP policies listed in the Council's refusal notice are currently saved and hence are relevant for the purposes of determining this appeal.
7. Finally, the Council state that "*in the run up to adoption, no five year supply can be demonstrated and so the presumption in favour of sustainable development will continue to apply*". However, they go on to comment that "*in the light of these new sources of housing supply, the Inspector has now confirmed that on adoption, the Council will be able to demonstrate a 5 year supply of housing land. In his report he concludes 'I am satisfied that CEC has undertaken a robust, comprehensive and proportionate assessment of the delivery of its housing land supply, which confirms a future 5 year supply of around 5.3 years'*". On the evidence that is before me, I have no reason to disagree with the views expressed by the Examining Inspector.

### **Main Issues**

8. The main issues are the effect of the proposal upon (i) highway safety and the free flow of traffic; (ii) the open countryside; (iii) agricultural land quality and (iv) whether or not the proposal would deliver a sustainable form of development.

### **Reasons**

#### *Site and proposal*

9. The appeal site is currently an agricultural field and includes a number of hedgerows to its boundaries. There is a large oak tree at the north-west corner of the site (protected by virtue of a provisional TPO made on 6 June 2017) with the remaining tree cover located at the south-west corner of the site. Along the southern boundary of the site is the River Weaver. The site has a relatively narrow frontage to Nantwich Road and there is a pair of semi-detached properties to the west and an access track to the east which leads to Field Farm.
10. It is proposed to erect dwellings on the site. The indicative site layout plan shows about 80 dwellings on the site with trees and open space to the south (alongside the River Weaver) and also to the west of Field Farm. The application includes highway works within Nantwich Road including carriageway narrowing and a new footpath from the site to the west and connecting to the existing footpath on Nantwich Road.
11. The appellant has submitted a signed planning obligation which would include the provision of 30% affordable homes on the site, a payment of £196,112.28 towards additional secondary school places and the provision of on-site public

open space including a Neighbourhood Equipped Area for Play. I deal with this matter later on in this decision.

*Highway safety*

12. Nantwich Road is a C-class road and is the main vehicular route into and out of Wrenbury. In order to ensure that pedestrians can reach the built up part of Wrenbury, where there is access to day to day facilities and amenities, it is proposed to form a 340 metre long footway from the site access to the existing footway to the west on Nantwich Road. For a distance of about 135 metres from the site access a footway width of about 1.7 metres is proposed with a carriageway width of between 5.3 metres and 5.5 metres.
13. There would be some conflict with the technical advice in paragraph 6.5.7 of Manual for Streets 2007 (MFS) which recommends a minimum carriageway width of 6.0 metres for buses. I accept that the existing carriageway is not at 6.0 metres for all of its length. Nonetheless, it is almost 6.0 metres for the most part, and I consider that a further narrowing of the carriageway would result in unacceptable conflicts between two passing buses. I reach this conclusion taking into account the fact that to the east of the proposed access the road bends and hence inter-visibility between vehicular flows is reduced.
14. Continuing west for a further distance of approximately 80 metres, a footway width of between 1.2 metres and 1.3 metres is proposed which would be positioned alongside a carriageway width of between about 4.5 metres and 5.3 metres. At this carriageway width it would be too narrow for large vehicles to pass safely and easily. This would particularly be the case where two larger vehicles (e.g. HGV or agricultural vehicles) were involved. I reach this conclusion based on Figure 7.1 of MFS.
15. I conclude that the submitted vehicular access details are not acceptable as, owing to the resultant carriageway widths on Nantwich Road, there would be potential for there to be unacceptable conflicts where larger vehicles are involved. In these cases, the proposed carriageway works would result in an unacceptable interruption in the free flow of traffic and this in turn could lead to severe traffic congestion issues. In addition, the narrowness of the carriageway may catch some drivers out thereby leading to serious accidents.
16. Paragraph 6.3.22 of MFS states that "*there is no maximum width for footways. In lightly used streets (such as those with a purely residential function), the minimum unobstructed width for pedestrians should generally be 2 m. Additional width should be considered between the footway and a heavily used carriageway, or adjacent to gathering places, such as schools and shops*". As part of my site visit, I was able to witness a steady flow of traffic in both directions including the use of agricultural vehicles: I do not consider that it would be reasonable to consider that this C-class road is lightly used. The proposed new pavement on Nantwich Road would be less than 2.0 metres and in some places would be as narrow as 1.2 metres. This would not represent a safe environment close to a relatively busy vehicular thoroughfare. In particular, it would be very difficult for those in a wheel chair and/or with push chairs to pass, thereby forcing people into the carriageway to the detriment of highway safety.
17. For the collective reasons outlined above, I therefore conclude that the proposal would have a very significantly adverse and severe impact upon

matters of highway safety and the free movement of vehicles. Therefore, the development would not accord with saved Policy BE.3 of the RLP; Policies SD1 and SD2 of the emerging CELPS; paragraph 32 of the Framework and technical guidance in MFS.

18. The appellant has indicated that there are other narrow pavements and carriageways elsewhere in the locality. Whilst that may be the case, I consider that it is necessary for new development to accord with up to date planning policies and technical highway guidance from a highway safety and traffic/pedestrian movement point of view. I have found that the proposal would not accord with relevant development plan policies or MFS and the existence of other narrow carriageways or pavements does not alter my conclusion on this main issue.

*Housing land supply and open countryside impact*

19. The appeal site falls within open countryside and outside of a defined settlement boundary. Saved Policies NE.2 and RES.5 of the RLP list the type of development that might be permitted in open countryside. The proposal does not meet any of the identified development types. Therefore, I conclude that it would not accord with Policies NE.2 and RES.5 of the RLP. This weighs against the proposal.
20. I have had regard to the Council's position in respect of Policy PG5 of the CELPS. The Examining Inspector is of the view that the Council has undertaken a comprehensive assessment of housing land supply and established a realistic and deliverable means of meeting housing need. The Examining Inspector considered housing land supply in his report and commented that *"on the basis of the evidence before me, I conclude that the CELPS-PC, as updated and amended, would provide a realistic, deliverable and effective supply of housing land, to fully meet the objectively assessed housing requirement, with enough flexibility to ensure that the housing strategy is successfully implemented. Similarly, CEC should be able to demonstrate that there is at least a 5-year supply of housing land when the CELPS is adopted"*.
21. Whilst the CELPS is now at a very advanced stage (subject to modifications it could be adopted), it is not yet adopted. The appellant has referred me to an appeal decision which was issued on 10 February 2017 (APP/R0660/W/16/3147420) which states that *"the Council favours dealing with its backlog over an 8 year time period, an approach that is also supported by the LPS Inspector. On this basis there are 3.8 years of deliverable housing sites against this requirement"*. On the evidence that is before me, and in view of the fact that the CELPS has not yet been adopted, I conclude that at this moment in time the Local Planning Authority cannot demonstrate a deliverable five year supply of housing sites. Therefore, the proposal would make a very positive contribution towards the supply of housing in the area.
22. Even if the CELPS had been adopted, and a deliverable five year housing land supply were identified, there is no doubt that an ongoing supply of new permissions for housing would be necessary for the Council to maintain a rolling five year supply of housing land. In this sense, the proposal would help to boost the supply of homes in the area in line with the aims of paragraph 47 of the Framework. However, this does not negate the requirement for me to assess the proposal against other local and national planning policies including the sustainable development and countryside aims of the CELPS.

23. I afford considerable weight to Policy PG5 of the CELPS in decision making terms given that it has now been considered by an Examining Inspector and as his report has been issued. The proposal is not included in the list of developments permitted in the open countryside and would not meet 3(i) of the policy which states that exceptions may be made "*where there is an opportunity for the infilling of a small gap with one or two dwellings in an otherwise built up frontage or where the dwelling is exceptional in design and sustainable development terms*". Taking into account the red edged planning application site, the proposal would not constitute the infilling of a small gap and would relate to the erection of about 80 dwellings. Therefore, the proposal would not accord with Policy PG5 of the CELPS and hence would be fundamentally at odds with the development strategy for the area. This significantly weighs against allowing the proposal.
24. I acknowledge that the CELPS is not yet adopted and that the Framework post-dates policies in the RLP. Therefore, it is also necessary for me to determine the application against the countryside and housing policies in the Framework.
25. One of the 12 core planning principles in the Framework is that planning should recognise "*the intrinsic character and beauty of the countryside*". The site is positioned away from the more built up area of the settlement of Wrenbury and is in an area where development is more sporadic. There is no doubt that, in terms of the scale and type of development proposed, it would seek to erode the essentially open and rural character of the open countryside.
26. When considered against paragraph 55 of the Framework, I accept that the site is flanked by some existing development to the east and west and that the main built up area of Wrenbury is within relatively close proximity of the site. However, the appeal site falls outside the main built up area of Wrenbury and as mentioned above is in an area where development is more sporadic, where there are larger gaps between existing developments and where Nantwich Road is devoid of footpaths. This emphasises the transition between the main built up settlement of Wrenbury and the open and rural countryside.
27. The proposal would depart from the more sporadic and dispersed nature of the development in this part of the countryside and would be located away from the more built up area of Wrenbury. It would include the erection of a significant number of dwellings (up to 80) in an area where the immediately surrounding development consists of very small groups of buildings. Furthermore, the site would extend southwards towards the River Weaver and a significant number of the appeal dwellings would likely be flanked by open fields/land. Hence, and for these reasons, I consider the proposal would result in the erection of isolated dwellings in the countryside.
28. There appears to be no dispute between the parties that the site is close to a reasonable range of day to day facilities and services. On my site visit, I was able to see that this included a primary school, post office, shop and medical centre. I do not consider that the site is isolated in terms of its overall proximity to day to day facilities and services. However, there are issues in terms of providing a safe pedestrian access to Wrenbury as outlined previously in this decision. In any event, the proximity to services and amenities in Wrenbury does not alter my overall view that for the aforementioned reasons the proposal would result in the erection of isolated dwellings in the

- countryside. Therefore, the proposal would not accord with paragraph 55 of the Framework.
29. The planning application includes a landscape visual appraisal (LVA) and I have no reason to disagree with how it has been compiled. Whilst the parties are not completely in agreement as to the overall effect of the development upon the Ravensmoor Character area, I note that the Council's Landscape Architect has concluded that the effects of the development would not be "*major adverse*". Whilst the Council's assessment has identified a greater harm than the appellant's LVA, I do not find the difference to be substantial.
30. I have considered the effect of the development upon long distance and more localised views as well as the overall character and appearance of the locality. Whilst the submitted layout is indicative, it does show that a significant proportion of the south of the site would be undeveloped; this would help to provide a soft edge/green buffer to the River Weaver and would ensure, at least in part, that the development was more closely aligned with the existing development to the west. Furthermore, most of the existing vegetation on the site would be retained and at reserved matters stage it would be possible to secure significant new planting.
31. I consider that with mitigation, including careful design details at reserved matters stage and appropriate tree/hedge planting and public open space to the south, some of the adverse effects upon the landscape character could be reduced to no worse than a moderate adverse significance. In particular, the effect of the proposal upon longer distance views would not be significantly adverse. However, even with mitigation the development would still cause some harm to the landscape character, beauty and visual aspects of this countryside location particularly when viewed from more localised viewpoints.
32. The proposed footpath along Nantwich Road would introduce a very urban feel to the otherwise very rural stretch of road and would have the effect of visually extending the built up settlement of Wrenbury into the countryside. Whilst the frontage onto Nantwich Road is relatively narrow, a larger part of the development would still be conspicuous to passers-by given that it is proposed to open up the hedgerow to facilitate a relatively wide access into the site. In addition, I noticed on my site visit that when travelling towards Wrenbury in a westerly direction, and on the bend close to Burnside and The Meadows, a large proportion of the site was openly visible. When viewed from this part of Nantwich Road, open pasture land is the predominant characteristic and this adds distinctive character to this part of Wrenbury. The introduction of about 80 dwellings would seek to urbanise the environment to the detriment of the character and appearance of this countryside location.
33. For the collective reasons outlined above, I conclude that there would be direct conflict with the landscape character, countryside and sustainability aims of saved Policies NE.2 and RES.5 of the RLP and Policy PG 5 of the CELPS. In respect of the latter policy, this has been considered by an Examining Inspector and subject to minor changes he has concluded that it/the Plan is capable of being adopted. I afford the policy considerable weight and if the proposal were to be allowed it would fundamentally conflict with the aims of such a policy. I have also found that there would be conflict with paragraph 55 of the Framework which seeks to avoid isolated new homes in the countryside and that some harm would be caused to the landscape character and beauty of the

countryside. Hence, there would be conflict with one of the 12 core planning principles of the Framework.

#### *Agricultural land*

34. The appeal site is classified as Grade 3a and therefore it is the best and most versatile agricultural land. It has potential for food production and clearly this would be lost permanently if the site were developed for housing. The proposal conflicts with Saved Policy NE.12 of the RLP in so far that the need for the development is not supported by the RLP and as insufficient evidence is before me to indicate that the proposal cannot be accommodated on land of lower agricultural quality or that other sustainability considerations suggest that the use of higher quality agricultural land is preferable to the use of poorer quality agricultural land.
35. The proposal would result in the loss of approximately 4.7 hectares of agricultural land. Policy NE.12 of the RLP is not fully in accordance with the Framework in so far that at paragraph 112 it states that "*where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality*". I have not been provided with a definition of significance, but note that the Inspector who determined appeal Ref APP/R0660/W/16/3147420 considered the loss of 1.3 hectares of agricultural land to be insignificant. In this case, the loss of 4.7 hectares of agricultural land would clearly be greater than 1.3 hectares. Nonetheless, I conclude that the loss of 4.7 hectares of agricultural land would not be significant in terms of the Framework. The proposal would nonetheless conflict with Policy NE.12 of the RLP and this is a matter for the planning balance rather than a determinative issue.

#### *Planning balance and whether the proposal is sustainable development*

36. I have found that the proposal would have some adverse impact upon the visual character and openness of the landscape/countryside. Hence, there would be conflict with the countryside and landscape character aims of the Framework. This is a matter which weighs against the proposal.
37. In addition, the proposal would result in the loss of best and most valuable agricultural land, although, given the size of the site, this would be a limited impact as I have found that it would not lead to a significant loss of such land when paragraph 112 of the Framework is taken into account. Nevertheless, this environmental matter should be recognised as an adverse factor in the planning balance.
38. The appeal proposal would not accord with saved Policies NE.2 and RES.5 of the RLP or Policy PG5 of the CELPS. Indeed, the proposal is not one of the development types which are permitted by virtue of these policies. I have also found that there would be some conflict with paragraph 55 of the Framework in so far that the proposal would result in the erection of isolated homes in the countryside.
39. There would be significant conflict with Policy PG5 of the CELPS and hence the proposal would be fundamentally at odds with the overall housing strategy for the area. I accept that the CELPS is not yet adopted, but nevertheless it is now at a very advanced stage and is capable of being adopted imminently following

some changes as outlined by the Examining Inspector (i.e. the schedule of proposed main modifications – proposed changes). The proposed modifications to Policy PG5 are minor and hence the aforementioned conflict with this policy is a matter to which I afford considerable weight.

40. I have concluded that the proposal would have a severe and very significant impact upon matters of highway and pedestrian safety. This is an environmental matter which is of substantial concern. If the appeal were to be allowed there is a very real risk that an accident may occur and/or that there would be unacceptable interruptions in the free flow of traffic on Nantwich Road.
41. Weighed against the above matters is the undisputed fact that the local planning authority cannot currently demonstrate a deliverable five year supply of housing sites, although upon the likely and very imminent adoption of the CELPS this is a position which is likely to be reversed. Nonetheless, and whilst the proposal is submitted in outline, it is possible that up to eighty dwellings could be erected on the site. Therefore, the proposal has the potential to deliver a significant number of dwellings, thereby boosting the supply of houses in the area. Furthermore, the appellant has agreed to provide 30% of the total number of residential units as affordable homes. These are very positive social matters to weigh in the planning balance.
42. The development would lead to some employment at construction stage, although this would be relatively short lived. I do not doubt that the occupiers of the proposed dwellings would spend some money in the local area including Wrenbury. These are positive economic factors which weigh in favour of the proposal.
43. On balance, I consider that the very significant and severe harm that would be caused to matters of highway and pedestrian safety and the free flow of traffic, coupled with the identified adverse harm that would be caused to the countryside and the availability of the best and most versatile agricultural land, significantly and demonstrably outweighs the benefits as detailed above. Furthermore, the proposal would not accord with the overall housing/sustainable development strategy for the area as detailed in the emerging CELPS and in particular would conflict with Policy PG5. I therefore conclude that the proposal would not deliver a sustainable form of development.

### **Other Matters**

44. The appellant has submitted a signed planning obligation under Section 106 of the Town and Country Planning Act which includes measures as detailed earlier on in this decision. The Council have raised concerns about the wording of this planning obligation. However, I have not considered this matter in detail as the completion of a planning obligation would not outweigh or alter my overall conclusion on the main issues. Whilst the provision of affordable housing would weigh in favour of the proposal, it would not outweigh or alter my overall conclusion on the main issues.
45. I have had regard to the appeal decisions submitted by the appellant including appeal Ref APP/R0660/W/16/3157715 which was allowed on 3 February 2017. This appeal related to a site referred to as a "Green Gap" and unlike this appeal proposal there were not significant and overriding highway safety concerns. I



- do not consider that the appeal proposal is directly comparable with any of the appeal decisions submitted by the appellant.
46. The appellant has also referred me to other appeal decisions where Inspectors have concluded that the need to demonstrate a five year housing land supply does not amount to a ceiling in housing numbers terms. I have afforded weight to the fact that the proposal would boost the supply of housing in the area (including affordable housing), but have concluded that such matters would not outweigh the other identified harm arising from the proposed development.
47. I have taken into account representations made by other interested parties. Some of the comments made have already been addressed in the reasoning above. I acknowledge that the site is not within a defined settlement boundary and that other houses have been built in Wrenbury in recent times. However, it has been necessary for me to reach a balanced decision taking into account the housing land supply position, the status and weight to be afforded to emerging and adopted development plan policies and an assessment of all other material planning considerations.
48. I note the comments made that I should consider suspending the appeal pending the adoption of the CELPS or any other development plan. However, I do not consider that this is necessary or reasonable. In any event, the CELPS is now at a stage where it is capable of being adopted.
49. I acknowledge the comments made about the effect of the proposal upon wildlife and bio-diversity, but I have no reason to disagree with the conclusions reached by the Council's Ecologist who raised no objection to the proposal subject to the imposition of planning conditions.
50. Matters relating to lighting could be controlled by planning condition, and I do not have any objective evidence to indicate that the railway or the businesses at Wrenbury Creamery would have a materially adverse impact upon the occupiers of the proposed dwellings in terms of noise and dust.
51. None of the other matters raised outweigh or alter my overall conclusion on the main issues.

### **Conclusion**

52. For the reasons outlined above, and taking into account all other matters raised, I conclude that the proposal would not deliver a sustainable form of development. There are no other material planning considerations which would lead me to depart from my overall conclusion on the main issues. Therefore, the appeal should be dismissed.

*Daniel Hartley*

INSPECTOR